

**CONTRACT #10**  
**RFS # 318.65-00331**  
**FA # 11-35164**  
**Edison # 26134**

**Finance and Administration**  
**Division of Health Care Finance**  
**and Administration**  
**Bureau of TennCare**

**VENDOR:**  
**Policy Studies, Inc.**



STATE OF TENNESSEE  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION  
BUREAU OF TENNCARE  
310 Great Circle Road  
NASHVILLE, TENNESSEE 37243

December 28, 2012

Lucian Geise, Director  
Fiscal Review Committee  
8<sup>th</sup> Floor, Rachel Jackson Bldg.  
Nashville, TN 37243

Attention: Ms. Leni Chick

RE: Aon Consulting, Inc., Amendment #2  
Policy Studies, Inc., Amendment #2

Dear Mr. Geise:

The Department of Finance and Administration, Division of Health Care Finance and Administration, is submitting for consideration by the Fiscal Review Committee amendment #2 to Aon Consulting, Inc. This competitively procured contract is for actuarial services relevant to the managed care organization rate structure in the TennCare Program, as well as provision of federally required independent audits of Disproportionate Share Hospital (DSH) payments. This amendment is necessary to extend the contract term for another year, pursuant to the Request for Proposal and term extension language in the original contract, as well as provide sufficient funding to support the ongoing services and the projected term extension. The rates contained in this extension continue rates as submitted in the competitive Cost Proposal.

Additionally, we are submitting for consideration amendment #2 to Policy Studies, Inc., the competitively procured contract for consulting and technical services involving design, development, testing and initial support of systems to administer the Electronic Health Record incentive payments under the Medicaid program. This amendment extends the term for one year, adds additional enhancements, including completion of testing and implementation of the FCR approval system, continued operations and maintenance, and provides funding to support the enhancements and extension of term.

The Department of Finance and Administration, Division of Health Care Finance and Administration, appreciates consideration of these amendments by the Fiscal Review Committee and respectfully requests approval.

Sincerely,

A handwritten signature in cursive script that reads "Casey Dungan" followed by a small mark that appears to be "ax".

Casey Dungan  
Chief Financial Officer

cc: Darin J. Gordon, Deputy Commissioner  
Alma Chilton, Director of Contracts

Supplemental Documentation Required for  
Fiscal Review Committee

*Contact Name:	Casey Dungan	*Contact Phone:	615-507-6482
*Original Contract Number:	FA1135164	*Original RFS Number:	31865-00331
Edison Contract Number: <i>(if applicable)</i>	26134	Edison RFS Number: <i>(if applicable)</i>	31865-00331
*Original Contract Begin Date:	May 16, 2011	*Current End Date:	April 30, 2013
Current Request Amendment Number: <i>(if applicable)</i>	#2		
Proposed Amendment Effective Date: <i>(if applicable)</i>	March 1, 2013		
*Department Submitting:	Department of Finance and Administration		
*Division:	Health Care Finance and Administration		
*Date Submitted:	December 28, 2012		
*Submitted Within Sixty (60) days: <i>If not, explain:</i>	Yes		
*Contract Vendor Name:	Policy Studies, Inc.		
*Current Maximum Liability:	\$3,145,039.00		
<b>*Current Contract Allocation by Fiscal Year:</b> <i>(as Shown on Most Current Fully Executed Contract Summary Sheet) Attached</i>			
FY: 2012	FY: 2013	FY:	FY:
\$ 1,732,922.71	\$ 1,413,116.29	\$	\$
<b>*Current Total Expenditures by Fiscal Year of Contract:</b> <i>(attach backup documentation from Edison report) Attached</i>			
FY: 2012	FY: 2013	FY:	FY:
\$ 1,731,922.71	\$306,674.54 (through 10-12; 6 months to go)	\$	\$
<b>IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:</b>	N/A		
<b>IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:</b>	N/A		
<b>IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding</b>	N/A		

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Fiscal Review Committee

was acquired to pay the overage:				
*Contract Funding Source/Amount:	State:	\$314,503.90	Federal:	\$2,830,535.10
Interdepartmental:			Other:	
If "other" please define:				
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>		
Amendment #1 – April 30, 2012		Term Extension, additional enhancements		
Method of Original Award: <i>(if applicable)</i>		Request for Proposal		
*What were the projected costs of the service for the entire term of the contract prior to contract award?		The projected costs associated with this contract were based on Cost Proposals submitted with Request for Proposal. Prior to completion of RFP, costs could not be projected. These documents are public information and available upon request.		

## Supplemental Documentation Required for Fiscal Review Committee

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

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

4. Contract Section C.3 shall be deleted in its entirety and replaced with the following:

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 for May 16, 2011 through April 30, 2013:

Service Description	Amount (per compensable increment)
1. Phase 1 – Planning, Requirements Definition, Design, Development, Testing, Implementation and Support – as detailed by <i>pro forma</i> contract sections A.3.a. *	\$360,742.00 *
2. Phase 2 – Planning, Requirements Definition, Design, Development, Testing, Implementation and Support – as+ detailed by <i>pro forma</i> contract sections A.3.b. *	\$634,428.00 *
3. EHR Maintenance and Enhancements – as detailed in Section A.11.	\$739,028.00 (to be paid in 12 equal monthly payments beginning May 1, 2012)
4. Development – as detailed in Section A.12	\$607,710.00 *
5. Operations and Maintenance – as detailed in Section A.12	\$186,931.00 (to be paid in equal monthly payments beginning August 1, 2012)

**\* NOTICE: Up to 80% of the proposed amount for the cost item will be paid by the State in monthly payments based on Earned Value metrics for the subject phase (in accordance with the methodology detailed in *pro forma* contract section C.3.c.). The remainder will be paid upon completion of all tasks detailed in the approved Project Plan for the subject phase.**

c. Monthly progress payments will be based on incremental Earned Value for the subject project phase. As specified in Section A.8.b, the Contractor is responsible for maintain Project Plans and updating Status on TennCare's Microsoft Project Server. Earned Value is calculated Microsoft Project Server and will be based on progress

## Supplemental Documentation Required for Fiscal Review Committee

against the approved Project Plan for the subject phase. As specified in Section A.8.c, the Contractor is responsible for submitting weekly project status reports, in form and format approved by the State, including Earned Value metrics generated by Microsoft Project Server from the approved Project Plan for the subject phase. The Incremental Earned Value for payment purposes will be calculated as the current Earned Value for the subject phase, as reported in the weekly status report on or immediately following the 15th of the subject month, less the sum of all prior progress payments for the subject phase. Project progress, Earned Value and payment calculations are subject to review and approval by the State. Prior to State approval for production implementation of subject phase functionality, cumulative monthly progress payments will be subject to a cap of eighty percent (80%) of the total payment amount for the subject phase as specified in C.3.b. Any outstanding balance for the subject phase remaining after monthly progress payments will be paid upon completion of all tasks in the approved Project Plan for the subject phase.

- d. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.10., without a formal amendment of this contract based upon the payment rates detailed in the schedule below and as agreed pursuant to said Section A.10., PROVIDED THAT compensation to the Contractor for such "change order" work shall not exceed TEN PERCENT (10%) of the contract maximum liability less the cost for post-implementation support. If, at any point during the Contract period, the State determines that the cost of necessary "change order" work would exceed said maximum amount, the State may amend this Contract to address the need.

Service Description	Amount (per compensable increment)
Additional Services (that may be required by the State and agreed by the Contract Parties pursuant to pro forma contract, section A.10.)	\$ 150.00 per Hour (May 16, 2011 – April 30, 2012)
	\$140.00 per Hour (May 1, 2012 – April 30, 2013)

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

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

This contract amendment does not include proposed savings, however, it is a competitively procured contract based on best technical and cost proposal. Per the RFP and the current competitively procured contract language, this amendment to Policy Studies, Inc. extends the term for an additional year and adds funding to support the term extension and the enhancement of system management and operation.

**Comparison of cost per fiscal year of obtaining this service through the proposed contract or amendment vs. other options. List other options available (including other vendors), cost of other options, and source of information for comparison of other**

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**options (e.g. catalog, Web site). Add rows as necessary to indicate price differentials between contract deliverables.**

Policy Studies, Inc. was awarded the competitively procured contract for systems administration support for the Electronic Health Record Incentive Payments. Pursuant to State of Tennessee contract rules, an RFP is the optimum state procurement method and no other options were explored. All technical and cost proposals submitted as a result of this RFP are available for public inspection.



# FUNDING REVISION

## CONTRACT

(fee-for-service contract with an individual, business, non-profit, or governmental entity of another state)

<b>Begin Date</b> May 16, 2011	<b>End Date</b> April 30, 2013	<b>Agency Tracking #</b> 31865-00331	<b>Edison Record ID</b> 26134
<b>Contractor Legal Entity Name</b> Policy Studies, Inc.			<b>Edison Vendor ID</b> 0000069923

**Service Caption (one line only)**  
 Systems Administration Support for Electronic Health Record Incentive Payments  
**FUNDING REVISION: Moving \$252,683.71 from FY 2013 to FY 2012**

<b>Subrecipient or Vendor</b> <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	<b>CFDA #</b> 93.778 Dept of Health & Human Services/Title XIX
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Funding — FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011					
2012	\$173,192.27	\$1,558,730.44			\$1,731,922.71
2013	\$141,311.63	\$1,271,804.66			\$1,413,116.29
<b>TOTAL:</b>	<b>\$314,503.90</b>	<b>\$2,830,535.10</b>			<b>\$3,145,039.00</b>

**American Recovery and Reinvestment Act (ARRA) Funding:**  YES  NO

**Ownership/Control**

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

**Selection Method & Process Summary (mark the correct response to confirm the associated summary)**

<input checked="" type="checkbox"/> RFP	The procurement process was completed in accordance with the approved RFP document and associated regulations.
<input type="checkbox"/> Competitive Negotiation	The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.
<input type="checkbox"/> Alternative Competitive Method	The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.
<input type="checkbox"/> Non-Competitive Negotiation	The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.
<input type="checkbox"/> Other	The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with <u>all</u> interested parties or <u>all</u> parties in a predetermined "class."

**Budget Officer Confirmation:** There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

*[Signature]* 8/23/2012

OCR USE – FA

**Contract # FA1135164-01**

<b>Speed Chart (optional)</b> TN00000252	<b>Account Code (optional)</b> 71600000
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Payments Against a Contract

Policy Studies, Inc.

Edison Contract ID: 26134

Contract # FA1135164

Vendor ID: 0000069923

Fiscal Year	Unit	Voucher ID	Invoice	Pymt Date	Sum Amount
2012	31865	00385928	32001 711	9/30/2011	\$ 239,178.00
2012	31865	00392546	32001 811	10/14/2011	\$ 145,530.00
2012	31865	00392545	32001 911	10/12/2011	\$ 98,910.00
2012	31865	00399650	32001 1011	11/30/2011	\$ 61,854.00
2012	31865	00423248	32001 1111	12/30/2011	\$ 198,480.00
2012	31865	00439180	32001 1211	2/8/2012	\$ 22,600.00
2012	31865	00455602	32001 112	3/7/2012	\$ 261,030.00
2012	31865	00472729	32001 212	3/30/2012	\$ 29,389.50
2012	31865	00489095	32001 312	4/27/2012	\$ 29,389.50
2012	31865	00496904	32001 412	5/18/2012	\$ 29,389.50
2012	31865	00531317	32001 512	7/10/2012	\$ 58,957.50
2012	31865	00531317	32001 512	7/10/2012	\$ 121,542.00
2012	31865	00564838	32001 612	8/30/2012	\$ 59,136.00
2012	31865	00564838	32001 612	8/30/2012	\$ 61,585.66
2012	31865	00564838	32001 612	8/30/2012	\$ 215,627.04
2012	31865	00568726	32001 712	9/12/2012	\$ 37,738.35
2012	31865	00568726	32001 712	9/12/2012	\$ 61,585.66

**Total FY 2012** \$ **1,731,922.71**

Fiscal Year	Unit	Voucher ID	Invoice	Pymt Date	Sum Amount
2013	31865	00602895	32001 912	11/29/2012	\$ 61,585.66
2013	31865	00602895	32001 912	11/29/2012	\$ 156,293.69
2013	31865		32001 1112	Pending	\$ 88,795.19

**Total FY 2013** \$ **306,674.54**

# Non-Competitive Amendment Request

NOT required for a contract with a federal, Tennessee, or Tennessee local government entity or a grant.  
Route a completed request, as one file in PDF format, via e-mail attachment sent to: [AgSprs.Agspr@sate.tn.us](mailto:AgSprs.Agspr@sate.tn.us)

**APPROVED**

COMMISSIONER OF FINANCE & ADMINISTRATION

<b>Request Tracking #</b>	31865-00331	
<b>1. Procuring Agency</b>	Department of Finance and Administration Health Care Finance and Administration Bureau of TennCare	
<b>2. Contractor</b>	Policy Studies, Inc.	
<b>3. Contract #</b>	FA1135164	
<b>4. Proposed Amendment #</b>	2	
<b>5. Edison ID #</b>	26134	
<b>6. Contract Begin Date</b>		May 16, 2011
<b>7. Current Contract End Date</b> – with ALL options to extend exercised		April 30, 2013
<b>8. Proposed Contract End Date</b> – with ALL options to extend exercised		April 30, 2014
<b>9. Current Maximum Contract Cost</b> – with ALL options to extend exercised		\$3,145,039.00
<b>10. Proposed Maximum Contract Cost</b> – with ALL options to extend exercised		\$ 6,914,959.00
<b>11. Office for Information Resources Endorsement</b> – information technology service (N/A to THDA)	<input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/> Attached	
<b>12. eHealth Initiative Support</b> – health-related professional, pharmaceutical, laboratory, or imaging	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
<b>13. Human Resources Support</b> – state employee training service	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
<b>14. Explanation Need for the Proposed Amendment</b>		
<p>The competitively procured contract with Policy Studies, Inc. is for consulting and technical services to assist the State with requirements, design, development, testing and initial support of systems to administer Electronic Health Record incentive payments under the Medicaid program. This amendment extends the term for one year, adds additional enhancements, including completion of testing and implementation of the FCR Approval</p>		

<b>Request Tracking #</b>	31865-00331
System, continued operations and maintenance, and provides funding to support the extension of term.	
<p><b>15. Name &amp; Address of the Contractor's Principal Owner(s)</b>  <i>- NOT required for a TN state education institution</i></p> <p>Margaret Laub, Chief Executive Officer  1515 Wynkoop Street, Suite 400  Denver, Colorado 80202</p>	
<p><b>16. Evidence Contractor's Experience &amp; Length Of Experience Providing the Service</b></p> <p>Policy Studies, Inc. provides consulting, technology, and outsourced services to government agencies involved in criminal justice, health care, human services, and a variety of social and economic programs. PSI provides outsourced child support enforcement programs for state and local government agencies, and offers workforce development and public health insurance programs in some 30 states across the country. The company bookends its outsourced services with consulting (research, policy analysis, planning) and technology services (system architecture and design, maintenance, and training). PSI was founded in 1984 by Robert Williams. The Bureau of TennCare released an RFP to identify systems administration support for Electronic Health Record Incentive Payments and Policy Studies, Inc. provided the winning proposals with best evaluated technical combined with calculated cost proposal.</p>	
<p><b>17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives</b></p> <p>This competitively procured contractor was identified as the contractor with highest combined technical and cost scores resulting from the States Request for Proposal.</p>	
<p><b>18. Justification</b> – <i>specifically explain why non-competitive negotiation is in the best interest of the state</i></p> <p>This competitively procured contract is for consulting and technical services to assist the State in requirements definition, design, development, testing, implementation and initial support of systems to administer Electronic Health Record incentive payments. These payments are a provision of the Medicaid program, as authorized and specified by the American Recovery and Reinvestment Act of 2009 and the Health Information Technology for Economic and Clinical Health Act. The amendment to extend the term for an additional year to provide enhancements and operational activities, including completion of testing and implementation of the FCR Approval System, would be beneficial to the State moving forward with the EHR incentive program. TennCare respectfully requests consideration of and approval of this amendment.</p>	
<p><b>Agency Head Signature and Date</b> – <i>MUST be signed by the ACTUAL agency head as detailed on the current Signature Certification. Signature by an authorized signatory is acceptable only in documented exigent circumstances</i></p> <p><i>Muel V. Ewens 12/13/12</i></p> <p style="text-align: right;">CD</p>	



## CONTRACT AMENDMENT

<b>Agency Tracking #</b> 31865-00331	<b>Edison ID</b> 26134	<b>Contract #</b> FA1135164	<b>Amendment #</b> 02		
<b>Contractor Legal Entity Name</b> Policy Studies, Inc.			<b>Edison Vendor ID</b> 69923		
<b>Amendment Purpose &amp; Effect(s)</b> Extends Contract Term, Increases Maximum Liability and Updates Payment Terms and Scope for Systems Administration Support for Electronic Health Record Incentive Payments					
<b>Amendment Changes Contract End Date:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		<b>End Date:</b> April 30, 2014			
<b>TOTAL Contract Amount INCREASE or DECREASE per this Amendment</b> (zero if N/A):			<b>\$ 3,769,920.00</b>		
<b>Funding —</b>					
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
2011					
2012	\$173,192.27	\$1,558,730.44			\$1,731,922.71
2013	\$241,311.63	\$2,171,804.66			\$2,413,116.29
2014	\$276,992.00	\$2,492,928.00			\$2,769,920.00
<b>TOTAL:</b>	<b>\$691,495.90</b>	<b>\$6,223,463.10</b>			<b>\$6,914,959.00</b>
<b>American Recovery and Reinvestment Act (ARRA) Funding:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO					
<b>Budget Officer Confirmation:</b> There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.  				<i>OCR USE</i>	
<b>Speed Chart (optional)</b> TN00000252		<b>Account Code (optional)</b> 71600000			

**AMENDMENT #2 TO FA1135164  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF FINANCE AND ADMINISTRATION,  
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION  
BUREAU OF TENNCARE  
AND  
POLICY STUDIES INC.**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare", and Policy Studies Inc., hereinafter referred to as the "Contractor", is hereby amended as follows:

1. The following is added as Contract section A.13.
  - A.13. The Contractor shall complete the testing and implementation of the FCR Approval System and perform maintenance and operations once the system. The completion of the FCR Approval System shall include:
    - a. Provision of testing support for all system functions including integration testing and defect correction for all system functions;
    - b. Provision of implementation support including:
      - (1) Support acceptance testing with subject matter experts and technical staff for defect correction;
      - (2) Deploy the application into testing and production environments as required, and
      - (3) Provide operations and maintenance support for the application through the end of the contract term.
2. Contract Section B.1 shall be deleted in its entirety and replaced with the following:
  - B.1. This Contract shall be effective for the period beginning May 16, 2011, and ending on April 30, 2014. 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.
3. Contract Section C.1 shall be deleted in its entirety and replaced with the following:
  - C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Six Million Nine Hundred Fourteen Thousand Nine Hundred Fifty-Nine Dollars (\$6,914,959.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.
4. Contract Section C.3 shall be deleted in its entirety and replaced with the following:

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 for May 16, 2011 through April 30, 2014:

Service Description	Amount (per compensable increment)
1. Phase 1 – Planning, Requirements Definition, Design, Development, Testing, Implementation and Support – as detailed by <i>pro forma</i> contract sections A.3.a. *	\$360,742.00 *
2. Phase 2 – Planning, Requirements Definition, Design, Development, Testing, Implementation and Support – as+ detailed by <i>pro forma</i> contract sections A.3.b. *	\$634,428.00 *
3. EHR Maintenance and Enhancements – as detailed in Section A.11.	\$739,028.00 (to be paid in 12 equal monthly payments beginning May 1, 2012)  \$1,077,440.00 (to be paid in 12 equal monthly payments beginning May 1, 2013)
4. Development – as detailed in Section A.12	\$2,489,310.00 *
5. Operations and Maintenance – as detailed in Section A.12	\$186,931.00 (to be paid in equal monthly payments beginning August 1, 2012)  \$627,200.00 (to be paid in 12 equal monthly payments beginning May 1, 2013)
6. FCR Approval System – as detailed in Section A.13	\$183,680.00 * (Effective March 1, 2013)

**\* NOTICE: Up to 80% of the proposed amount for the cost item will be paid by the State in monthly payments based on Earned Value metrics for the subject phase (in accordance with the methodology detailed in *pro forma* contract section C.3.c.). The remainder will be paid upon completion of all tasks detailed in the approved Project Plan for the subject phase.**

c. Monthly progress payments will be based on incremental Earned Value for the subject project phase. As specified in Section A.8.b, the Contractor is responsible for maintain Project Plans and updating Status on TennCare's Microsoft Project Server. Earned Value is calculated Microsoft Project Server and will be based on progress against the approved Project Plan for the subject phase. As specified in Section A.8.c, the Contractor is responsible for submitting weekly project status reports, in form and format approved by the State, including Earned Value metrics generated by Microsoft Project Server from the approved Project Plan for the subject phase. The Incremental Earned Value for payment purposes will be calculated as the current Earned Value for the subject phase, as reported in the weekly status report on or immediately following the 15th of the subject month, less the sum of all prior progress payments for the subject phase. Project progress, Earned Value and payment calculations are subject to review and approval by the State. Prior to State approval for production implementation of subject phase functionality, cumulative monthly progress payments will be subject to a cap of eighty

percent (80%) of the total payment amount for the subject phase as specified in C.3.b. Any outstanding balance for the subject phase remaining after monthly progress payments will be paid upon completion of all tasks in the approved Project Plan for the subject phase.

- d. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.10., without a formal amendment of this contract based upon the payment rates detailed in the schedule below and as agreed pursuant to said Section A.10., PROVIDED THAT compensation to the Contractor for such "change order" work shall not exceed TEN PERCENT (10%) of the contract maximum liability less the cost for post-implementation support. If, at any point during the Contract period, the State determines that the cost of necessary "change order" work would exceed said maximum amount, the State may amend this Contract to address the need.

<b>Service Description</b>	<b>Amount</b> (per compensable increment)
Additional Services (that may be required by the State and agreed by the Contract Parties pursuant to pro forma contract, section A.10.)	\$ 150.00 per Hour (May 16, 2011 – April 30, 2012)
	\$140.00 per Hour (May 1, 2012 – April 30, 2013)
	\$140.00 per Hour (May 1, 2013 – April 30, 2014)

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

5. Contract Section E.2 shall be deleted in its entirety and replaced with the following:

- 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:

Darin J. Gordon  
Deputy Commissioner  
Division of Health Care Finance and Administration  
310 Great Circle Road  
Nashville, Tennessee 37243-1102  
Telephone: (615) 507-6443  
Fax: (615) 253-8556  
[darin.j.gordon@tn.gov](mailto:darin.j.gordon@tn.gov)

The Contractor:

David R. Francis, General Counsel  
MAXIMUS, Inc.  
1891 Metro Center Drive  
Reston, VA 20190  
Office: 703.251.8602  
Fax: 703.251.8603  
[davidfrancis@maximus.com](mailto:davidfrancis@maximus.com)

With copy to:

Laura R. Hinchey, Manager Contracts Administration  
Contracts Department  
MAXIMUS, Inc.  
1515 Wynkoop Street – Suite 400  
Denver, CO 80202  
Office: 303.285.7647  
Fax: 303.295.0244  
[LauraHinchey@maximus.com](mailto:LauraHinchey@maximus.com)

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

The State is not bound by this Amendment 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).

The revisions set forth herein shall be effective March 1, 2013. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

**IN WITNESS WHEREOF,**

**POLICY STUDIES INC.:**

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**CONTRACTOR SIGNATURE**

**DATE**

**BRUCE PERKINS, VICE PRESIDENT**

---

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

**DEPARTMENT OF FINANCE AND ADMINISTRATION  
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION  
BUREAU OF TENNCARE:**

---

**MARK A. EMKES, COMMISSIONER**

**DATE**



GENERAL ASSEMBLY OF THE STATE OF TENNESSEE  
FISCAL REVIEW COMMITTEE

320 Sixth Avenue, North – 8<sup>th</sup> Floor  
NASHVILLE, TENNESSEE 37243-0057  
615-741-2564

Sen. Bill Ketron, Chairman  
Senators

Douglas Henry                      Reginald Tate  
Brian Kelsey                        Ken Yager  
Eric Stewart  
Randy McNally, *ex officio*  
Lt. Governor Ron Ramsey, *ex officio*

Rep. Curtis Johnson, Vice-Chairman  
Representatives

Tommie Brown                      David Shepard  
Jim Coley                            Tony Shipley  
Charles Curtiss                      Curry Todd  
Johnny Shaw                         Mark White  
Charles Sargent, *ex officio*  
Speaker Beth Harwell, *ex officio*

MEMORANDUM

TO:                      The Honorable Mark Emkes, Commissioner  
                                 Department of Finance and Administration

FROM:                    Senator Bill Ketron, Chairman  
                                 Representative Curtis Johnson, Vice-Chairman

DATE:                    March 29, 2012

SUBJECT:                **Contract Comments**  
                                 (Fiscal Review Committee Meeting 3/26/12)

**RFS# 318.65-0331 (Edison # 26134)**  
**Department: Finance & Administration/HCFA/TennCare**  
**Vendor: Policy Studies, Inc.**

**Summary: The vendor is responsible for support of systems to administer Electronic Health Record incentive payments under the Medicaid program. The proposed amendment requires the vendor to provide staff for maintenance and enhancements; extends contract one year through April 30, 2013; increases maximum liability by \$1,999,869; and includes payment rates for new services, requirements, and hourly payment rates for change order requests. Current maximum liability: \$1,145,170 Proposed maximum liability: \$3,145,039**

After review, the Fiscal Review Committee voted to recommend approval of the contract amendment.

cc: The Honorable Darin Gordon, Deputy Commissioner  
     Ms. Jessica Robertson, Chief Procurement Officer



STATE OF TENNESSEE  
DEPARTMENT OF FINANCE AND ADMINISTRATION  
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION  
BUREAU OF TENNCARE  
310 Great Circle Road  
NASHVILLE, TENNESSEE 37243

February 29, 2012

Lucian Geise, Director  
Fiscal Review Committee  
8<sup>th</sup> Floor, Rachel Jackson Bldg.  
Nashville, TN 37243

Attention: Ms. Leni Chick

RE: Policy Studies, Inc., Amendment #1

Mr. Lucian Geise:

The Department of Finance and Administration, Division of Health Care Finance and Administration, is submitting for consideration by the Fiscal Review Committee amendment #1 to Policy Studies, Inc. This competitively procured contract is for consulting and technical services to assist the State with requirements, design, development, testing and initial support of systems to administer Electronic Health Record incentive payments under the Medicaid program. This amendment extends the term for one year, adds additional enhancements and continued operations and maintenance, and provides funding to support the extension of term.

The Division of Health Care Finance and Administration would greatly appreciate the consideration and approval of this amendment by the Fiscal Review Committee.

Sincerely,

A handwritten signature in black ink, appearing to read "Casey Dungan".

Casey Dungan  
Chief Financial Officer

cc: Darin J. Gordon, Deputy Commissioner  
Alma Chilton, Director of Contracts

Supplemental Documentation Required for  
Fiscal Review Committee

*Contact Name:	Casey Dungan	*Contact Phone:	615-507-6482
*Original Contract Number:	FA1135164	*Original RFS Number:	31865-00331
Edison Contract Number: <i>(if applicable)</i>	26134	Edison RFS Number: <i>(if applicable)</i>	31865-00331
*Original Contract Begin Date:	May 16, 2011	*Current End Date:	April 30, 2012
Current Request Amendment Number: <i>(if applicable)</i>	#1		
Proposed Amendment Effective Date: <i>(if applicable)</i>	April 30, 2012		
*Department Submitting:	Department of Finance and Administration		
*Division:	Health Care Finance and Administration		
*Date Submitted:	February 29, 2012		
*Submitted Within Sixty (60) days: <i>If not, explain:</i>	Yes		
*Contract Vendor Name:	Policy Studies, Inc.		
*Current Maximum Liability:	\$1,145,170.00		
<b>*Current Contract Allocation by Fiscal Year:</b> <i>(as Shown on Most Current Fully Executed Contract Summary Sheet) Attached</i>			
FY: 2012	FY:	FY:	FY:
\$ 1,145,170.00	\$	\$	\$
<b>*Current Total Expenditures by Fiscal Year of Contract:</b> <i>(attach backup documentation from STARS or FDAS report) Attached</i>			
FY: 2012	FY:	FY:	FY:
\$ 1,027,582.00	\$	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:	N/A		
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:	N/A		
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:	N/A		
*Contract	State:	\$114,517.00	Federal: \$1,030,653.00

Supplemental Documentation Required for  
Fiscal Review Committee

Funding Source/Amount:				
Interdepartmental:			<i>Other:</i>	
If " <i>other</i> " please define:				
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>		
None				
Method of Original Award: <i>(if applicable)</i>		Request for Proposal		
*What were the projected costs of the service for the entire term of the contract prior to contract award?		The projected costs associated with this contract were based on Cost Proposals submitted with Request for Proposal. Prior to completion of RFP, costs could not be projected. These documents are public information and available upon request.		

## Supplemental Documentation Required for Fiscal Review Committee

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

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

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)
1. Phase 1 – Planning, Requirements Definition, Design, Development, Testing, Implementation and Support – as detailed by <i>pro forma</i> contract sections A.3.a. *	\$360,742.00 *
2. Phase 2 – Planning, Requirements Definition, Design, Development, Testing, Implementation and Support – as detailed by <i>pro forma</i> contract sections A.3.b. *	\$634,428.00 *

**\* NOTICE: Up to 80% of the proposed amount for the cost item will be paid by the State in monthly payments based on Earned Value metrics for the subject phase (in accordance with the methodology detailed in *pro forma* contract section C.3.c.). The remainder will be paid upon completion of all tasks detailed in the approved Project Plan for the subject phase.**

- c. Monthly progress payments will be based on incremental Earned Value for the subject project phase. As specified in Section A.8.b, the Contractor is responsible for maintain Project Plans and updating Status on TennCare's Microsoft Project Server. Earned Value is calculated Microsoft Project Server and will be based on progress against the approved Project Plan for the subject phase. As specified in Section A.8.c, the Contractor is responsible for submitting weekly project status reports, in form and format approved by the State, including Earned Value metrics generated by Microsoft Project Server from the approved Project Plan for the subject phase. The Incremental Earned Value for payment purposes will be calculated as the current Earned Value for the subject phase, as reported in the weekly status report on or immediately following the 15th of the subject month, less the sum of all prior progress payments for the subject phase. Project progress, Earned Value and payment calculations are subject to review and approval by the State. Prior to State approval for production implementation of subject phase functionality, cumulative monthly progress payments will be subject to a cap of eighty percent (80%) of the total payment amount for the subject phase as specified in C.3.b. Any outstanding balance for the subject phase remaining after monthly progress payments will be paid

## Supplemental Documentation Required for Fiscal Review Committee

upon completion of all tasks in the approved Project Plan for the subject phase.

- d. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.10., without a formal amendment of this contract based upon the payment rates detailed in the schedule below and as agreed pursuant to said Section A.10., PROVIDED THAT compensation to the Contractor for such "change order" work shall not exceed TEN PERCENT (10%) of the contract maximum liability less the cost for post-implementation support. If, at any point during the Contract period, the State determines that the cost of necessary "change order" work would exceed said maximum amount, the State may amend this Contract to address the need.

Service Description	Amount (per compensable increment)
Additional Services (that may be required by the State and agreed by the Contract Parties pursuant to pro forma contract, section A.10.)	\$ 150.00 per Hour

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

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

This contract amendment does not include proposed savings, however, it is a competitively procured contract based on best technical and cost proposal. Per the RFP and the current competitively procured contract language, this amendment to Policy Studies, Inc. extends the term for an additional year and adds funding to support the term extension and the enhancement of system management and operation.

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

Policy Studies, Inc. was awarded the competitively procured contract for systems administration support for the Electronic Health Record Incentive Payments. Pursuant to State of Tennessee contract rules, an RFP is the optimum state procurement method and no other options were explored. All technical and cost proposals submitted as a result of this RFP are available for public inspection.

**Payments to  
 Policy Studies, Inc.  
 FA1135164-00**

<b>Funding Year</b>	<b>Invoice</b>	<b>Reference Document</b>	<b>Name</b>	<b>Gross Amt</b>	<b>Pymnt Date</b>
2012	32001 711	FA1135164	Policy Studies, Inc.	\$ 239,178.00	9/30/2011
2012	32001 811	FA1135164	Policy Studies, Inc.	\$ 145,530.00	10/14/2011
2012	32001 911	FA1135164	Policy Studies, Inc.	\$ 98,910.00	10/12/2011
2012	32001 1011	FA1135164	Policy Studies, Inc.	\$ 61,854.00	11/30/2011
2012	32001 1111	FA1135164	Policy Studies, Inc.	\$ 198,480.00	12/30/2011
2012	32001 1211	FA1135164	Policy Studies, Inc.	\$ 22,600.00	2/8/2012
2012	32001 112	FA1135164	Policy Studies, Inc.	\$ 261,030.00	Pending
<b>FY 2012 Total</b>				<b>\$ 1,027,582.00</b>	

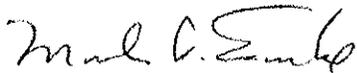
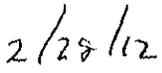
# Non-Competitive Amendment Request

NOT required for a contract with a federal, Tennessee, or Tennessee local government entity or a grant.  
Route a completed request, as one file in PDF format, via e-mail attachment sent to: [AgSprs.Agsprs@state.tn.us](mailto:AgSprs.Agsprs@state.tn.us)

APPROVED

COMMISSIONER OF FINANCE & ADMINISTRATION

Request Tracking #	31865-00331	
1. Procuring Agency	Department of Finance and Administration Health Care Finance and Administration Bureau of TennCare	
2. Contractor	Policy Studies, Inc.	
3. Contract #	FA1135164	
4. Proposed Amendment #	1	
5. Edison ID #	26134	
6. Contract Begin Date	May 16, 2011	
7. Current Contract End Date – with ALL options to extend exercised	April 30, 2012	
8. Proposed Contract End Date – with ALL options to extend exercised	April 30, 2013	
9. Current Maximum Contract Cost – with ALL options to extend exercised	\$1,145,170.00	
10. Proposed Maximum Contract Cost – with ALL options to extend exercised	\$ 3,145,039.00	
11. Office for Information Resources Endorsement – information technology service (N/A to THDA)	<input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/> Attached	
12. eHealth Initiative Support – health-related professional, pharmaceutical, laboratory, or imaging	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
13. Human Resources Support – state employee training service	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
14. Explanation Need for the Proposed Amendment	<p>The competitively procured contract with Policy Studies, Inc. is for consulting and technical services to assist the State with requirements, design, development, testing and initial support of systems to administer Electronic Health Record incentive payments under the Medicaid program. This amendment extends the term for one year, adds additional enhancements and continued operations and maintenance, and provides funding to support the extension of term.</p>	

<b>Request Tracking #</b>	<b>31865-00331</b>
<b>15. Name &amp; Address of the Contractor's Principal Owner(s)</b> <i>- NOT required for a TN state education institution</i>  <b>Margaret Laub, Chief Executive Officer</b> <b>1515 Wynkoop Street, Suite 400</b> <b>Denver, Colorado 80202</b>	
<b>16. Evidence Contractor's Experience &amp; Length Of Experience Providing the Service</b>  Policy Studies, Inc. provides consulting, technology, and outsourced services to government agencies involved in criminal justice, health care, human services, and a variety of social and economic programs. PSI provides outsourced child support enforcement programs for state and local government agencies, and offers workforce development and public health insurance programs in some 30 states across the country. The company bookends its outsourced services with consulting (research, policy analysis, planning) and technology services (system architecture and design, maintenance, and training). PSI was founded in 1984 by Robert Williams. The Bureau of TennCare released an RFP to identify systems administration support for Electronic Health Record Incentive Payments and Policy Studies, Inc. provided the winning proposals with best evaluated technical combined with calculated cost proposal.	
<b>17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives</b>  This competitively procured contractor was identified as the contractor with highest combined technical and cost scores resulting from the States Request for Proposal.	
<b>18. Justification</b> <i>- specifically explain why non-competitive negotiation is in the best interest of the state</i>  This competitively procured contract is for consulting and technical services to assist the State in requirements definition, design, development, testing, implementation and initial support of systems to administer Electronic Health Record incentive payments. These payments are a provision of the Medicaid program, as authorized and specified by the American Recovery and Reinvestment Act of 2009 and the Health Information Technology for Economic and Clinical Health Act. The amendment to extend the term for an additional year to provide enhancements and operational activities would be beneficial to the State moving forward with the EHR Incentive program.	
<b>Agency Head Signature and Date</b> <i>- MUST be signed by the ACTUAL agency head as detailed on the current Signature Certification. Signature by an authorized signatory is acceptable only in documented exigent circumstances</i>   	



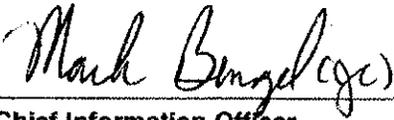
## OIR Pre-Approval Endorsement Request E-Mail Transmittal

**TO :** Jane Chittenden, OIR Procurement & Contract Management Director  
Department of Finance & Administration  
E-mail : [Jane.Chittenden@tn.gov](mailto:Jane.Chittenden@tn.gov)

**FROM :** Alma Chilton  
E-mail : [alma.chilton@tn.gov](mailto:alma.chilton@tn.gov)

**DATE :** February 27, 2012

**RE :** Request for OIR Pre-Approval Endorsement

<b>Applicable RFS #</b> 31865-00331
<b>OIR Endorsement Signature &amp; Date:</b>
 <span style="float: right; font-size: 1.5em;">2/29/12</span>
<b>Chief Information Officer</b>
<i>NOTE: Proposed contract/grant support is applicable to the subject IT service technical merit.</i>

Office for Information Resources (OIR) pre-approval endorsement appears to be required pursuant to professional service contracting regulations pertaining to procurements with information technology as a component of the scope of service. This request seeks to ensure that OIR is aware of and has an opportunity to review the procurement detailed below and in the attached documents.

Please document OIR endorsement of the described procurement (with the appropriate signature above), and return this document via e-mail at your earliest convenience.

<b>Contracting Agency</b>	<b>Department of Finance and Administration Bureau of TennCare</b>
<b>Agency Contact</b> (name, phone, e-mail)	
<b>Subject Procurement Document</b> (mark one)	
<input type="checkbox"/> RFP	<input type="checkbox"/> Contract
<input type="checkbox"/> Competitive Negotiation Request	<input checked="" type="checkbox"/> Contract Amendment
<input type="checkbox"/> Alternative Procurement Method Request	<input type="checkbox"/> Grant
<input type="checkbox"/> Non-Competitive Contract Request	<input type="checkbox"/> Grant Amendment
<input type="checkbox"/> Non-Competitive Amendment Request	
<b>Information Systems Plan (ISP) Project Applicability</b>	
<input type="checkbox"/> Not Applicable to this Request	
<input checked="" type="checkbox"/> Applicable— ISP Project# DC57-2011-001 Medicaid HIT Incentive Administration System	
<b>Response Confirmed by IT Director/Staff</b> (name): <b>Brent Antony</b>	

<b>Applicable RFS #</b> <b>31865-00331</b>
<b>Required Attachments</b> (as applicable – copies without signatures acceptable) <input type="checkbox"/> RFP, Competitive Negotiation Request, Alternative Procurement Method Request, Non-Competitive Contract Request, Non-Competitive Amendment Request <input type="checkbox"/> Original Contract/Grant or Amendment <input checked="" type="checkbox"/> Proposed Contract/Grant or Amendment
<b>Subject Information Technology Service Description</b> (Brief summary of information technology services involved. Clearly identify included technologies such as system development/maintenance, security, networking, etc. As applicable, identify the contract & solicitation sections related to the IT services.)  Amendment to enhance existing competitively procured contract for consulting and technical services to assist the State in requirements of standardizing provider enrollment processes and enhancements. The Request for Proposal was reviewed and approved by OIR.



# FUNDING REVISION CONTRACT

(fee-for-service contract with an individual, business, non-profit, or governmental entity of another state)

<b>Begin Date</b> May 16, 2011	<b>End Date</b> April 30, 2013	<b>Agency Tracking #</b> 31865-00331	<b>Edison Record ID</b> 26134
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<b>Contractor Legal Entity Name</b> Policy Studies, Inc.	<b>Edison Vendor ID</b> 0000069923
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**Service Caption (one line only)**  
Systems Administration Support for Electronic Health Record Incentive Payments  
**FUNDING REVISION: Moving \$252,683.71 from FY 2013 to FY 2012**

<b>Subrecipient or Vendor</b> <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	<b>CFDA #</b> 93.778 Dept of Health & Human Services/Title XIX
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Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011					
2012	\$173,192.27	\$1,558,730.44			\$1,731,922.71
2013	\$141,311.63	\$1,271,804.66			\$1,413,116.29
<b>TOTAL:</b>	<b>\$314,503.90</b>	<b>\$2,830,535.10</b>			<b>\$3,145,039.00</b>

**American Recovery and Reinvestment Act (ARRA) Funding:**  YES  NO

**Ownership/Control**

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

**Selection Method & Process Summary (mark the correct response to confirm the associated summary)**

<input checked="" type="checkbox"/> RFP	The procurement process was completed in accordance with the approved RFP document and associated regulations.
<input type="checkbox"/> Competitive Negotiation	The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.
<input type="checkbox"/> Alternative Competitive Method	The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.
<input type="checkbox"/> Non-Competitive Negotiation	The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.
<input type="checkbox"/> Other	The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with <u>all</u> interested parties or <u>all</u> parties in a predetermined "class."

**Budget Officer Confirmation:** There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

 8/23/2012

OCR USE – FA

**Contract # FA1135164-01**

<b>Speed Chart (optional)</b> TN00000252	<b>Account Code (optional)</b> 71600000
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# CONTRACT AMENDMENT

<b>Agency Tracking #</b> 31865-00331	<b>Edison ID</b> 26134	<b>Contract #</b> FA1135164	<b>Amendment #</b> 01
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<b>Contractor Legal Entity Name</b> Policy Studies, Inc.	<b>Edison Vendor ID</b> 0000069923
---	---------------------------------------

**Amendment Purpose & Effect(s)**  
 Extends Contract Term, Increases Maximum Liability and Updates Scope for Systems Administration Support for Electronic Health Record Incentive Payments

<b>Amendment Changes Contract End Date:</b> <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	<b>End Date:</b> April 30, 2013
---	---------------------------------

**TOTAL Contract Amount INCREASE or DECREASE per this Amendment** (zero if N/A): **\$ 1,999,869.00**

Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011					
2012	\$147,924.00	\$1,331,315.00			\$1,479,239.00
2013	\$166,580.00	\$1,499,220.00			\$1,665,800.00
<b>TOTAL:</b>	<b>\$314,504.00</b>	<b>\$2,830,535.00</b>			<b>\$3,145,039.00</b>

**American Recovery and Reinvestment Act (ARRA) Funding:**  YES  NO

**Budget Officer Confirmation:** There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.



*OCR USE*

**FA1135164-01**

<b>Speed Chart (optional)</b> TN00000252	<b>Account Code (optional)</b> 70803000
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**AMENDMENT #1 TO FA1135164  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF FINANCE AND ADMINISTRATION,  
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION  
BUREAU OF TENNCARE  
AND  
POLICY STUDIES, INC.**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Division of Health Care Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare", and Policy Studies, Inc., hereinafter referred to as the "Contractor", is hereby amended as follows:

1. The following is added as Contract section A.11 - A.12.

A.11. The Contractor shall provide staff to support the model for Electronic Health Record (EHR) Provider Incentive Performance Program (PIPP) maintenance and enhancements including the following tasks and activities:

- a. Perform routine maintenance on the EHR PIPP system including bug identification, tracking and correction;
- b. In conjunction with TennCare, create and prioritize the list of enhancements and keep up-to-date throughout the contract period;
- c. Perform enhancements based on TennCare direction;
- d. Develop functionality for meaningful use of Phase II and prioritized enhancements;
- e. Work with TennCare provider and technical staff in Joint Application Design (JAD) sessions to develop functional and technical requirements;
- f. Develop and test application, support acceptance testing by TennCare and provide on-site support as required for requirements and testing;
- g. Deploy functionality into production, and
- h. Development and integration testing platform and VPN tunnel to OIR for the contract period.

A.12. The Contractor shall assist TennCare with a project to standardize the provider enrollment processes utilizing a subcontracted partner to collect and store required documentation. This initiative is to meet state and federal documentation requirements as well as provide standard registration process. The Contractor shall provide functionality required through a system design, development and implementation effort that shall focus on requirement elicitation as the basis for the solution. The Contractor shall utilize requirements to design the new functionality and utilizing an Agile development methodology, complete the design, development and implementation process, including project management, business and technical staff to complete the following activities:

- a. Enable the enrollment process based on the current EHR PIPP solution and technology with additional functions as needed including:



- (1) Conduct JAD sessions with TennCare business and technical staff to develop functional and technical requirements for all aspects of the solution including: the provider "roster" portal to accept requests from providers to apply for certification through subcontractor and the data transfer mechanisms with subcontractor;
  - (2) Complete a system design of portal and data integration functionality;
  - (3) Create Use Cases for integration functions;
  - (4) Design the data model needed to support data transfer between TennCare and Contractor;
  - (5) Develop the provider portal and data integration functionality;
  - (6) Develop workflows and interfaces to receive credentialing information as well as other updates (change of address, new or expired certifications, disenrollments), and
  - (7) Develop reports to assist the business staff.
- b. Enable TennCare Provider Services and other business staff to complete required functions and resolve exceptions and other issues encountered including:
- (1) Conduct JAD sessions with TennCare business and technical staff to develop functional and technical requirements for creation of workflows, exception processing and business rules development;
  - (2) Create Use Cases for Provider Services functions;
  - (3) Design the TennCare web application, and
  - (4) Develop the TennCare web application including workflows, business rules and exception handling.
- c. Enable the interface between the MMIS and the new application to transfer and update provider information including:
- (1) Conduct JAD sessions with HP and TennCare staff to define the data transfer requirements;
  - (2) Create Use Cases for MMIS integration;
  - (3) Design the data transfer and business rules for provider updates and additions;
  - (4) Design the data model and transfer protocols for sharing information with the MMIS, and
  - (5) Develop the functionality required to enable the interface with the MMIS and support exception processing when necessary.
- d. Conduct an initial conversion to roster all providers including:



- (1) On-time conversion of all providers in the MMIS;
  - (2) File transfer of all providers, and
  - (3) Mass update to MMIS with updated information.
- e. Provide testing support for all system functions including:
- (1) Creation of integration test cases to test all system functions;
  - (2) Integration testing and defect correction for all system functions;
  - (3) Create Test Plan for system/UAT testing, and
  - (4) Expand Use Cases into test scripts for all system functions.
- f. Provide implementation support as follows:
- (1) Support acceptance testing with subject matter experts and technical staff for defect correction;
  - (2) Deploy the application into testing and production environments as required, and
  - (3) Provide operations and maintenance support for the application for duration of contract.
- g. Provide and host development and integration test environments on the Contractor's infrastructure and maintain the current VPN tunnel between the Contractor and OIR for the duration of the contract.
- h. The Contractor shall complete the required functionality and implementation of the system by June 30, 2012, with major stabilization during July 2012, and transitioning into an operations and maintenance structure during August 2012 through April 2013.

2. Contract Section B.1 shall be deleted in its entirety and replaced with the following:

B.1. This Contract shall be effective for the period beginning May 16, 2011, and ending on April 30, 2013. 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.

3. Contract Section C.1 shall be deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Three Million One Hundred Forty-Five Thousand Thirty-Nine Dollars (\$3,145,039.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the



State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

4. Contract Section C.3 shall be deleted in its entirety and replaced with the following:

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 for May 16, 2011 through April 30, 2013:

Service Description	Amount (per compensable increment)
1. Phase 1 – Planning, Requirements Definition, Design, Development, Testing, Implementation and Support – as detailed by <i>pro forma</i> contract sections A.3.a. *	\$360,742.00 *
2. Phase 2 – Planning, Requirements Definition, Design, Development, Testing, Implementation and Support – as+ detailed by <i>pro forma</i> contract sections A.3.b. *	\$634,428.00 *
3. EHR Maintenance and Enhancements – as detailed in Section A.11.	\$739,028.00 (to be paid in 12 equal monthly payments beginning May 1, 2012)
4. Development – as detailed in Section A.12	\$607,710.00 *
5. Operations and Maintenance – as detailed in Section A.12	\$186,931.00 (to be paid in equal monthly payments beginning August 1, 2012)

\* **NOTICE: Up to 80% of the proposed amount for the cost item will be paid by the State in monthly payments based on Earned Value metrics for the subject phase (in accordance with the methodology detailed in *pro forma* contract section C.3.c.). The remainder will be paid upon completion of all tasks detailed in the approved Project Plan for the subject phase.**

c. Monthly progress payments will be based on incremental Earned Value for the subject project phase. As specified in Section A.8.b, the Contractor is responsible for maintain Project Plans and updating Status on TennCare's Microsoft Project Server. Earned Value is calculated Microsoft Project Server and will be based on progress against the approved Project Plan for the subject phase. As specified in Section A.8.c, the Contractor is responsible for submitting weekly project status reports, in form and format approved by the State, including Earned Value metrics generated by Microsoft Project Server from the approved Project Plan for the subject phase. The Incremental Earned Value for payment purposes will be calculated as the current Earned Value for the subject phase, as reported in the weekly status report on or immediately following the 15th of the subject month, less the sum of all prior progress payments for the subject phase. Project progress, Earned Value and payment calculations are subject to review and approval by the State. Prior to State approval for production implementation of subject phase functionality, cumulative monthly progress payments will be subject to a cap of eighty percent (80%) of the total payment amount for the subject phase as specified in C.3.b. Any outstanding balance for the subject phase remaining after monthly progress



payments will be paid upon completion of all tasks in the approved Project Plan for the subject phase.

- d. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.10., without a formal amendment of this contract based upon the payment rates detailed in the schedule below and as agreed pursuant to said Section A.10., PROVIDED THAT compensation to the Contractor for such "change order" work shall not exceed TEN PERCENT (10%) of the contract maximum liability less the cost for post-implementation support. If, at any point during the Contract period, the State determines that the cost of necessary "change order" work would exceed said maximum amount, the State may amend this Contract to address the need.

Service Description	Amount (per compensable increment)
Additional Services (that may be required by the State and agreed by the Contract Parties pursuant to pro forma contract, section A.10.)	\$ 150.00 per Hour (May 16, 2011 – April 30, 2012)
	\$140.00 per Hour (May 1, 2012 – April 30, 2013)

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

Required Approvals. The State is not bound by this Amendment 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).

Amendment Effective Date. The revisions set forth herein shall be effective April 30, 2012. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

POLICY STUDIES, INC.:

MARCH 28, 2012

CONTRACTOR SIGNATURE

DATE

ERIC RUBIN, PRESIDENT AND CHIEF OPERATING OFFICER

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF FINANCE AND ADMINISTRATION  
DIVISION OF HEALTH CARE FINANCE AND ADMINISTRATION  
BUREAU OF TENNCARE:



*Mark A. Emkes / CD*

*4/12/2012*

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**MARK A. EMKES, COMMISSIONER**

**DATE**



# CONTRACT

(fee-for-service contract with an individual, business, non-profit, or governmental entity of another state)

<b>Begin Date</b> May 16, 2011	<b>End Date</b> April 30, 2012	<b>Agency Tracking #</b> 31865-00331	<b>Edison Record ID</b> 26134
<b>Contractor Legal Entity Name</b> Policy Studies, Inc.			<b>Edison Vendor ID</b> 0000069923
<b>Subrecipient or Vendor</b> <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	<b>CFDA #</b> 93.778 Dept of Health & Human Services/Title XIX		<b>FEIN or SSN (optional)</b> 84-0938521

**Service Caption (one line only)**  
Systems Administration Support for Electronic Health Record Incentive Payments

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011					
2012	\$114,517.00	\$1,030,653.00			\$1,145,170.00
<b>TOTAL:</b>	\$114,517.00	\$1,030,653.00			<b>\$1,145,170.00</b>

**American Recovery and Reinvestment Act (ARRA) Funding:**  YES  NO

**Ownership/Control**

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

**Selection Method & Process Summary (mark the correct response to confirm the associated summary)**

- RFP    The procurement process was completed in accordance with the approved RFP document and associated regulations.  
 Competitive Negotiation    The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.  
 Alternative Competitive Method    The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.  
 Non-Competitive Negotiation    The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.  
 Other    The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with all interested parties or all parties in a predetermined "class."

**Budget Officer Confirmation:** There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.

**Speed Code** TN00000252    **Account Code** 70803000



Secured Document

# **FA1135164**

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF FINANCE AND ADMINISTRATION,  
BUREAU OF TENNCARE  
AND  
POLICY STUDIES, INC.**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Bureau of TennCare, hereinafter referred to as the "State" or "TennCare", and Policy Studies, Inc., hereinafter referred to as the "Contractor", is for consulting and technical services to assist the State in requirements definition, design, development, testing, implementation and support of systems to administer Electronic Health Record (EHR) incentive payments under the Medicaid program, as authorized and specified by the American Recovery and Reinvestment Act of 2009 (ARRA) and the Health Information Technology for Economic and Clinical Health (HITECH) Act, and as further defined in the "SCOPE OF SERVICES."

The Contractor is a for profit corporation.

Contractor Federal Employer Identification # 84-0938521

Contractor Place of Incorporation or Organization: Denver, Colorado

**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. The scope of services of the contract includes the following activities or tasks:
- a. Definition and documentation of requirements for the systems and interfaces required to support and administer EHR incentive payments to eligible providers;
  - b. Design, development, testing and implementation of required systems and interfaces;
  - c. Implementation and post-implementation support for system and program operations, and
  - d. Project management of all relevant activities, including status reporting.
- A.3. Project Phases. The project will be executed in two major phases. The first phase of the project will address system requirements, functions and components that are needed on or before August 15, 2011. The second phase of the project will address additional requirements or components that are needed subsequent to August 15, 2011.
- a. Phase 1 – This project phase includes requirements definition, design, development, testing, data conversion, implementation and support of system functions and requirements that are needed for operation of the EHR Incentive Program on or before August 15, 2011. Unless otherwise directed by the State, design, development, testing and implementation of Phase 1 system functionality shall be complete on or before August 15, 2011. Phase 1 includes the following major system functions or components:
    - (1) Phase 1 shall include all provider registration functions, including redesign, redevelopment and/or enhancement of existing system components and interfaces with NLR for provider registration and eligibility, internal user interface functions to support initial eligibility determination, and provider notification.
    - (2) Phase 1 shall include all provider attestation and eligibility determination functions, including the external application interface for user and provider registration, submission of provider attestation of patient volume and "adopt, implement or upgrade" (AIU) status, and the internal application interface for provider attestation review and eligibility determination, as well as additional data

interfaces with external systems, and provider communication and appeal functions in both the internal and external application interface.

- (3) Phase 1 shall include all incentive payment functions, including payment calculation functions, interfaces with NLR for payment history and sanction inquiry, cost report and attestation data for dually-eligible hospitals, interfaces with MMIS/Edison for payment generation and with NLR for payment reporting.
- b. Phase 2 – This project phase includes requirements definition, design, development, testing, implementation and support of system functions and requirements that are needed for operation of the EHR Incentive Program subsequent to August 15, 2011, including any modifications or enhancements to Phase 1 functionality to support continued program operation. Unless otherwise directed by the State, design, development, testing and implementation of Phase 2 system functionality shall be complete on or before October 14, 2011. Phase 2 shall include application modifications and enhancements to support submission and processing of Meaningful Use attestation and quality metrics as well as other system enhancements to support continued program operation, including any requirements not addressed in Phase 1.
- A.4. Master Project Plan. The Contractor shall be responsible for developing a master project plan before the start of the first phase with detailed sections for each functional area or release developed before the start of the phase listing the work to be accomplished in the phase along with scheduled start and completion dates. Unless otherwise directed or approved by the State, work will be performed at the TennCare offices. Time is of the essence in this project. In the event of conflict in required completion dates, the terms of this contract will prevail and the contract will be interpreted to require the earliest documented completion date for such activities or milestones, unless otherwise approved by the State.
- A.5. Requirements Definition. The Contractor shall be responsible for assisting the State in defining requirements for systems, interfaces and business process flows required to support and administer EHR incentive payments to eligible providers. Initial definition of requirements will focus on system functions and components required in Phase 1, but should include consideration of high-level requirements for Phase 2 functions and components. Specifically, the Contractor will be responsible for:
- a. Requirements Documentation – Unless otherwise approved by the State, within one (1) week of the contract start date, the Contractor must submit, for review and approval by the State, proposed form, format and storage approach for requirements documentation. The Contractor shall be responsible for documenting and maintaining requirements, as well as business and system process flows, in approved form, format and location. Requirements documentation shall be organized in a manner to support subsequent requirements definition and elaboration activities, in terms of both program process area and project phase. Further, this documentation shall be maintained in a form that supports requirements traceability through subsequent phases of the project, including design, development, testing and defect tracking.
  - b. Requirements Definition Approach – Unless otherwise approved by the State, within one (1) week of the contract start date, the Contractor must submit, for review and approval by the State, a proposed approach for and detailed description of requirements definition activities and proposed form, format and storage approach for requirements documentation. As the basis for planning and organizing requirements definition activities, the Contractor shall review of program artifacts and documentation, as described in Section A.5.d. The Contractor shall conduct one or more initial requirements definition sessions for each major functional area, in order to identify, elaborate and capture detailed system and process requirements for the first program year. While these initial sessions will focus on program requirements for Phase 1, the scope of discussion should include high-level requirements for the entire program to inform global system architecture and design decisions. Subsequent to initial requirements definition sessions, the Contractor shall conduct additional requirements definition sessions, meetings, and conversations as necessary to fully define and capture system and process requirements, including sessions to define detailed requirements for Phase 2. The Contractor is responsible not only for facilitation of requirements definition sessions but shall also assist the State in defining and elaborating requirements through

independent knowledge of program requirements and expertise in system design in development. In particular, the Contractor must assist the State in defining requirements for system controls, edits and features to prevent entry and processing of invalid or unanticipated data values, circumvention of intended business or system process or flow, as well as unauthorized access or other exception conditions.

- c. Requirements Definition Plan and Schedule – Unless otherwise approved by the State, within one (1) week of the contract start date, the Contractor must submit, for review and approval by the State, a proposed plan and schedule for requirement definition activities. The Contractor will execute requirements definition activities according to the approved approach and plan. Unless otherwise approved by the State, the Contractor must initiate requirements definition sessions within two (2) weeks of the contract start. Unless otherwise approved by the State, all initial requirements validation sessions, for all functional areas required in Phase 1, shall be conducted over a period of two (2) weeks from the start of the sessions. The Contractor may conduct additional sessions as needed to further define and document detailed requirements for Phase 1 and Phase 2. Unless otherwise approved by the State, the Contractor must submit documentation of all requirements within five (5) business days following the requirements definition session. Requirements documentation shall be maintained in form, format and location proposed by Contractor and approved by the State and shall be maintained in a form that supports requirements traceability through subsequent phases of the project, including design, development, testing and defect tracking. The project plan must include the activities outlined above and must include all milestones and deliverables as outlined in this Contract.
- d. Documentation Review – The Contractor shall be responsible for review of available documentation, including the detail of relevant federal legislation and related guidance from HHS, ONC or CMS, as well as any existing documentation generated by or available to the state. Specifically, the Contractor must review all relevant documentation including, but not limited to, items noted in the following subsections. The Contractor shall be responsible for gathering, storing and organizing and relevant materials and documents. The Contractor will be responsible for requesting relevant documentation from each division of TennCare involved in the incentive program, or other state departments as applicable. The Contractor shall be responsible for compiling requirements documentation, as well as business and system process flows, based on this documentation. The Contractor shall complete review of available documentation and shall compile and document any derived requirements in advance of and in preparation for requirements definition sessions. Specifically, the Contractor is responsible for:
- (1) Review of Federal Legislation and Guidance - The Contractor will be responsible for review of existing federal legislation, as well as guidance and other program or technical documentation maintained or provided by the U.S. Department of Health and Human Services (HHS), the Office of the National Coordinator for Health Information Technology (ONC), or the Centers for Medicare & Medicaid Services (CMS). Specifically, the Contractor must review the text of the federal HITECH legislation as well as the related final rules and guidance published by HHS, ONC, or CMS. Further, the contractor must review any relevant program or technical documentation maintained or provided by HHS, ONC, or CMS, including materials posted to the HHS, ONC, or CMS web sites or distributed to the State or to the Contractor by HHS, ONC, CMS or HHS, ONC or CMS contractors or subcontractors. The Contractor shall be responsible for gathering any such materials from the HHS, ONC or CMS web sites, or other official State repository, or from involved divisions within the Bureau, and for storing and organizing these materials. The Contractor shall confirm with the State, as correct and complete, the inventory of such documentation. The Contractor shall be responsible for documenting any process or system requirements based on review of such documentation.
  - (2) Review of Additional Documentation Provided by the State - The Contractor shall be responsible for review of existing documentation generated, maintained, or provided by the State, including initial requirements, process flows, policies, or other documentation. The Contractor shall be responsible for gathering any such materials from the TennCare intranet, or other official State repository, or from

involved divisions within the Bureau, and for storing these materials. The Contractor shall confirm with the State that documentation is correct and complete."The Contractor shall be responsible for documenting any process or system requirements based on review of such documentation.

- (3) Review of Current Process and System Design - The Contractor shall be responsible for review of the State's current policies, processes and system design. The Contractor shall be responsible for gathering policy and process documentation as well system design and testing documentation from the TennCare intranet, or other official State repository, or from involved divisions within the Bureau, and for storing these materials. The Contractor shall confirm with the State, as correct and complete, the inventory of such documentation. The Contractor shall be responsible for documenting any process or system requirements based on review of such documentation.

e. Requirements Definition Activities – The Contractor shall be responsible for all necessary activities to gather and document system and process requirements. Specifically, the Contractor shall schedule and lead requirements definition sessions, meetings and discussions to review, elaborate and confirm requirements. The Contractor shall be responsible for documenting process or system requirements covered in these requirements definition sessions, meetings and discussions. Requirements documentation shall be maintained in form, format and location proposed by Contractor and approved by the State and shall be maintained in a form that supports requirements traceability through subsequent phases of the project, including design, development, testing and defect tracking. The contractor is responsible not only for gathering and documenting requirements but shall also assist the State in defining and elaborating requirements based on review of documentation and through independent knowledge of program requirements and expertise in system design in development. The Contractor must:

- (1) Define required meetings and proposed schedule;
- (2) Schedule meetings, unless otherwise requested by TennCare;
- (3) Prepare and distribute agendas and any required materials or supporting information for each meeting two (2) business days prior to the scheduled meeting;
- (4) Facilitate scheduled meetings, unless otherwise requested by TennCare;
- (5) Maintain meeting minutes;
- (6) Prepare and distribute minutes, or notice of posting and location, to appropriate staff for review within two (2) business days of the meeting;
- (7) Update minutes based on feedback from review;
- (8) File all agendas and minutes in the State approved location;
- (9) Create and maintain requirements documentation;
- (10) Distribute requirements documentation, or notice of posting and location, to appropriate staff for review within five (5) business days of the meeting, unless otherwise requested or approved by TennCare;
- (11) Update requirements documentation based on feedback from review;
- (12) Prepare and distribute decision documents, or notice of posting and location, as needed within three (3) business days of the meeting; and
- (13) Document decision or action and maintain a file copy of the decision documents in electronic project record.

A.6. Project Plan, Release Plan, Test Plan and Test Case Development. The Contractor shall develop and refine plans for design, development, testing and implementation activities based on information gathered during the requirements definition activities. Specifically, the Contractor must work with the State to prioritize identified requirements and must schedule development activities supporting these requirements to a planned release based on the functional requirements for each phase and defined priority for each requirement. The Contractor shall develop or revise Project Plans for design, development, testing and implementation activities based on these priorities as well as the release scope and schedule. The Contractor is responsible for developing a Project Plan that meets the key program dates and addresses the required scope of each release or wave, including identified and prioritized requirements. Additionally, the Contractor is responsible for developing a Release Plan that describes the scope of functionality included in each release, including the specific requirements that are addressed by

the release and whether those requirements are addressed fully or partially by the release. Further, based on definition of requirements, the Contractor must develop, and submit for State review and approval, a document that describes in detail the plan and approach for testing. The Contractor must also, upon completion of requirements definition and continuing throughout design and development phases, develop test cases. The test plan and test cases must provide sufficient coverage of system functionality and all included requirements.

- a. Project and Release Plan – Unless otherwise approved by the State, the Contractor must submit or, as directed by the State, provide notice of posting and location of detailed Project and Release Plans for review and approval as follows:
  - (1) Project Plan and Release Plan for Phase 1 submitted no later than June 13, 2011.
  - (2) Project Plan and Release Plan for Phase 2 submitted no later than August 15, 2011.

Requirements for project management practices, including content and format of Project Plans are addressed in Section A.8. Release Plans shall be submitted and maintained in form, format and location proposed by Contractor and approved by the State.

- b. Test Plan and Test Cases – Unless otherwise approved by the State, the Contractor must submit or, as directed by the State, provide notice of posting and location of Test Plans and Test Cases for review and approval as follows:
  - (1) Test Plan and Test Cases for Phase 1 submitted no later than June 27, 2011.
  - (2) Test Plan and Test Cases for Phase 2 submitted no later than August 29, 2011.

Test Plan and Test Cases shall be submitted and maintained in form, format and location proposed by Contractor and approved by the State. The Contractor shall document and maintain test cases in a form, format and location that allows for traceability from requirements to test cases, to test case execution and test case results. Additionally, the Contractor shall document test cases, manage and track test execution in a manner that supports detailed reporting of testing status by wave, by release, by function, by requirement, by system program or component or by test case. The Contractor must associate and track requirements and test cases to application programs or components to trigger any required retesting when a program or component is modified.

A.7. Design, Development, Testing and Implementation. The Contractor shall be responsible for system design, development, testing and implementation activities for system scope and requirements based on requirements definition activities defined in Section A.5. Specifically, the Contractor is responsible for:

- a. Design Documentation – The Detailed design documents shall be submitted and maintained in form, format and location proposed by Contractor and approved by the State.
- b. Application Development and Testing Methodologies – The Contractor must document and follow structured development and testing methodologies and must propose, for State review and approval, the methodologies, tools and processes that will be used for application development and testing.
- c. Source Code Control – The Contractor is responsible for maintaining system source code and version control and must deliver, at each release or on the request of the State, all source and object code for all system programs and components. The Contractor must propose, for State review and approval, the methodologies, tools and processes that will be used for source code and version control.
- d. General System Design – Unless otherwise directed or approved by the State, by June 13, 2011, the Contractor must submit or, as directed by the State, provide notice of posting and location of design documents detailing proposed architecture and general systems design, including description of the tools and technologies. System architecture and general design documents shall be submitted and maintained in form, format and

location proposed by Contractor and approved by the State. The Contractor is responsible for ensuring that the proposed design is consistent with existing State standards and architecture. The Contractor must submit in writing and the State must approve in writing any request to deviate from established standards. The Contractor shall also ensure that application and data security is given due consideration and that the appropriate measures, controls and constructs are incorporated in the system design to address application and data security requirements.

- e. Detailed Design – The Contractor shall produce detailed design documents for the system functionality included in each phase. Unless otherwise approved by the State, the Contractor must submit or, as directed by the State, provide notice of posting and location of detailed design documents for review and approval as follows:
  - (1) Detailed Design for Phase 1 functionality submitted no later than June 27, 2011.
  - (2) Detailed Design for Phase 2 functionality submitted no later than August 29, 2011.
  
- f. Phase 1 Development and Testing – The Contractor shall develop and test all Phase 1 system functionality. The Contractor shall develop all programs and components required to deliver all anticipated functionality and to support all defined requirements for Phase 1. Further, the Contractor must execute unit, integration and system testing activities to ensure proper operation of the system. The Contractor must execute the approved test plan and all relevant test cases and must track test results and defects. Time is of the essence and the Contractor shall execute development and testing activities according to approved project plan in order to meet key program dates and the established release plan and schedule. Unless otherwise directed or approved by the State, the Contractor shall complete development and testing of all Phase 1 functions and components by July 29, 2011.
  - (1) The Contractor shall develop and test all required Phase 1 provider registration functionality, including interfaces with NLR for provider registration and functionality to support provider notification. Specifically, the Contractor shall develop and test required system program and components to support provider registration, including, but not limited, to the following functionality:
    - i. Development, modification or enhancement of database tables and interface processing logic for NLR B6, B7 and batch error interfaces, as required;
    - ii. Automation of file transfer processes, including error handling;
    - iii. Editing and logging of inbound and outbound files and transactions;
    - iv. Receipt and processing of inbound NLR B6 interface;
    - v. Generation of outbound NLR B6 error interface;
    - vi. Creation of provider registration records, including management of add, update and inactivate transactions and queuing of records for processing.
    - vii. Internal user interface for initial provider registration review and eligibility determination;
    - viii. Generation of outbound NLR B7 interface based on registration processing;
    - ix. Receipt and processing of inbound NLR B7 error interface;
    - x. Generation of provider registration notices, and
    - xi. Initial process and activity reporting.
  
  - (2) The Contractor shall develop and test all required Phase 1 provider attestation and eligibility determination functionality, including the internal and external user interface, user and provider registration, provider attestation, provider communication and appeal request functions, interface with ONC for confirmation of certified systems, provider attestation review and eligibility determination functions, and modification to interfaces with NLR for State confirmation of

eligibility. Specifically, the Contractor shall develop and test required system programs and components to support provider attestation and eligibility determination, including, but not limited to, the following functionality:

- i. External user interface to support user and provider registration, provider attestation of patient volume and "adopt, implement or upgrade" (AIU) status, provider appeal of eligibility determination and provider communication;
  - ii. Creation of provider attestation, provider appeal and provider communication records or transactions, including queuing of transactions for processing.
  - iii. Internal user interface functions to support provider attestation review and eligibility determination for Medicaid-only eligible professionals and eligible hospitals;
  - iv. Internal user interface functions to support provider appeal processing and provider communication;
  - v. MMIS provider data interface;
  - vi. ONC certification validation interface;
  - vii. Generation of outbound NLR B7 records based on attestation and appeal processing;
  - viii. Implementation of interface staging tables for NLR C5 and D17 interfaces in support of CMS testing;
  - ix. Additional interface or transaction workflow and processing, as required;
  - x. Generation of provider notices and communication, and
  - xi. Additional process and activity reporting.
- (3) The Contractor shall develop and test all required Phase 1 incentive payment functionality, including support for payment calculation, interfaces with NLR for payment history and sanction inquiry, interfaces with MMIS for payment generation and confirmation, and with NLR for payment reporting. Specifically, the Contractor shall develop and test required system program and components to support Wave 3, including, but not limited, to the following functionality:
- i. Eligible professional payment calculation;
  - ii. Eligible hospital payment calculation;
  - iii. Creation of payment requests and records, including queuing of transactions for processing;
  - iv. MMIS payment data interfaces;
  - v. Generation of outbound NLR D16 and D18 interfaces;
  - vi. Receipt and processing of inbound NLR D16 and D18 error interfaces;
  - vii. Receipt and processing of inbound NLR D16 interface;
  - viii. Generation of outbound NLR D16 error interface;
  - ix. Creation of provider sanction and payment records, based on NLR D16 processing
  - x. Receipt and processing of inbound NLR C5 and D17 interfaces
  - xi. Generation of outbound NLR C5 and D17 error interfaces;
  - xii. Creation of attestation and cost report records for dually eligible hospitals based on NLR C5 and D17 interfaces, including queuing of transactions for processing;
  - xiii. External user interface functions to support provider attestation for dually-eligible hospitals;
  - xiv. Internal user interface functions to support attestation review and eligibility determination for dually-eligible hospitals;
  - xv. Generation of outbound NLR B7 records based on NLR D16, C5, and D17 processing;

- xvi. Additional interface or transaction workflow and processing, as required;
- xvii. Generation of provider notices and communication, and
- xviii. Additional process and activity reporting.

f. Phase 2 Development and Testing – The Contractor shall develop and test all Phase 2 system functionality. The Contractor shall develop all programs and components required to deliver all anticipated functionality and to support all defined requirements for Phase 2. Further, the Contractor must execute unit, integration and system testing activities to ensure proper operation of the system. The Contractor must execute the approved test plan and all relevant test cases and must track test results and defects. Time is of the essence and the Contractor shall execute development and testing activities according to approved project plan in order to meet key program dates and the established release plan and schedule. Unless otherwise directed or approved by the State, the Contractor shall complete development and testing of all Phase 2 functions and components by September 30, 2011.

The Contractor shall develop and test all required functionality for Phase 2 to support Meaningful Use attestation and quality metric submission, including, but not limited, to the following functionality:

- (1) Provider portal enhancements to display and accept submission of relevant meaningful use criteria and quality metrics, including both mandatory and optional measures;
- (2) Web service interfaces to support submission of meaningful use criteria and quality metrics, including both mandatory and optional measures;
- (3) Additional interface and transaction workflow and processing, as required;
- (4) Generation of provider notices and communication;
- (5) Additional process and activity reporting, and
- (6) Any requirements not addressed in Phase 1.

g. State Testing Support – The Contractor is responsible for supporting State staff in user acceptance testing and review of test results.

h. Application Vulnerability Testing – Prior to production implementation, the Contractor must arrange for the performance of security and vulnerability testing of the application by a third party qualified to perform such tests, including penetration tests of the internal and external user interface. The Contractor must submit, for review and approval by the State, the proposed scope of testing as well as the name and qualifications of the party performing the tests. The Contractor is responsible for the costs of this testing. The State may elect to perform independent testing. The Contractor must address and resolve any application vulnerabilities as directed by the State. The Contractor must arrange for repeat testing to ensure that all identified vulnerabilities have been addressed as directed by the State.

i. Data Conversion – The Contractor is responsible for conversion of any existing program data as required to maintain program records and history, including provider registration, attestation, eligibility verification and payment.

j. Implementation and Post-Implementation Support – The Contractor shall assist the State in building the development, test and production system environments. The Contractor must propose change control processes and procedures for State review and approval. The Contractor is responsible for release management and shall implement changes and releases in each system environment, as appropriate, according to approved change control processes. The Contractor shall develop system documentation and provide user training. Further, the Contractor shall provide post-implementation technical support for each release and must track and address all reported issues and defects. The Contractor will provide user training and technical support services throughout the term of this contract.

A.8. Project Management. The Contractor will be responsible for management of the project to ensure successful completion of the scope of service.

- a. State's Information Technology Methodology (ITM) – The Contractor shall utilize the State's ITM in this project. The State's ITM includes process definitions, guidelines, document deliverable templates, and tools that support two (2) basic categories of processes: (a) Project Management Processes, and (b) Product Development Methodology. The Project Management Processes describe the procedures for organizing and controlling the work of the project, which shall extend over one (1) or more Product Development Phases. The Product Development Phases describe the processes for developing the enhancements. Since the State's ITM is defined at a high-level for use on all types and sizes of information technology (IT) projects, the Contractor shall develop a detailed project management methodology within the guidelines of the State's ITM. Throughout the project, the Contractor shall produce numerous Project Management Process and Product Development Phase deliverables. Some of these products are specific deliverables that shall be managed, produced, and updated by the Contractor. Others are natural work-products arising out of the shared effort of both parties. The processes and phases are as follows:

(1) Project Management Processes

- i. Planning – Devise and maintain the project plan ("Project Plan") using input from the initiation of the project proposal to accomplish the business need. The Project Plan shall be constructed in accordance with project management best-practices, such as, but not limited to, the use of the critical-path method (CPM).
- ii. Execution – Carry out the activities included in the Project Plan that includes developing the project team, coordinating activities, distributing information and verifying work results.
- iii. Controlling – Ensure the Project Plan objectives are met by monitoring and measuring its progress.
- iv. Quality Management – Identify quality policies, objectives, and responsibilities to be used for the Project Plan, and ensure that these are implemented and monitored throughout the term of the project.
- v. Procurement Management – Acquire goods and services from vendors, contractors, and/or suppliers, and to manage the contracts that are established through contract completion.
- vi. Phase/Project Closure – Evaluate the aspects of the Project Plan's status, make go/no go decisions and obtain final Project Plan sign off.

(2) Product Development Phases

- i. Scope and Feasibility – Establish the high-level requirement and assess impacts, constraints and recommendations for the product to be developed.
- ii. Requirement Definition and Solution Evaluation – Establish detailed requirements and evaluate high-level solution alternatives for satisfying requirements.
- iii. Design – Design the product to a detailed level and provide the framework for constructing the product.
- iv. Construction – Build and test product components, integrate and test component assemblies, and prepare for acceptance testing.
- v. Acceptance Test – Evaluate the ability of the product to satisfy all product requirements by the State and obtain necessary signoff on the product.
- vi. Implementation – Complete product integration, train users, monitor product operation and update documentation as needed.

- b. Project Plan Requirements – The Contractor shall develop project plans according to industry standards and best practices. Unless otherwise directed or approved by the State, the Contractor shall maintain project plans on TennCare's Microsoft Project Server (MSPS). Project plans created or maintained by the Contractor must meet criteria or requirements including, but not limited to, the following:

- (1) The Project Plan must include relevant and sufficiently detailed work breakdown structure (WBS);

- (2) The WBS shall include estimates of effort based on an approved estimation methodology;
- (3) Task duration shall be manageable and meaningful;
- (4) The Project Plan shall be resource loaded and leveled;
- (5) The Project Plan shall include resource rates;
- (6) The Project Plan shall identify predecessor and successor activities, task dependencies, and critical path;
- (7) The Project Plan shall clearly identify deliverables, milestones and key milestones.
- (8) The Project Plan must be baselined and submitted for review through the Control Memorandum(a) process, described in Section A.8.f. and must be approved by the State. Any significant changes to the project plan or any changes to the Project Plan's baseline must be submitted for review and approval through this process.

c. **Project Tracking and Status Reporting** – The Contractor shall track progress against Project Plans and shall report status in form and format approved by the State. The Contractor shall document and manage Project Plan risks, issues and action items. The Contractor shall report Project Plan status weekly, utilizing a State approved template which includes Earned Value (EV) and Earned Schedule (ES) metrics as directed by the State. The State must approve the Contractor's approach for:

- (1) Defining baseline resource costs;
- (2) Measuring and updating Project Plan work and progress;
- (3) Calculating EV and ES Project Plan metrics; and
- (4) Reporting Project Plan status.

d. **Issue Tracking and Resolution Process** – The following issue resolution process shall be used for each issue related to the project. Any issue that arises involving the project that cannot be immediately resolved or requires management awareness, decision or action shall be documented and maintained in the Project Issues Log by the Contractor. Anyone on the TennCare project team may submit a new issue to the Project Issues Log. Only the Project Director (or his/her designee) may close an open issue on the Project Issues Log and confirm resolution of that issue.

The Project Issues Log allows State and Contractor management to review outstanding questions, decisions and pending actions, and provide guidance on those issues that are of the highest priority. The Project Issues Log shall be used to communicate all project issues to State and Contractor senior management and Executive Sponsors. The Project Issues Log shall be updated routinely as Project progress through the process.

The steps for reporting and resolving a project issue shall be:

- (1) **Submit Issue** – All identified issues shall be entered into the Project Issues Log. An issue may be entered by anyone and the name of the submitter must be entered with each issue. The default issue status shall be "Submitted". Each issue shall be assigned to a category so that the category of issues can be tracked. Examples of issue categories may include, but are not limited to:
  - i. Functional – Broken out by functional module
  - ii. Technical
  - iii. Communications
  - iv. Project Scope/Funding
  - v. Policy/Legal
  - vi. Organizational
- (2) **Review and Prioritize Issue** – The Project Director (his/her or designee) shall review a newly submitted issue and determine whether to accept/assign, reject, or defer the issue. Assigned issues shall be prioritized based on the impact the issues have, or shall have, on the project's progress, and the issues are assigned

a target resolution date. For certain categories of issues, such as "Policy/Legal" or "Project Scope/Funding", those issues shall be immediately escalated to the Project Director (or his/her designee) to be resolved or further escalated, as these shall not be resolved at the project team level. Please refer to the Issue Escalation process in Section A.8.d.(7). Project management shall closely monitor the Project Issues Log as certain unresolved issues may materially impede the progress of the project.

- (3) Assign Issue to an Owner – The Project Director (or his/her designee) shall assign an accepted issue to an owner who shall be responsible for driving the issue to resolution.
  - (4) Evaluate Resolution Options – The issue owner shall determine and document viable resolution options, and then manage the evaluation of the options, taking into account the pros and cons of each option. The issue owner shall be responsible for collaborating with others, where necessary, to evaluate options and reach a resolution.
  - (5) Resolve Issue – The issue owner shall work to resolve the issue by the target resolution date. The typical timeframes for resolving an issue shall be as follows:
    - i. High priority issue: three (3) days
    - ii. Medium priority issue: seven (7) days
    - iii. Low priority issue: ten (10) days
  - (6) Close Issue – Once an issue has been resolved, it shall be assigned a "Closed" status by the Project Director (or his/her designee) in the Project Issues Log.
  - (7) Issue Escalation – If an issue has not been resolved by its assigned target resolution date, then the issue may be escalated. The owner of the issue shall confer with project management to determine the appropriate management escalation action to take. The first level of issue escalation shall be to the Project Director (or his/her designee). If the Project Director (or his/her designee) is not able to resolve an issue within five (5) days, or if the issue cannot be resolved at the Project Director level, the Project Director (or his/her designee) shall escalate to the TennCare Chief Information Officer (CIO) (or his/her designee). If the TennCare CIO is not able to resolve the issue within three (3) days, the TennCare CIO shall escalate the issue to the TennCare Director (or his/her designee) for consideration and final resolution. Types of issues that shall be escalated may include, but are not limited to:
    - i. Issues that are past their target resolution date and are urgent;
    - ii. Issues that have a significant impact on the project or organization;
    - iii. Issues that shall have a significant impact on project scope;
    - iv. Issues that may result in additional cost to the State; and
    - v. Issues that may cause the project schedule to slip or for a deliverable to be critically late.
- e. Risk Tracking – The Contractor shall be responsible for tracking project risks. The Contractor will maintain a risk tracking log in form, format and location approved by the State. The Contractor shall confer with the Project Director (or his/her designee), as necessary, to assign ratings for impact and likelihood of occurrence of identified risks. The Contractor shall develop risk mitigation plans for identified risks based on risk rating, as directed by the State.
- f. Control Memorandum(a) Process - Control Memorandum(a) shall be utilized by TennCare to clarify or enforce Contract requirements, to issue instruction or request instruction from the State, to document submission of Contract deliverables, or to document required action, approval or disposition. Each party shall designate any individual(s) authorized to initiate Control Memorandum(a).

- (1) Both parties shall utilize Control Memorandum(a) to propose, approve, or change Project Plans, and Staffing Plans, to submit deliverables, to document contractually required actions, approvals or dispositions, to clarify interpretation of contract requirements, or to make any material changes to the project. This process is not intended to replace the standard change management process to accommodate modifications or to bypass processes for mutual agreement in negotiating changes in Contract scope and reimbursement. A Control Memorandum, accompanied by a Control Directive, as described below, shall be incorporated into the Contract as an attachment.
- (2) When the State becomes aware of a problem or a potential problem, the State shall issue Control Memorandum(a) accompanied by an On Request Report, Control Directive or Potential Liquidated damages Letter as described below, and require the Contractor to comply with the Control Memorandum(a) as appropriate. The Contractor shall have adequate staffing and resources to develop and implement the Control Memorandum(a) requirements. Contractor's failure to complete or comply with Control Memorandum(a) as required may result in sanctions including liquidated damages and possible termination of the Contract.
- (3) All Control Memoranda shall be reviewed and prioritized by the Project Director (or his/her designee). All Control Memoranda submitted to the Contractor shall be signed and approved by the Project Director (or the Project Director's designee).
- (4) TennCare or Contractor shall prepare and issue Control Memorandum(a) that shall contain the history, background, and any other pertinent information regarding the issue and/or issues being addressed in the Control Memorandum(a).
- (5) TennCare shall include with the Control Memorandum(a) one of the following accompanying documents:
  - i. On Request Report (ORR) - a request issued by TennCare directing the Contractor to provide information by close of business (COB) of an instructed reasonable due date. This document shall be treated as a request for information only, and shall not be used to direct that a given task be completed. For example, an ORR may be issued to request information on a potential compliance issue or to request a corrective action plan (CAP). As a second example, if a control directive had been issued for a first draft of a Project Plan and the directive was not complied with by close-of-business of the instructed due date, the day after the due date an ORR would be issued requiring the Contractor to provide information on why the Project Plan was not delivered. Failure to complete or comply with an ORR may result in the assessment of liquidated damages in the amount of one hundred dollars (\$100) per business day starting on the business day after the ORR due date. All due dates requested during this process shall be reasonable and shall not include weekends or holidays.
  - ii. Control Directive - an instruction issued by TennCare that requires the Contractor to complete a certain deliverable or any other request from TennCare by a certain reasonable due date. For example, TennCare may issue a Control Directive to the Contractor requiring a first draft of a Project Plan to be delivered to TennCare by close-of-business on the day of May 15. Failure to complete or comply with a Control Directive deliverable by the due date may result in the assessment of liquidated damages in the amount of five hundred dollars (\$500) per business day starting on the next business day after the deliverable due date. This damage assessment shall not include weekends and holidays. Once a Control Directive has been issued with the Control Memorandum, it shall be considered to be incorporated into this Contract.
  - iii. Potential Liquidated Damages Letter (PLD) - a letter issued by TennCare that notifies the Contractor that (a) a Control Directive response or an ORR or CAP response is late, incorrect, or incomplete, or (b) that a

project deliverable or milestone is late or incomplete and the State is contemplating assessing potential liquidated damages without first having provided a control directive or request a CAP. This letter shall detail the number of business days the Control Directive response or ORR or CAP response, or the project deliverable or milestone, is late, incorrect, or incomplete and calculate those days with the applicable per business day liquidated damages rate to determine the total potential liquidated damages that TennCare may assess against the Contractor.

- iv. Potential Actual Damages Letter (PAD) – a letter issued by TennCare that notifies the Contractor that the State has determined the Contractor is in default of the Contract and the State is contemplating assessing actual damages due to the default. This letter shall identify the Contract provision(s) on which the State bases the default and a projection of the potential actual damages based on information available at the time the PAD is sent to the Contractor. The parties acknowledge that the total amount of actual damages will not be determined until the default has been remedied and the State has collected all data confirming the total cost of the default.
- v. Liquidated Damages Assessment Letter (LDA) - a letter issued by TennCare that notifies the Contractor that (a) a Control Directive or an ORR or CAP response is late, incorrect, or incomplete, or (b) that a project deliverable or milestone is late or incomplete and the State is assessing liquidated damages. This letter shall detail the number of business days that the Control Directive response or ORR response or CAP response, or project deliverable or milestone was late, incorrect, or incomplete and calculate those days with the applicable per business day liquidated damages rate to determine the total liquidated damages that TennCare assessed and shall withhold from the Contractor's next payment.
- vi. Actual Damages Letter (ADA) – a letter issued by TennCare that notifies the Contractor that the State has determined the Contractor is in default of the Contract and the State is assessing actual damages due to the default. This letter shall identify the Contract provision(s) on which the State bases the default and the total amount of actual damages according to the data collected by the State showing the cost of actual damages.

These documents shall detail the action to be taken by the Contractor. Failure to complete or comply as required with the aforementioned documents may result in sanctions including liquidated damages for each day the documents are not completed or complied with as required.

- A.9. Correction of Deficiencies. Any corrections of deficiencies relating to the Contract Scope of Services requirements or deliverables and any investigation necessary to determine the source of such deficiencies shall be completed by the Contractor at no cost to the State.
- A.10. Change Orders. The State may, at its sole discretion and with written notice to the Contractor, request changes in the scope of services that are necessary but were inadvertently unspecified in the scope of services of this Contract.
  - a. Memorandum of Understanding— No event more than ten (10) business days after receipt of a written change order request from the State, the Contractor shall respond with a written proposal for completing the service. Said proposal must specify:
    - (1) the effect, if any, of implementing the requested change(s) on all other services required under this Contract;
    - (2) the specific effort involved in completing the change(s);
    - (3) the expected schedule for completing the change(s);
    - (4) the maximum number of person hours required for the change(s); and

- (5) the maximum cost for the change(s), PROVIDED THAT such maximum cost shall not exceed the product of the of person hours required multiplied by the appropriate payment rate proposed for change order work.

The Contractor shall not perform any change order service until the State has approved the change order proposal. If approved, the State will sign the change order proposal, and it shall constitute a Memorandum of Understanding (MOU) between the Contract Parties pertaining to the specified change(s) and shall be incorporated, hereby, as a part of this Contract.

- b. Change Order Performance— Subsequent to State approval of an MOU, the Contractor shall complete the required change order services. The State will be the sole judge of the acceptable completion of change order work and, upon such determination, shall provide the Contractor written approval of the work.
- c. Change Order Remuneration— The State will remunerate the Contractor only for acceptable work. All acceptable work performed pursuant to an approved MOU, without a formal amendment of this contract, shall be remunerated in accordance with and further limited by contract section C.3.d, PROVIDED THAT, the State shall be liable to the Contractor only for the cost of the actual person hours worked to complete the change order work, not to exceed the maximum cost for the change detailed in the MOU. In no instance shall the State be liable to the Contractor for the cost of any person hours worked in excess of the maximum person hours indicated in or of any amount exceeding the maximum cost specified by the approved MOU authorizing the service. Upon State approval of the change order work, the Contractor shall invoice the State in accordance with the relevant provisions of this Contract.

**B. CONTRACT TERM:**

- B.1. This Contract shall be effective for the period beginning May 16, 2011, and ending on April 30, 2012. 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 period or periods of time representing increments of no more than one year and a total contract term of no more than three (3) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of a contract amendment. If a term extension necessitates additional funding beyond that which was included in the original Contract, an increase of the State's maximum liability will also be effected through contract amendment, and shall be based upon payment rates provided 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 One Million One Hundred Forty-Five Thousand One Hundred Seventy Dollars (\$1,145,170.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the payment rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in section A.
  - b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description	Amount (per compensable increment)
1. Phase 1 – Planning, Requirements Definition, Design, Development, Testing, Implementation and Support – as detailed by <i>pro forma</i> contract sections A.3.a. *	\$360,742.00 *
2. Phase 2 – Planning, Requirements Definition, Design, Development, Testing, Implementation and Support – as detailed by <i>pro forma</i> contract sections A.3.b. *	\$634,428.00 *

**\* NOTICE: Up to 80% of the proposed amount for the cost item will be paid by the State in monthly payments based on Earned Value metrics for the subject phase (in accordance with the methodology detailed in *pro forma* contract section C.3.c.). The remainder will be paid upon completion of all tasks detailed in the approved Project Plan for the subject phase.**

- c. Monthly progress payments will be based on incremental Earned Value for the subject project phase. As specified in Section A.8.b, the Contractor is responsible for maintain Project Plans and updating Status on TennCare's Microsoft Project Server. Earned Value is calculated Microsoft Project Server and will be based on progress against the approved Project Plan for the subject phase. As specified in Section A.8.c, the Contractor is responsible for submitting weekly project status reports, in form and format approved by the State, including Earned Value metrics generated by Microsoft Project Server from the approved Project Plan for the subject phase. The Incremental Earned Value for payment purposes will be calculated as the current Earned Value for the subject phase, as reported in the weekly status report on or immediately following the 15th of the subject month, less the sum of all prior progress payments for the subject phase. Project progress, Earned Value and payment calculations are subject to review and approval by the State. Prior to State approval for production implementation of subject phase functionality, cumulative monthly progress payments will be subject to a cap of eighty percent (80%) of the total payment amount for the subject phase as specified in C.3.b. Any outstanding balance for the subject phase remaining after monthly progress payments will be paid upon completion of all tasks in the approved Project Plan for the subject phase.
- d. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.10., without a formal amendment of this contract based upon the payment rates detailed in the schedule below and as agreed pursuant to said Section A.10., PROVIDED THAT compensation to the Contractor for such "change order" work shall not exceed TEN PERCENT (10%) of the contract maximum liability less the cost for post-implementation support. If, at any point during the Contract period, the State determines that the cost of necessary "change order" work would exceed said maximum amount, the State may amend this Contract to address the need.

Service Description	Amount (per compensable increment)
Additional Services (that may be required by the State and agreed by the Contract Parties pursuant to pro forma contract, section A.10.)	\$ 150.00 per Hour

- e. The Contractor shall not be compensated for travel time to the primary location of service provision.
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only after completion of all work, described in section A of this Contract, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Bureau of TennCare  
310 Great Circle Road  
Nashville, Tennessee 37243

- 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: Department of Finance and Administration, Bureau of TennCare
  - (5) Customer Account Number (assigned by the Contractor to the above-referenced State Agency);
  - (6) Contractor Name;
  - (7) Contractor Federal Employer Identification, Social Security, or 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 Description (e.g., "Phase 1 Service," "Phase 2 Service," or "Section C.3.d. Service") of each service invoiced
    - ii. Monthly Payment Amount, calculated according to Section C.3.c. Monthly progress payments will be based on incremental Earned Value for the subject project phase. Earned Value is calculated by TennCare's Microsoft Project Server and will be based on progress against the approved Project Plan for the subject phase. The invoice shall display the calculation of payment amount and include all values used in the calculation and shall be reviewed and approved by the State prior to payment.
    - iii. Number of Completed Hours, if service pursuant to section C.3.d., above, is invoiced
    - iv. the Subject 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 payment, 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.
- 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 sixty (60) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the

State. If such subcontracts are approved by the State, 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 A, 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. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall

remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

**E. SPECIAL TERMS AND CONDITIONS:**

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Deputy Commissioner  
Department of Finance and Administration  
Bureau of TennCare  
310 Great Circle Road  
Nashville TN 37243  
(615) 507-6443 (Phone)  
(615) 253-5607 (FAX)

The Contractor:

Patrick Aguilar, PMP  
Government Health Consulting  
Policy Studies, Inc.  
1515 Wynkoop Street, Suite 400  
Denver, Colorado 80202-1730  
(505) 227-0255 (Phone)  
(303) 295-0244 (FAX)

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. 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.6. HIPAA and HITECH Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH) under the American Recovery and Reinvestment Act of 2009 (ARRA) and their accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and HITECH and their accompanying regulations, and shall comply with all applicable HIPAA and HITECH requirements in the course of this Contract including but not limited to the following:
1. Compliance with the Privacy Rule, Security Rule, Notification Rule;
  2. The creation of and adherence to sufficient Privacy and Security Safeguards and Policies;
  3. Timely Reporting of Violations in Use and Disclosure of PHI; and
  4. Timely Reporting of Security Incidents.

Failure to comply may result in actual damages that the State incurs as a result of the breach.

- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and HITECH and their regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA and HITECH.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements (Attachment C) as required by HIPAA and HITECH and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA and HITECH.
- E.7. 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.8. 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 or Memoranda of Understanding pursuant to section A.10. of this contract (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.9. 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 31865-00331 (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.10. 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.11. 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.12. 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.13. 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.14. 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 Sections A.8.f.(2), A.8.f.(5) and E.24 of this Contract, and agrees 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 may also exercise its option to declare a Partial Default or terminate 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. If the State declares a Partial Default, 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.15. **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.16. **Disclosure of Personal Identity Information**. The Contractor shall report to the State any instances of unauthorized disclosure of confidential information that come to the attention of the Contractor. Any such report shall be made by the Contractor within twenty-four (24) hours after the instance has come to the attention of the Contractor. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals that are deemed to be part of a potential disclosure. The Contractor shall bear the cost of notification to individuals having personal identity information involved in a potential disclosure event, including individual letters and/or public notice.
- E.17. **Federal Funding Accountability and Transparency Act (FFATA)**. This Contract requires the Contractor to provide supplies and/or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

- a. Reporting of Total Compensation of the Contractor's Executives.
  - (1) The Contractor shall report the names and total compensation of each of its five most highly compensated executives for the Contractor's preceding completed fiscal year, if in the Contractor's preceding fiscal year it received:
    - i. 80 percent or more of the Contractor's annual gross revenues from Federal procurement contracts and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
    - ii. \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
    - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

Executive means officers, managing partners, or any other employees in management positions.

  - (2) Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):
    - i. Salary and bonus.
    - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
    - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
    - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
    - v. Above-market earnings on deferred compensation which is not tax qualified.
    - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- b. The Contractor must report executive total compensation described above to the State by the end of the month during which this Contract is awarded.
- c. If this Contract is amended to extend its term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the amendment to this Contract becomes effective.
- d. The Contractor will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Contract. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>

The Contractor's failure to comply with the above requirements is a material breach of this Contract for which the State may terminate this Contract for cause. The State will not be

obligated to pay any outstanding invoice received from the Contractor unless and until the Contractor is in full compliance with the above requirements.

- E.18. State and Federal Compliance. The Contractor agrees to comply with all applicable federal and state laws, policies, rules and regulations, consent decrees and court orders, including Constitutional provisions regarding due process and equal protection of the laws and including but not limited to:
- a. Title 42 Code of Federal Regulations (CFR) Chapter IV, Subchapter C (with the exception of those parts waived under the TennCare Section 1115(a) waiver).
  - b. Title 45 CFR, Part 74, General Grants Administration Requirements.
  - c. All applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 as amended (42 U.S.C. 7401, et seq.).
  - d. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations issued pursuant thereto, 45 C.F.R. Part 80.
  - e. Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e) in regard to employees or applicants for employment.
  - f. Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794, which prohibits discrimination on the basis of handicap in programs and activities receiving or benefiting from federal financial assistance, and regulations issued pursuant thereto, 45 C.F.R. Part 84.
  - g. The Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 et seq., which prohibits discrimination on the basis of age in programs or activities receiving or benefiting from federal financial assistance.
  - h. Omnibus Budget Reconciliation Act of 1981, P.E. 97-35, which prohibits discrimination on the basis of sex and religion in programs and activities receiving or benefiting from federal financial assistance.
  - i. Americans with Disabilities Act of 1990, 42 U.S.C. Section 12101 et seq., and regulations issued pursuant thereto, 28 C.F.R. Parts 35, 36.
  - j. Sections 1128 and 1156 of the Social Security Act relating to exclusion of providers for fraudulent or abusive activities involving the Medicare and/or Medicaid program.
  - k. Tennessee Consumer Protection Act, T.C.A. Section 47-18-101 et seq.
  - l. The CMS waiver and all Special Terms and Conditions which relate to the waiver.
  - m. Executive Orders.
  - n. The Clinical Laboratory Improvement Act (CLIA) of 1988.
  - o. Requests for approval of material modification as provided at TCA 56-32-201 etc. seq.
  - p. Title IX of the Education Amendments of 1972 (regarding education programs and activities)
  - q. The Rehabilitation Act of 1973
  - r. The Balanced Budget Act of 1997 Section 422.208 and 422.210
  - s. EEO Provisions
  - t. Copeland Anti-Kickback Act
  - u. Davis-Bacon Act

- v. Contract Work Hours and Safety Standards
- w. Rights to Inventions Made Under a Contract or Agreement
- x. Byrd Anti-Lobbying Amendment
- y. Debarment and Suspension
- z. The Church Amendments, 42 U.S.C. 300a-7.
- aa. Public Health Service Act (PHS Act) Section 245, 42 U.S.C. 238n.
- bb. Weldon Amendment, originally adopted as section 508(d) of the Labor-HHS Division (Division F) of the 2005 Consolidated Appropriations Act, Public Law 108-447, 118 Stat. 2809, 3163 (Dec. 8, 2004), has been readopted (or incorporated by reference) in each subsequent HHS appropriations act. (Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009, Public Law 110-329, Div. A, Sec. 101, 122 Stat. 3574, 3575 (Sept. 30, 2008).
- cc. Section 1902(a)(68) of the Social Security Act regarding employee education about false claims recovery.

E.19. Offer of Gratuities. By signing this contract, the Contractor signifies that no member of or a delegate of Congress, nor any elected or appointed official or employee of the State of Tennessee, the federal General Accounting Office, federal Department of Health and Human Services, the Center for Medicare and Medicaid Services, or any other state or federal agency has or will benefit financially or materially from this Contract. This Contract may be terminated by TennCare as provided in Section D.4, if it is determined that gratuities of any kind were offered to or received by any of the aforementioned officials or employees from the Contractor, its agent, or employees.

E.20. Employees Excluded from Medicare, Medicaid or SCHIP. The Contractor does hereby attest, certify, warrant, and assure that the Contractor shall not knowingly employ, in the performance of this Contract, employees who have been excluded from participation in the Medicare, Medicaid, and/or SCHIP programs pursuant to Sections 1128 of the Social Security Act.

E.21. Tennessee Bureau of Investigation Medicaid Fraud and Abuse Unit (MFCU) and Office of TennCare Inspector General Access to Contractor Records

Pursuant to the Health Insurance Portability and Accountability Act (HIPAA) privacy regulations, MFCU and TennCare OIG shall be health oversight agencies as defined at 45 C.F.R. §§ 164.501 and 164.512(d) and 65 F.R. § 82462. When acting in their respective capacities as health oversight agencies and in compliance with federal regulations, MFCU and TennCare OIG do not need enrollee authorization to obtain enrollee protected health information (PHI). Because MFCU and TennCare OIG will request the information mentioned above for health oversight activities, "minimum necessary" standards do not apply to disclosures to MFCU or TennCare OIG that are required by law. See 45 C.F.R. §§ 164.502(b)(2)(iv), 164.502(b)(2)(v), and 164.512(d).

The Contractor shall immediately report to MFCU all factually based known or suspected fraud, abuse, waste and/or neglect of a provider or Contractor, including, but not limited to, the false or fraudulent filings of claims and/or the acceptance or failure to return money allowed or paid on claims known to be false or fraudulent. The Contractor shall not investigate or resolve the suspicion, knowledge or action and must inform MFCU and must cooperate fully in any investigation by MFCU or subsequent legal action that may result from such an investigation.

E.22. Damages. The State shall have the right to assess and collect actual or liquidated damages for failures in Contractor performance or execution of this Contract.

- a. Right to Assess Damages – The State shall assess actual or liquidated damages based on evaluations by the State's designated Project Director (or his/her designee) of the Contractor's success in meeting required performance standards. Damage assessments

shall be in the form of a Control Memorandum(a) accompanied by a Potential Liquidated Damages Letter or Potential Actual Damages Letter. The Contractor may accept the damages assessed by the State or challenge the assessment of actual damages or the amounts set forth as liquidated damages. If the Contractor disagrees with the damage assessment, the following resolution steps shall be followed:

- (1) Contractor management may first discuss the issues verbally with the Project Director (or his/her designee).
  - (2) Contractor management may submit a written document to the Project Director (or his/her designee) to show that actual or liquidated damages are not appropriate or to propose a corrective action plan to remedy or cure the deficiency giving rise to the damage assessment. The State reserves the right in its sole discretion to grant the Contractor the opportunity to cure deficient performance by means of a Corrective Action Plan (CAP). Contractor's failure to meet the terms of the CAP may result in the assessment of damages.
  - (3) The State may elect to present the issue to the Director of TennCare (or his/her designee) and ask that s/he meet with Contractor management for issues resolution or damage assessment.
  - (4) If damages can be measured in actual cost, they shall be referred to as actual damages. If the damages are difficult to measure or cannot be measured in actual cost, they shall be referred to as liquidated damages.
  - (5) The State shall notify the Contractor in writing of the proposed damage assessment. The amounts due the State as actual damages may be deducted from any fees or other compensation payable to the Contractor, or the State may require the Contractor to remit the damages within thirty (30) days following the notice of assessment or resolution of any dispute.
- b. Actual and Liquidated Damages – Damage may be sustained by the State in the event that the Contractor fails to meet the requirements of this Contract. In the event of default or the inability to maintain minimum requirements or standards as determined by the State, the Contractor agrees to pay the State for the actual cost of damages or the liquidated damage amounts specified in Sections A.8.f.(2), A.8.f.(5), E.24.b., E.24.c., E.24.d., and E.24.e. In the event that a single occurrence subjects the Contractor to Liquidated Damages in multiple subsections of this provision, the State is entitled to assess a single Liquidated Damage selected at the discretion of the State. Liquidated Damages specified in Section E.24 shall not be assessed if the delay or failure to timely perform its obligations is caused by factors beyond the reasonable control and without any material error or negligence of the Contractor, its staff or subcontractors. Liquidated damages are considered compensation for increased costs to the State as a result of Contractor failure to meet requirements of the Contract and do not constitute a penalty.
- c. Dispute Resolution Process for Damage Assessments – The State expects that any disputes regarding potential or assessed damages will be handled according to the dispute resolution process in E.22.a. Legal action will only be initiated if all of these mechanisms fail. Notwithstanding the foregoing, TennCare reserves the right, in its sole discretion, to utilize non-binding dispute resolution or mediation services to resolve issues in controversy. Venue for any disputes shall be in Nashville, Tennessee. In any such review, the Contractor shall have the burden to prove the State's decision to be incorrect. Pending final determination of any dispute, the Contractor shall proceed diligently with performance of the Contract and in accordance with the State's direction.
- d. Payment of Damages – It is further agreed by the State and the Contractor that any damages assessed by the State shall be due and payable to the State within thirty (30) calendar days after Contractor's receipt of the notice of damages. If payment is not made by the due date, said damages may be withheld from future payments by the State without further notice. It is agreed by the State and the Contractor that the collection of damages by the State shall be made without regard to any appeal rights the Contractor may have pursuant to this Contract; however, in the event an appeal by the Contractor results in a decision in favor of the Contractor, any such funds withheld by the State shall be immediately returned to the Contractor.
- e. Deduction of Damages from Payments – Amounts due the State as damages may be deducted by the State from any money payable to the Contractor pursuant to this

Contract. The State shall notify the Contractor in writing of any claim for damages at least thirty (30) calendar days prior to the date the State deducts such sums from money payable to the Contractor.

- E.23. Actual Damages. The State shall assess actual damages for failure in the contractor's performance or execution. Amounts due to the State as actual damages may be deducted by the State from any money payable to the Contractor pursuant to this Contract. The State shall notify the Contractor in writing on or before the date the State deducts such sums from money payable to the Contractor. Actual damages are assessed only for errors due to omissions or negligence of the Contractor and include, but are not limited to, the following:
- a. Privacy and Security - The Contractor shall ensure it meets all federal laws and regulations with regard to privacy, security, and individually identifiable health information pursuant to the Health Insurance Portability and Accountability Act (HIPAA) of 1996, as amended and the Health Information Technology for Economic and Clinical Health Act (HITECH) under the American Recovery and Reinvestment Act of 2009 (ARRA), as required by State law, and as otherwise specified in this contract. The actual damages for the Contractor's failure to comply with these provisions shall be any and all costs associated with the reporting, mitigation, remediation and any and all other federal or state law requirements including, but not limited to, civil money penalties assessed against the State.
  - b. Sanctions – If the U.S. Department of Health and Human Services (HHS), the Center for Medicare & Medicaid Services (CMS), or other federal or state regulatory agency imposes fiscal sanctions against the State as a result of the Contractor's or any subcontractor's wrongful action or inaction, the Contractor shall compensate the State the amount lost by the State by application of the sanctions.
  - c. Recovery – If, in the reasonable judgment of the State, a default by the Contractor is not so substantial as to require termination and reasonable efforts to induce the Contractor to cure the default are unavailing, and the default is capable of being cured by the State or by another resource without unduly interfering with continued performance by the Contractor, the State may provide or procure the services reasonably necessary to cure the default. In which event the Contractor shall reimburse the State for the reasonable cost of the services. In addition, the Contractor shall cooperate with these resources in allowing access to the computer facility, documentation, software, utilities, and equipment. The Contractor shall remain liable for all system performance criteria, maintenance of and further enhancements to any applications developed by these resources to the extent that it constitutes the Contractor's work product whether impacted by the work of the other resource or not.
- E.24. Liquidated Damages. All requirements described in this Contract are subject to monitoring by the State. The Contractor shall track and comply with all performance measures, commitments and requirements. The State reserves the right to monitor performance at any time and may exercise such option, in its discretion, without notice. In the event of a failure to meet the performance requirements, the Contractor agrees that the State may assess and withhold from payments due its liquidated damages set forth below and as assessed at the State's discretion. The imposition of liquidated damage is not in lieu of any other remedy available to the State. If not specifically designated, liquidated damages, if any, shall be assessed on a monthly basis. The State has sixty (60) days from the end of the month in which the deficiency is discovered to issue a claim for liquidated damages to the Contractor through a Control Memorandum accompanied by a Potential Liquidated Damages Letter. If the State elects to assess liquidated damages, it must do so within one hundred and twenty (120) days from the end of the month in which the deficiency is discovered.
- a. Failure to Meet Contractor Performance Requirements – The Contractor agrees that, in the event of a failure to meet the performance requirements listed in the following sections, damage is deemed to have been sustained by the State. It is further agreed that it is and will be impractical and extremely difficult to ascertain and determine the actual damage that the State has sustained or will sustain in the event of, and by reason of, such failure. It is therefore agreed that the Contractor shall pay the State for such failures at the sole discretion of the State according to the liquidated damage provisions specified in Sections A.8.f.(2), A.8.f.(5), E.24.b., E.24.c., E.24.d. and E.24.e.

- b. Failure to comply with control memorandum(a) – A liquidated damages assessment for failure to complete or comply with an On Request Report (ORR), as described in Section A.8.f.(5).i., shall be calculated as one hundred dollars (\$100.00) per business day starting on the business day after the ORR due date. A liquidated damages assessment for failure to complete or comply with a Control Directive, as described in Section A.8.f.(5).ii., shall be calculated as five hundred dollars (\$500.00) per business day starting on the calendar day after the deliverable due date. This damage assessment shall not include weekends and holidays. Any action, work, or deliverable item required of the Contractor pursuant to control memorandum(a) issued by the State and subject to a liquidated damages assessment under section E.24.b., shall be specified as such within the subject On Request Report (ORR) or Control Directive.
  - c. Submission of Deliverables – The Contractor shall be required to submit certain deliverables throughout the term of this contract, either as required specifically in this contract or as included in required Project Plans. It is the responsibility of the Contractor to ensure that all deliverables required by this Contract meet State expectations, meet contract requirements, are accurate and complete and are submitted timely. A liquidated damage assessment for untimely submission of a deliverable shall be calculated from the expected submission or completion date of the deliverable to the actual submission or completion date, and shall be one hundred dollars (\$100) per business day after due date, until corrected. A liquidated damage assessment for accuracy or completeness of a deliverable shall be calculated at one hundred dollars (\$100) per business day beginning five (5) business days after the Contractor is given notice of the error or deficiency, or the Contractor reported the error or deficiency, until corrected. Any action, work, or deliverable item required of the Contractor and specified within the contract or the subject Project Plan as a required deliverable to the State shall subject to a liquidated damages assessment under section E.24.c.
  - d. Achievement of Key Milestones – The Contractor shall include in the Project Plan as key milestones the implementation dates or all related release dates for each Phase of the project, as specified in the Contract or as amended by change order or contract amendment, unless otherwise directed by the State. Unless otherwise specified, key milestones shall be completed by the Contractor in final form on the dates specified in the approved Project Plan. The State shall review and provide written acceptance of all key milestones or phases. A liquidated damages assessment for missed or late milestones shall be one thousand dollars (\$1,000) per workday for each day a key milestone is late or unacceptable. Any action, work, or deliverable item required of the Contractor and specified within the contract or the subject Project Plan as a key milestone shall subject to a liquidated damages assessment under section E.24.d.
  - e. Sponsorship – Any publicity given to the program or services, including, but not limited to: notices, information pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor shall be pre-approved by the State prior to release. The liquidated damages shall be five thousand dollars (\$5,000) per incident in which prior approval from the State for any such material was not obtained.
  - f. Waiver of Liquidated Damages – The State may waive the application of liquidated damages and/or withholds upon the Contractor if the Contractor is placed in rehabilitation or under administrative supervision if the State determines that such waiver is in its best interests. The State may also fully or partially waive the assessment of Liquidated damages at its sole discretion, for any failure of performance by the Contractor.
- E.25. Non-State Standard Products. In the event that the Contractor wishes to introduce non-State standard software or hardware components (“products”) into the State’s technology environment, in support of, or related to, the services the Contractor is providing under this Contract, the Contractor must make a formal written request to the State prior to introducing the non-State Standard Products. Such a request is referred to as a “Non-State Standard Product Request.”
- a. Non-State Standard Products are defined as:
    - Any software that is not listed and designated as Current in the *Tennessee Enterprise Architecture*, as amended; or

- Any hardware that is not listed and designated as Current in, or is not compatible with standards listed in, the *Tennessee Enterprise Architecture*, as amended.
- b. The State's Department of Finance and Administration, Office for Information Resources (OIR), shall consider the Non-State Standard Product Request and shall render a written determination, in the State's best interest, to approve or disapprove the request. If OIR disapproves the request, the Contractor agrees to withdraw the request and substitute State Standard Products in place of the Non-State Standard Products, at no additional cost to the State.
- E.26. Federal Economic Stimulus Funding. This Contract requires the Contractor to provide products and/or services that are funded in whole or in part under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, (Recovery Act). The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of the Recovery Act are met and that the Contractor provides information to the State as required.

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

- a. Federal Grant Award Documents, as applicable.
- b. Executive Office of the President, Office of Management and Budget (OMB) Guidelines as posted at [www.whitehouse.gov/omb/recovery\\_default/](http://www.whitehouse.gov/omb/recovery_default/), as well as OMB Circulars, including but not limited to A-102 and A-133 as posted at [www.whitehouse.gov/omb/financial\\_offm\\_circulars/](http://www.whitehouse.gov/omb/financial_offm_circulars/).
- c. Office of Tennessee Recovery Act Management Directives (posted on the Internet at [www.tnrecovery.gov](http://www.tnrecovery.gov)).
- d. The Recovery Act, including but not limited to the following sections of that Act:
  - (1) Section 1604 – Disallowable Use. No funds pursuant to this Contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
  - (2) Section 1512 – Reporting and Registration Requirements. The Contractor must report on use of Recovery Act funds provided through this Contract. Information from these reports will be made available to the public.
  - (3) Section 1553 – Recovery Act Whistleblower Protections. An employee of any non-Federal employer receiving covered funds under the Recovery Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee believes is evidence of one or more of the following related to the implementation or use of covered funds:
    - i. gross mismanagement,
    - ii. gross waste,
    - iii. substantial and specific danger to public health or safety,
    - iv. abuse of authority, or
    - v. violation of law, rule, or regulation (including those pertaining to the competition for or negotiation of a Contract).

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

be valid or enforceable if it requires arbitration of a dispute arising out of this section.

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

- (4) Section 902 – Access Of Government Accountability Office. The Contractor shall provide that the Comptroller General and his representatives are authorized:
  - i. to examine any records of the Contractor or any of its subcontractors, that directly pertain to, and involve transactions relating to, this Contract or a subcontract; and
  - ii. to interview any officer or employee of the Contractor or any of its subcontractors regarding such transactions.
  
- (5) Section 1514 – Inspector General Reviews. Any inspector general of a federal department or executive agency has the authority to review, as appropriate, any concerns raised by the public about specific investments using such funds made available in the Recovery Act. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in the Recovery Act, shall be posted on the inspector general's website and linked to the website established by Recovery Act Section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under sections 552 and 552a of title 5, United States Code.
  
- (6) Section 1515 – Access of Offices of Inspector General to Certain Records and Employers. With respect to this Contract, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized:
  - i. to examine any records, of the Contractor or any of its subcontractors, that pertain to and involve transactions relating or pursuant to this Contract; and
  - ii. to interview any officer or employee of the Contractor or any subcontractors regarding such transactions.
  
- (7) Section 1606 – Wage Rate Requirements. All laborers and mechanics employed by pursuant to this Contract shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference.

For purposes of this Contract, laborer or mechanic includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term laborer or mechanic includes apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards.
  
- (8) Section 1605 – Buy American Requirements for Construction Material – Buy American, Use of American Iron, Steel, and Manufactured Goods. None of the funds provided by this Contract may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

- e. The Contractor agrees to comply with any modifications or additional requirements that may be imposed by law and future guidance and clarifications of Recovery Act requirements.
- f. If the Contractor enters into one or more subcontracts for any of the services performed under this Contract, each subcontract shall contain provisions specifically imposing on the subcontractor all requirements set forth in this Contract Section E.26., "Federal Economic Stimulus Funding."

E.27. 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.

IN WITNESS WHEREOF,

POLICY STUDIES, INC.:

*Carroll Wallace*

*4/29/11*

\_\_\_\_\_  
CONTRACTOR SIGNATURE

\_\_\_\_\_  
DATE

CARROLL WALLACE, CHIEF FINANCIAL OFFICER

\_\_\_\_\_  
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF FINANCE AND ADMINISTRATION  
BUREAU OF TENNCARE:

*Mark A. Emkes*

*5/3/11*

\_\_\_\_\_  
MARK A. EMKES, COMMISSIONER

\_\_\_\_\_  
DATE

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	FA-11-35164-00
CONTRACTOR LEGAL ENTITY NAME:	POLICY STUDIES, INC.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	84-0938521

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.

*Carroll*

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.

*CARROLL WAUGH, CFO*

PRINTED NAME AND TITLE OF SIGNATORY

*4/20/11*

DATE OF ATTESTATION

**ATTACHMENT B**

**STATE OF TENNESSEE ENTERPRISE ARCHITECTURE**



# State of Tennessee Enterprise Architecture

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## Technology Architecture

### Standard Product Components

Submitted on February 20, 2009 to:  
State of Tennessee Office for Information Resources Executive Leadership Team

Executive Sponsor

Mark Bengel  
State of Tennessee Chief Information Officer  
Department of Finance and Administration  
Office for Information Resources

# Technology Architecture Framework

The State of Tennessee Information Systems Council (ISC) has assigned the responsibility for the development of the State's Technology Architecture to the Office for Information Resources. The Technology Architecture is an integral part of the Enterprise Architecture and is the official publication documenting information technology products and standards.

Technology Architecture Standards are applicable to all state agencies (e.g., departments, boards, commissions, offices, and institutions of the state) and extend to vendors contracted to work for state agencies. Exceptions to Enterprise Architecture standards are governed by the Waiver/Exception process (see Appendix A).

The Technology Architecture establishes technical requirements which govern the planning, acquisition, use, and management of information technology resources. It organizes, classifies, and categorizes them in an orderly framework of Domains, Disciplines and Technology Areas. The concept of domains, disciplines and technology areas are aligned with the National Association of State Chief Information Officers (NASCIO) Enterprise Architecture Toolkit.

# Technology Architecture Domains

The Technology Architecture Domains are listed below with a brief description.

## *Application*

The Application Domain documents the languages, tools and utilities to design, build, deploy, operate and maintain the State's applications.

## *Collaboration*

The Collaboration Domain identifies standards and components that facilitate interaction of the workforce and promote group productivity.

## *Data*

The Data Domain addresses technology requirements for the storage and management of critical State data in electronic form.

## *Information*

The Information Domain addresses technology requirements for development and maintenance of areas requiring significant multi-agency coordination in the context of enterprise data and resource management.

## *Network*

The Network Domain documents the technology required to support the movement of electronic information and to support the voice, data and video infrastructures.

## *Platform*

The Platform Domain identifies technology hardware platforms and the related operating systems to support the current and future business requirements, standardizes configurations and defines host communications.

## *Security*

The Security Domain provides for integrating security services, mechanisms, objects and management functions, across multiple hardware and software platforms and networks.

## *Systems Management*

The Systems Management Domain defines the framework for efficient and effective management of the State's information processing environment, including monitoring and management of peripheral devices, processes for production systems, and the capability to recover the production environment in part or in whole.

# Technology Architecture Product Phases

The Technology Architecture Products component facilitates planning by identifying a lifecycle phase for each standard product. The phases are listed below with a brief description.

## *Emerging*

Technologies that, while possibly accepted as well utilized throughout the industry, are new to the enterprise. It is generally understood that emerging technologies be considered carefully before implementing in the enterprise-wide architecture. It is therefore recommended that, for initial implementation, emerging technologies be limited to smaller, non-mission-critical projects until it is proven that they can be integrated successfully into the existing enterprise architecture.

## *Current*

Technologies that are the current standard for use within the enterprise, and tested and generally accepted as standard within the industry. These items comply with or support the principles listed for the discipline.

## *Twilight*

Technologies being phased out by the enterprise but not yet having an established end date.

## *Obsolete*

Technologies that have been phased out and cannot be used within the organization past a specific date.

# Technology Architecture Product Standards

## Domain: Application

### Discipline: Application Access

#### Technology Area: Application Server

Product Component	Notes	PhaseName
IBM Websphere Application Server	Runs on z/OS, Solaris, Linux, Window	Current
Microsoft .NET	Runs on Windows	Current
Oracle Application Server 10g	Runs on Solaris, Linux, Windows, Des	Current
Oracle Application Server 9i	Runs on Solaris, Linux, Windows, Des	Twilight
Red Hat JBoss	Runs on Linux, Windows	Current

#### Technology Area: Web Browser

Product Component	Notes	PhaseName
Internet Explorer 5	Runs on Solaris, Desktop	Twilight
Internet Explorer 6	Runs on Solaris, Desktop	Twilight
Internet Explorer 7	Runs on Solaris, Desktop	Current
Internet Explorer 8	Runs on Solaris, Desktop	Emerging
Netscape	Runs on Desktop	Obsolete

#### Technology Area: Web Server

Product Component	Notes	PhaseName
IBM HTTP Server	Runs on z/OS, Solaris, Linux, Window	Current
Microsoft Internet Information Server	Runs on Windows	Current
Netscape	Runs on Solaris, Desktop (Solaris for	Twilight
Open Source Apache Web Server 2.0 or higher	Runs on Solaris, Linux, Windows	Current
Oracle Apache (formerly Oracle HTTP Server)	Runs on Solaris	Current

### Discipline: Application Configuration Management

#### Technology Area: Application Change Management

Product Component	Notes	PhaseName
Serena PVCS Teamtrack	Runs on Solaris, Netware, Desktop	Current

# Technology Architecture Product Standards

## Technology Area: Application Release Management

Product Component	Notes	PhaseName
Serena PVCS Builder	Runs on Solaris, Netware, Windows,	Twilight

## Technology Area: Application Version Control

Product Component	Notes	PhaseName
Librarian Change Control Facility	Runs on z/OS	Current
Oracle Software Configuration Management	Runs on Solaris, Windows, Desktop	Emerging
Serena PVCS Version Manager	Runs on Solaris, Netware, Windows,	Current
Subversion		Current
Visual SourceSafe	Runs on Windows, Desktop	Current

## Discipline: Application Development

### Technology Area: Languages

Product Component	Notes	PhaseName
ADF	Runs on z/OS	Twilight
C#	Runs on Windows, Desktop	Current
COBOL for z/OS and OS/390	Runs on z/OS	Current
FoxPro	Runs on Desktop	Twilight
Java 1.4.2	Runs on Desktop	Current
PowerBuilder	Runs on Desktop	Twilight
VB .NET	Runs on Windows, Desktop	Current
Visual Basic	Runs on Desktop	Twilight

### Technology Area: Tools & Utilities

Product Component	Notes	PhaseName
Cool:Gen	Runs on z/OS	Twilight
Easytrieve Plus	Runs on z/OS	Current
Finalist	Runs on z/OS	Current
Finalist (Cross Check)	Runs on Solaris, Windows	Current
NDoc	Runs on Desktop	Current
Oracle Designer 10g	Runs on Solaris, Windows, Desktop	Current
Oracle Designer 4.5	Runs on Solaris, Windows, Desktop	Obsolete

# Technology Architecture Product Standards

Oracle Designer 6i	Runs on Solaris, Windows, Desktop	Obsolete
Oracle Designer 9i	Runs on Solaris, Windows, Desktop	Twilight
Oracle Discoverer 10g	Runs on Solaris, Windows, Desktop	Current
Oracle Discoverer 4.1	Runs on Solaris, Windows, Desktop	Twilight
Oracle Discoverer 9i	Runs on Solaris, Windows, Desktop	Twilight
Oracle Forms Developer 10g	Runs on Solaris, Windows, Desktop	Current
Oracle Forms Developer 4.5	Runs on Solaris, Windows, Desktop	Obsolete
Oracle Forms Developer 6i	Runs on Solaris, Windows, Desktop	Obsolete
Oracle Forms Developer 9i	Runs on Solaris, Windows, Desktop	Twilight
Oracle Jdeveloper 10g	Runs on Solaris, Desktop	Current
Oracle Jdeveloper 9i	Runs on Solaris, Desktop	Twilight
Oracle Reports Developer 10g	Runs on Solaris, Windows, Desktop	Current
Oracle Reports Developer 4.5	Runs on Solaris, Windows, Desktop	Obsolete
Oracle Reports Developer 6i	Runs on Solaris, Windows, Desktop	Obsolete
Oracle Reports Developer 9i	Runs on Solaris, Windows, Desktop	Twilight
SAS	Runs on z/OS, Desktop	Current
TELON	Runs on z/OS	Twilight
VB Commenter	Runs on Desktop	Twilight

## Technology Area: Web Application Development Tools

Product Component	Notes	PhaseName
Eclipse IDE for Java Developers		Current
Microsoft Dynamics CRM		Current
Oracle Internet Developer Suite 10g	Runs on Solaris, Windows, Desktop	Current
Oracle Internet Developer Suite 9i	Runs on Solaris, Windows, Desktop	Twilight
Rational Application Developer (RAD) for WebSphere	Runs on z/OS, Solaris, Linux, Window	Current
Rational Software Architect	Runs on z/OS, Windows	Current
Visual Studio .NET 2005	Runs on Windows, Desktop	Current

## Technology Area: Web Graphical User Interface Development Tools

Product Component	Notes	PhaseName
Jacada Interface Server	Runs on Solaris, Windows, Desktop	Current
Oracle Internet Developer Suite 10g	Runs on Solaris, Windows, Desktop	Current
Oracle Internet Developer Suite 9i	Runs on Solaris, Windows, Desktop	Twilight

# Technology Architecture Product Standards

WebSphere Host Access Transformation Services (H Runs on z/OS, Windows Current

## Discipline: Application Testing

### Technology Area: Functional Testing

Product Component	Notes	PhaseName
Compuware Hiperstation Plus	Runs on Windows, Desktop	Current
Compuware QACenter 3270 Hiperstation	Runs on z/OS	Current
Micro Focus QADirector	Runs on Windows, Desktop	Current
Micro Focus TestPartner	Runs on Windows, Desktop	Current

### Technology Area: Performance Testing

Product Component	Notes	PhaseName
Compuware Application Vantage	Runs on Windows, Desktop	Current
Micro Focus QALoad	Runs on Windows, Desktop	Current

### Technology Area: Test Data Generation

Product Component	Notes	PhaseName
Compuware File-AID/CS	Runs on Windows, Desktop	Current

### Technology Area: Tuning/Development

Product Component	Notes	PhaseName
Micro Focus DevPartner	Runs on Solaris, Windows, Desktop	Current

## Discipline: Output Management

### Technology Area: Output Management

Product Component	Notes	PhaseName
Advanced Function Printing	Runs on z/OS	Current
DataWare-CD - Luminex	Runs on Windows	Current
Document Direct for the Internet + (formerly Docu	Runs on Windows	Current
InfoPrint Server	Runs on z/OS	Current
Microfiche	Runs on z/OS	Current
Monarch	Runs on Desktop	Current
TriTek Output Express		Current

# Technology Architecture Product Standards

View Direct (formerly InfoPac)

Runs on z/OS

Current

# Technology Architecture Product Standards

## Domain: Collaboration

### Discipline: Collaboration Tools

#### Technology Area: Desktop Publishing

Product Component	Notes	PhaseName
Adobe PageMaker	Runs on Desktop	Current
Microsoft Publisher 2000 and 2002	Runs on Desktop	Twilight
Microsoft Publisher 2003 and 2007	Runs on Desktop	Current
Microsoft Visio 2002	Runs on Desktop	Twilight
Microsoft Visio 2003 and 2007	Runs on Desktop	Current

#### Technology Area: Office Automation

Product Component	Notes	PhaseName
Microsoft Office 2003 and 2007	Runs on Desktop. Basic Package/Offi	Current
Microsoft Office 97	Runs on Desktop	Obsolete
Microsoft Office XP	Runs on Desktop	Twilight

#### Technology Area: Project Management

Product Component	Notes	PhaseName
Microsoft Project 2000	Runs on Windows, Desktop	Obsolete
Microsoft Project 2003 and 2007	Runs on Windows, Desktop	Current
Microsoft Project Server 2000	Runs on Windows	Obsolete
Microsoft Project Server 2003 and 2007	Runs on Windows	Current
Project Workbench	Runs on Netware, Windows, Desкто	Obsolete

#### Technology Area: Spreadsheet

Product Component	Notes	PhaseName
Lotus 1-2-3	Runs on Desktop	Obsolete
Microsoft Excel 2000	Runs on Desktop	Twilight
Microsoft Excel 2003	Runs on Desktop	Current
Microsoft Excel 2007		Current
Microsoft Excel XP	Runs on Desktop	Twilight

# Technology Architecture Product Standards

## Technology Area: Team Collaboration

Product Component	Notes	PhaseName
Microsoft Office SharePoint Server	Microsoft Office SharePoint Server is	Current
Windows SharePoint Services 3.0	Runs on Windows	Current

## Technology Area: Word Processing

Product Component	Notes	PhaseName
Microsoft Word 2000	Runs on Desktop	Twilight
Microsoft Word 2003	Runs on Desktop	Current
Microsoft Word 2007		Current
Microsoft Word XP	Runs on Desktop	Twilight
Word Perfect	Runs on Desktop	Twilight

## Discipline: Directory Services

### Technology Area: Directory Services

Product Component	Notes	PhaseName
Active Directory	Runs on Windows	Current
eDirectory (formerly NDS Directory)	Runs on Netware	Current
eTrust IdentityMinder eProvision (formerly Netegrit	Runs on Windows	Obsolete
RACF	Runs on z/OS	Current

## Discipline: Document Lifecycle Management

### Technology Area: Automated Data Capture

Product Component	Notes	PhaseName
Datacap Taskmaster		Current
IBM FileNET Capture Desktop 4.x	Runs on Solaris, Windows, Desktop	Twilight
IBM FileNET Capture Desktop 5.x	Runs on Solaris, Windows, Desktop	Current
IBM FileNET Capture Pro 4.x	Runs on Solaris, Windows	Twilight
IBM FileNET Capture Pro 5.x	Runs on Solaris, Windows	Current
Lexmark	Runs on Other	Current
TriTek CapturePlus		Current
Verity (formerly CARDIFF TELEForm Information Cap	Runs on Netware, Windows, Deskto	Twilight

# Technology Architecture Product Standards

## Technology Area: Document Imaging

Product Component	Notes	PhaseName
IBM FileNET Content Services	Runs on Solaris, Windows	Twilight
IBM FileNET Image Services	Runs on Solaris, Windows	Twilight

## Technology Area: Document Management

Product Component	Notes	PhaseName
IBM FileNET Content Manager 3.x	Runs on Solaris, Windows	Current
IBM FileNET Content Manager 4.x	Runs on Solaris, Windows	Emerging
IBM FileNET Image Manager 2.x	Runs on Solaris, Windows	Twilight
IBM FileNET Image Manager 3.5.2	Runs on Solaris, Windows	Current

## Technology Area: Workflow

Product Component	Notes	PhaseName
eProcess Services	Runs on Solaris, Windows	Twilight
IBM FileNet Business Process Manager 2.x	Runs on Solaris, Windows	Twilight
IBM FileNet Business Process Manager 3.5.2	Runs on Solaris, Windows	Current
TriTek Trans@action eXpress 4.5		Current
TriTek Trans@ction eXpress 4.5		Current

## Discipline: Electronic Mail

### Technology Area: Electronic Mail

Product Component	Notes	PhaseName
Blackberry Enterprise Server 4	Runs on Desktop	Twilight
Blackberry Enterprise Server 4.1	Runs on Desktop	Current
FaxWare		Current
Microsoft Exchange Server 2007		Emerging
Novell GroupWise Client 6	Runs on Desktop	Obsolete
Novell GroupWise Client 6.5.1	Runs on Desktop	Current
Novell GroupWise Server 6	Runs on Netware	Obsolete
Novell GroupWise Server 7	Runs on Netware	Current

### Technology Area: Gateway

# Technology Architecture Product Standards

Product Component	Notes	PhaseName
GroupWise Internet Agent (GWIA)	Runs on Netware	Current
Secure Mail (IronMail)		Current
SendMail (SMTP)	Runs on Solaris	Current
SMTP Compliance Component	Runs on z/OS, Solaris, Linux, Netwar	Current
Symantec AntiVirus	Runs on Netware, Windows, Deskto	Current

## Technology Area: List Management Software

Product Component	Notes	PhaseName
LISTSERV	Runs on Windows	Current

## Discipline: Mobile Devices

### Technology Area: Data Synchronization

Product Component	Notes	PhaseName
Intellisync	Runs on Desktop	Current

### Technology Area: Handheld Devices

Product Component	Notes	PhaseName
Pocket PC 2002	Runs on Other	Obsolete
RIM Blackberry (Data & Push-to-Talk)	Runs on Other	Current
RIM BlackBerry (Data Only)	Runs on Other	Current
RIM Blackberry (Data Telephony)	Runs on Other	Current
Windows Mobile 2003 for Pocket PC	Runs on Other	Twilight

## Discipline: Web Publishing

### Technology Area: Web Publishing

Product Component	Notes	PhaseName
Adobe Acrobat	Runs on Desktop	Current
Adobe Contribute	Runs on Windows	Current
Adobe Dreamweaver	Runs on Desktop	Current
Adobe Fireworks	Runs on Desktop	Current
Adobe Flash	Runs on Desktop	Current
FrontPage	Runs on Desktop	Obsolete

# Technology Architecture Product Standards

## Domain: Data

### Discipline: Data Access

#### Technology Area: Database Middleware

Product Component	Notes	PhaseName
DB2 Connect Client	Runs on Solaris, Linux, Windows, Des	Current
DL/2	Runs on z/OS	Current
Open Text LiveLink ECM (formerly Hummingbird BI/	Runs on z/OS, Desktop	Twilight

### Discipline: Data Management

#### Technology Area: Data Backup/Recovery

Product Component	Notes	PhaseName
Various DB utilities		Current

#### Technology Area: Data Movement

Product Component	Notes	PhaseName
Connect: Direct	Runs on z/OS, Desktop	Current
FTP		Current
IMS CDC	Runs on z/OS	Current
Move for DB2	Runs on z/OS	Current
MVS/Expedite	Runs on z/OS	Current
Oracle Enterprise Grid Control		Current
Oracle Enterprise Manager Database Control		Current
Quest Toad	Runs on Desktop	Current
RC/Migrator for DB2 for z/OS 6.1.6	Runs on z/OS	Current
RC/Update for DB2 for z/OS 6.1.6	Runs on z/OS	Current
Secure FTP		Current
SQL Server Management Studio	SQL Server Management Studio is a t	Current
XCOM	Runs on z/OS, Desktop	Current

#### Technology Area: Data Quality

# Technology Architecture Product Standards

## Technology Area: Data Translator

Product Component	Notes	PhaseName
EC Gateway	Runs on Solaris	Current
ECMap	Runs on Desktop	Current
ECRTP	Runs on Solaris, Desktop	Current
EDI Server	Runs on Solaris	Current

## Technology Area: Extract, Transform, and Load

Product Component	Notes	PhaseName
Talend Open Studio		Current

## Technology Area: Repository for Data Management

### Discipline: Database Storage

## Technology Area: Database Change Management

Product Component	Notes	PhaseName
RC/Migrator for DB2 for z/OS 6.1.6	Runs on z/OS	Current
RC/Update for DB2 for z/OS 6.1.6	Runs on z/OS	Current

## Technology Area: Database Management System

Product Component	Notes	PhaseName
Access	Runs on Desktop	Current
DB2 Universal Database (UDB) for z/OS 7.1	Runs on z/OS	Obsolete
DB2 Universal Database (UDB) for z/OS 8.1	Runs on z/OS	Current
DB2 Universal Database (UDB) for z/OS 9	Runs on z/OS	Emerging
DSIMS (IMS) 6.1.6	Runs on z/OS	Current
IMS DB for OS/390	Runs on z/OS	Twilight
Informix	Runs on Solaris	Twilight
Microsoft SQL Server 2000	Runs on Windows	Twilight
Microsoft SQL Server 2005	Runs on Windows	Current
Microsoft SQL Server 2008	Runs on Windows	Emerging
Oracle (32-bit) 10g	Runs on Solaris, Linux, Windows, Des	Current
Oracle (32-bit) 7.3.4	Runs on Solaris, Linux, Windows, Des	Obsolete

# Technology Architecture Product Standards

Oracle (32-bit) 8.0	Runs on Solaris, Linux, Windows, Des	Obsolete
Oracle (32-bit) 8i	Runs on Solaris, Linux, Windows, Des	Twilight
Oracle (32-bit) 9i	Runs on Solaris, Linux, Windows, Des	Twilight
Oracle (64-bit) 10g	Runs on Solaris, Linux, Windows, Des	Current
Oracle (64-bit) 7.3.4	Runs on Solaris, Linux, Windows, Des	Obsolete
Oracle (64-bit) 8.0	Runs on Solaris, Linux, Windows, Des	Obsolete
Oracle (64-bit) 8i	Runs on Solaris, Linux, Windows, Des	Twilight
Oracle (64-bit) 9i	Runs on Solaris, Linux, Windows, Des	Twilight

## Technology Area: Database Monitoring

Product Component	Notes	PhaseName
Database Analyzer (DB2) 2.6.6	Runs on z/OS	Current
Savant (for Oracle)	Runs on Desktop	Current
The Monitor for DB2	Runs on z/OS	Current
The Monitor for IMS (TMON/IMS)	Runs on z/OS	Current

## Discipline: Database Structure

### Technology Area: Data Modeling / Database Design

Product Component	Notes	PhaseName
CA Erwin Modeling Suite 4.1.4	Runs on Desktop	Current
Oracle Designer 10g	Runs on Solaris, Windows, Desktop	Current
Oracle Designer 4.5	Runs on Solaris, Windows, Desktop	Obsolete
Oracle Designer 6i	Runs on Solaris, Windows, Desktop	Twilight
Oracle Designer 9i	Runs on Solaris, Windows, Desktop	Twilight
PowerDesigner (formerly Data Architect)	Runs on Desktop	Current

# Technology Architecture Product Standards

## Domain: Information

### Discipline: Business Intelligence

Product Components	Phase
Microsoft SQL Server Analysis Services	Current

#### Technology Area: Data Analysis

Product Component	Notes	PhaseName
MicroStrategy Desktop	Runs on Desktop	Current
MicroStrategy Desktop 7.5.3	Runs on Desktop	Twilight
MicroStrategy Intelligence Server	Runs on Windows	Current
MicroStrategy Intelligence Server 7.5.3	Runs on Windows	Twilight
MicroStrategy Narrowcast Server	Runs on Windows	Current
MicroStrategy Narrowcast Server 7.5.3	Runs on Windows	Twilight
MicroStrategy Web Server	Runs on Windows	Current
MicroStrategy Web Server 7.5.3	Runs on Windows	Twilight
Oracle Discoverer 10g	Runs on Solaris, Windows, Desktop	Current
Oracle Discoverer 4.1	Runs on Solaris, Windows, Desktop	Twilight
Oracle Discoverer 9i	Runs on Solaris, Windows, Desktop	Twilight

#### Technology Area: Data Mining

#### Technology Area: Information Delivery

Product Component	Notes	PhaseName
TriTek Report Data Exchange		Current

#### Technology Area: Query/Reporting

Product Component	Notes	PhaseName
Base SAS	Runs on z/OS, Solaris, Desktop	Current
Business Objects Crystal Reports Server 2008 v.11 (f	Runs on Desktop	Current
Crystal Reports		Current
Datavantage	Runs on z/OS	Current
Easytrieve Plus	Runs on z/OS	Current

# Technology Architecture Product Standards

File-AID/IMS	Runs on z/OS	Current
Microsoft SQL Server Reporting Services 2005	Runs on Windows	Current
Monarch	Runs on Desktop	Current
Open Text LiveLink ECM (formerly Hummingbird BI/	Runs on z/OS, Desktop	Twilight
Oracle Discoverer 10g	Runs on Solaris, Windows, Desktop	Current
Oracle Discoverer 4.1	Runs on Solaris, Windows, Desktop	Obsolete
Oracle Discoverer 9i	Runs on Solaris, Windows, Desktop	Twilight
Oracle Reports 4.5	Runs on Desktop	Obsolete
Oracle Reports 6i	Runs on Desktop	Twilight
Oracle Reports 9i and 10g	Runs on Desktop	Current
QMF 6.1	Runs on z/OS	Current
RC/Update 6.1.6	Runs on z/OS	Current
SAS/STAT	Runs on z/OS, Solaris, Windows, Des	Current
SQR	Runs on Solaris	Obsolete

## Discipline: Geographic Information Systems (GIS)

### Technology Area: Data Server

Product Component	Notes	PhaseName
ArcGIS Engine	Runs on Solaris, Linux, Windows, Des	Current
ArcGIS Server 9.2		Current
ArcIMS	Runs on Solaris, Windows	Current
ArcIMS 3.x	Runs on Solaris, Windows	Obsolete
ArcIMS 8.x	Runs on Solaris, Windows	Twilight
ArcIMS 9.2	Runs on Solaris, Windows	Twilight
MapObjects		Twilight

### Technology Area: Desktop Client

Product Component	Notes	PhaseName
ArcGIS Explorer	Runs on Desktop	Current
ArcInfo 3.x	Runs on Windows, Desktop	Obsolete
ArcInfo 8.x	Runs on Windows, Desktop	Twilight
ArcInfo 9.2	Runs on Windows, Desktop	Current
ArcView	Runs on Desktop	Current

# Technology Architecture Product Standards

## Technology Area: PDA Client

Product Component	Notes	PhaseName
ArcPad 5.x		Obsolete
ArcPad 6.x		Twilight
ArcPad 7.1		Current

## Discipline: Message Integration

### Technology Area: Message Integration

# Technology Architecture Product Standards

## Domain: Network

### Discipline: Cabling

#### Technology Area: LAN Cabling

Product Component	Notes	PhaseName
Cat 5		Obsolete
Cat 6, Fiber Optic 62.5/125 Multimode		Twilight
Cat 6a		Emerging
Fiber Optic 50/125 Multimode		Current
Single Mode Fiber Full Spectrum		Current

#### Technology Area: SNA Cabling

Product Component	Notes	PhaseName
Cat 6, 25-pin EIA		Twilight
Cat 7		Twilight
RG-62, Coaxial Cable		Obsolete

#### Technology Area: Video Cabling

Product Component	Notes	PhaseName
Cat 6		Current
Cat 7		Twilight
RG-6 Coax, RG-11 Coax		Current

#### Technology Area: Voice Cabling

Product Component	Notes	PhaseName
Cat 3		Obsolete
Cat 5		Obsolete
Cat 6		Current
Cat 7		Twilight

#### Technology Area: WAN Cabling

# Technology Architecture Product Standards

Product Component	Notes	PhaseName
Cat 6, Fiber Optic 62.5/125 Multimode		Twilight
Cat 6a		Emerging
Fiber 50/125 Multimode Laser Optimized		Current
Fiber Optic Single Mode		Current
Single Mode Fiber Full Spectrum		Current

## Discipline: LAN

### Technology Area: Adaptors

Product Component	Notes	PhaseName
Ethernet		Current
Token Ring		Obsolete

### Technology Area: File Access and Transfer Service

Product Component	Notes	PhaseName
Attachmate Extra Enterprise 2000 (formerly Attach	Runs on Desktop	Current
FTP	Runs on z/OS, Solaris, Linux, Window	Current
XCOM	Runs on z/OS, Desktop	Current

### Technology Area: Hubs/Switches

Product Component	Notes	PhaseName
Cisco	Runs on Windows	Current
Juniper SRX Series		Current
Nortel		Current

### Technology Area: LAN Protocol

Product Component	Notes	PhaseName
TCP/IP	Runs on z/OS, Solaris, Netware, Win	Current

### Technology Area: Monitoring

Product Component	Notes	PhaseName
Network Associates Sniffer Suite		Current

### Technology Area: Secure File Transfer Protocol and Service

# Technology Architecture Product Standards

## Technology Area: Wireless LAN

Product Component	Notes	PhaseName
Aruba	Runs on Other	Current

## Discipline: SNA

### Technology Area: SNA Backbone Transport

Product Component	Notes	PhaseName
DACS Switches		Twilight
T1		Twilight
T3 Channels		Twilight

### Technology Area: SNA Protocol

Product Component	Notes	PhaseName
DLSw		Twilight
SNA-SDLC		Twilight

## Discipline: Video

### Technology Area: CSU/DSU

Product Component	Notes	PhaseName
Adtran		Obsolete
Paradyne		Obsolete

### Technology Area: Document Camera

Product Component	Notes	PhaseName
Cannon		Current
Elmo		Current

### Technology Area: Modems

Product Component	Notes	PhaseName
MultiTech		Obsolete

### Technology Area: Telemedicine Peripherals

# Technology Architecture Product Standards

Product Component	Notes	PhaseName
AMD		Current

## Technology Area: Video Bridge

Product Component	Notes	PhaseName
Polycom		Current
Video Accord		Twilight
Vtel		Obsolete

## Technology Area: Video Circuit/Carrier

Product Component	Notes	PhaseName
ISDN/BRI		Current
ISDN/PRI		Current
T-1		Current

## Technology Area: Video CODEC

Product Component	Notes	PhaseName
Polycom		Current
Tandberg		Current

## Technology Area: Video Protocol

Product Component	Notes	PhaseName
H.320		Twilight
H.323		Current

## Technology Area: Video Switches

Product Component	Notes	PhaseName
Cisco	Runs on Windows	Current
Initia		Obsolete
Nortel		Current

## Discipline: Voice

### Technology Area: Business Lines

# Technology Architecture Product Standards

Product Component	Notes	PhaseName
1FB		Current

## Technology Area: Commercial C/O Service

Product Component	Notes	PhaseName
Centrex		Current

## Technology Area: IP Telephony

Product Component	Notes	PhaseName
Cisco Unified Communications Solutions		Current

## Technology Area: PBX Trunks

Product Component	Notes	PhaseName
ISDN/PRI		Current

## Technology Area: Voice Backbone Transport

Product Component	Notes	PhaseName
Electronic Tandem Network (ETN)		Twilight

## Discipline: WAN

### Technology Area: Network Monitoring/Management

Product Component	Notes	PhaseName
Cisco Works 2000	Runs on Solaris	Current
DDNS	Runs on Solaris	Current
DHCP	Runs on Solaris	Current
F5 (Recap)	This is an Application Delivery Contr	Current
Juniper SRX Series		Current
MRTG	Runs on Solaris	Current
NAT		Current
Remedy	Runs on Solaris	Current
SNIPS	Runs on Solaris	Current

### Technology Area: Routing Equipment

# Technology Architecture Product Standards

Product Component	Notes	PhaseName
Juniper SRX Series		Current

## Technology Area: WAN Carrier/Circuit

Product Component	Notes	PhaseName
ATM		Twilight
DS1		Current
DS3, OC3		Current
DSL		Current
Frame Relay		Twilight
ISDN		Current
SMDS/CDS		Obsolete

## Technology Area: WAN Protocol

Product Component	Notes	PhaseName
BGP		Current
IPX		Twilight
MPLS		Current
OSPF		Current
PPP		Current
TCP/IP	Runs on z/OS, Solaris, Netware, Win	Current

## Technology Area: WAN URL Filtering

### Discipline: Wireless Data Tele-Communications

## Technology Area: Wireless Protocol

Product Component	Notes	PhaseName
802.11A		Current
802.11B		Current
802.11G		Current
802.11I		Current
802.11N		Emerging
802.1X		Current

# Technology Architecture Product Standards

## Technology Area: Wireless Transport

Product Component	Notes	PhaseName
2.4 GHz		Current
5 GHz		Current
5.8 GHz		Emerging

# Technology Architecture Product Standards

## Domain: Platform

### Discipline: Environments

#### Technology Area: Environment

### Discipline: Hardware

#### Technology Area: Hardware

Product Component	Notes	PhaseName
IBM (zSeries compatible)	Runs on z/OS	Current
Intel/AMD (formerly X86) (formerly Intel)	Runs on Linux, Netware, Windows, D	Current
Solaris SPARK	Runs on Solaris	Current
Solaris SPARK 2.7	Runs on Solaris	Twilight
Solaris SPARK 2.8	Runs on Solaris	Twilight

### Discipline: Host Communications

#### Technology Area: Host Communications

Product Component	Notes	PhaseName
ACF/NCP (Network Control Program)	Runs on z/OS	Obsolete
ACF/VTAM (telecommunications access)	Runs on z/OS	Current
Attachmate Extra Enterprise 2000 (formerly Attach	Runs on Desktop	Current
Host on Demand (HOD) +	Runs on z/OS, Windows, Desktop	Twilight
Personal Communications (formerly IBM Personal C	Runs on Desktop	Obsolete
RJE	Runs on z/OS, Solaris, Desktop	Current
TCP/IP	Runs on z/OS, Solaris, Netware, Win	Current
TN-3270 (formerly PC3270)	Runs on z/OS	Current
XCOM	Runs on z/OS, Desktop	Current

### Discipline: Operating Systems

#### Technology Area: Application/Database Server Operating System

# Technology Architecture Product Standards

Product Component	Notes	PhaseName
CITRIX	Runs on Windows	Current
Netware 6	Runs on Netware	Obsolete
Netware 6.5	Runs on Netware	Current
Netware Client 4.91 SP2	Runs on Netware	Current
Red Hat Linux 4.5	Runs on Other	Current
Red Hat Linux 5	Runs on Other	Current
Solaris SPARC compatible 2.10	Runs on Solaris	Current
Solaris SPARC compatible 2.6	Runs on Solaris	Twilight
Solaris SPARC compatible 2.7	Runs on Solaris	Twilight
Solaris SPARC compatible 2.8	Runs on Solaris	Twilight
Suse Linux Enterprise Server		Twilight
Vmware 3.02	Runs on Netware, Windows	Current
Vmware 3.5.1	Runs on Netware, Windows	Emerging
Windows 2000 Server	Runs on Windows	Twilight
Windows 2000 Workstation	Runs on Desktop	Twilight
Windows 2003 Server R2	Runs on Windows	Current
Windows 2008 Server R2		Current
Windows 7		Current
Windows NT Server	Runs on Windows	Obsolete
Windows NT Workstation	Runs on Desktop	Obsolete
Windows XP Professional SP2	Runs on Desktop	Twilight
Windows XP Professional SP3	Runs on Desktop	Current
z/OS 1.7	Runs on z/OS	Current
z/OS 1.9	Runs on z/OS	Emerging

## Technology Area: File Services

Product Component	Notes	PhaseName
Netware 6	Runs on Netware	Obsolete
Netware 6.5	Runs on Netware	Current
Windows File Services		Current

## Technology Area: Handheld Devices Operating Systems

# Technology Architecture Product Standards

Product Component	Notes	PhaseName
Pocket PC 2002	Runs on Other	Obsolete
RIM Blackberry (Data & Push-to-Talk)	Runs on Other	Current
RIM BlackBerry (Data Only)	Runs on Other	Current
RIM Blackberry (Data Telephony)	Runs on Other	Current
Windows Mobile 2003 for Pocket PC	Runs on Other	Obsolete

## Discipline: Platform Configuration

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### Technology Area: Platform Configuration

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# Technology Architecture Product Standards

## Domain: Security

### Discipline: Access Control

#### Technology Area: Database

Product Component	Notes	PhaseName
Local User Database		Current

#### Technology Area: System

Product Component	Notes	PhaseName
Operating System Security		Current
UNIX Operating System Security	Runs on Solaris	Current

### Discipline: Authentication

#### Technology Area: Authentication Protocol

Product Component	Notes	PhaseName
Kerberos		Current

#### Technology Area: Certificates

Product Component	Notes	PhaseName
Entrust	Runs on Solaris, Windows, Desktop	Current
Microsoft Certificate Server	Runs on Windows	Current

#### Technology Area: Mainframe

Product Component	Notes	PhaseName
RACF Security	Runs on z/OS	Current

#### Technology Area: Public Key Encryption

Product Component	Notes	PhaseName
DSA	Runs on Solaris, Windows, Desktop	Current
RSA	Runs on Solaris, Windows, Desktop	Current

#### Technology Area: Public Key Infrastructure

# Technology Architecture Product Standards

Product Component	Notes	PhaseName
Entrust	Runs on Solaris, Windows, Desktop	Current

## Technology Area: Symmetric Key Encryption

Product Component	Notes	PhaseName
AES	Runs on z/OS, Solaris, Netware, Win	Current
Triple DES (3DES)	Runs on z/OS, Solaris, Netware, Win	Current

## Technology Area: VPN

Product Component	Notes	PhaseName
Checkpoint VPN-1	Runs on Solaris, Windows, Desktop	Current
Cisco Secure Remote Access	Runs on Windows	Current
Juniper SRX Series		Current
Microsoft PPTP	Runs on Windows, Desktop	Twilight

## Discipline: Authorization

### Technology Area: Directory

Product Component	Notes	PhaseName
Active Directory	Runs on Windows	Current
eDirectory (formerly NDS Directory 6/26/1998)	Runs on Netware, Windows	Current
Oracle Internet Directory	Runs on Solaris, Windows	Emerging

## Discipline: Compliance Policies

### Technology Area: Anti-Spam

Product Component	Notes	PhaseName
Secure Computing CipherTrust IronMail	Runs on Other	Current

### Technology Area: Firewall

Product Component	Notes	PhaseName
Checkpoint Firewall-1	Runs on Solaris, Desktop	Current
Cisco PIX	Runs on Windows	Current
Juniper SRX Series		Current

# Technology Architecture Product Standards

## Technology Area: Intrusion Detection

Product Component	Notes	PhaseName
Cisco MARS		Current
Cisco SIMS	Runs on Windows	Obsolete
Juniper SRX Series		Current
RealSecure	Runs on Windows	Current

## Technology Area: Log-in

Product Component	Notes	PhaseName
Microsoft Windows Logon (formerly NT Logon)	Runs on Windows, Desktop	Current
Power-on Passwords	Runs on Desktop	Current
RC/Secure (DB2)	Runs on z/OS	Current
Screen Saver with password	Runs on Netware, Windows, Desktop	Current

## Technology Area: URL Filtering

Product Component	Notes	PhaseName
Websense	Runs on Windows	Current

## Technology Area: Virus Protection

Product Component	Notes	PhaseName
Symantec AntiVirus	Runs on Netware, Windows, Desktop	Current

## Discipline: Data Confidentiality and Integrity

### Technology Area: Disk Eraser

Product Component	Notes	PhaseName
KillDisk 4.1	Runs on Windows, Desktop	Current

### Technology Area: Encryption Controls

Product Component	Notes	PhaseName
Entrust Entelligence		Current
Microsoft EFS	Runs on Windows, Desktop	Current

### Technology Area: Message Digest/Signing

# Technology Architecture Product Standards

## Discipline: Encryption

### Technology Area: Hash Functions

Product Component	Notes	PhaseName
SHA-1	Runs on Solaris, Windows, Desktop	Current
SHA-256	Runs on Solaris, Windows, Desktop	Current
SHA-384	Runs on Solaris, Windows, Desktop	Current
SHA-512	Runs on Solaris, Windows, Desktop	Current

# Technology Architecture Product Standards

## Domain: Systems Management

### Discipline: Access Management

#### Technology Area: Internet Access

Product Component	Notes	PhaseName
Host on Demand (HOD) +	Runs on z/OS, Windows, Desktop	Twilight

#### Technology Area: TP Monitors

Product Component	Notes	PhaseName
CICS	Runs on z/OS	Current
IMS/DC	Runs on z/OS	Current
Roscoe	Runs on z/OS	Current
TSO	Runs on z/OS	Current

### Discipline: Asset and Configuration Management

#### Technology Area: CMDB

Product Component	Notes	PhaseName
BMC Configuration Management		Current

#### Technology Area: Discovery and Inventory

Product Component	Notes	PhaseName
EMC Smarts Application Discovery Manager		Current
Novell ZENWorks	Runs on Netware, Desktop	Current
Novell ZENWorks v10		Emerging

#### Technology Area: Repository for Asset Management

Product Component	Notes	PhaseName
BMC Remedy Asset Management Application	Runs on Solaris	Current
BMC Remedy Asset Management Application 7.1	Runs on Solaris	Emerging

### Discipline: Change Management

#### Technology Area: Change Management

# Technology Architecture Product Standards

Product Component	Notes	PhaseName
BMC Remedy Change Management	Runs on Solaris, Desktop	Current

## Discipline: Continuous Service Improvement

**Technology Area: Service Improvement**

**Technology Area: Service Measurement**

**Technology Area: Service Reporting**

## Discipline: Data Storage

**Technology Area: Network Attached Storage (NAS)**

**Technology Area: Storage Area Network (SAN)**

**Technology Area: Storage Management**

Product Component	Notes	PhaseName
CA-1	Runs on z/OS	Current
SAMS/Allocate	Runs on z/OS	Current
SAMS/Vantage	Runs on z/OS	Current
SMS	Runs on z/OS	Current

## Discipline: Event Management

**Technology Area: Job Management**

Product Component	Notes	PhaseName
CA AutoSys	Runs on Solaris, Linux, Windows	Current
CA11 Mainframe		Current
CA7 Mainframe		Current

**Technology Area: Performance Tuning**

Product Component	Notes	PhaseName
HP OpenView	Runs on z/OS	Current
IBM Netview	Runs on z/OS	Current
Insite Manager	Runs on Netware, Windows	Current

# Technology Architecture Product Standards

Optivity	Runs on Solaris	Current
The Monitor for IMS (formerly TMON/IMS until 1/1	Runs on z/OS	Current
TMON/CICS	Runs on z/OS	Current
TMON/DB2 3.3	Runs on z/OS	Current
TMON/MVS	Runs on z/OS	Current

## Discipline: Help Desk and Problem Management

### Technology Area: Help Desk/Problem Management

Product Component	Notes	PhaseName
BMC Remedy Action System 6	Runs on Solaris	Current

## Discipline: Incident Management

### Technology Area: Incident Management

## Discipline: Middleware Management

### Technology Area: Middleware Management

Product Component	Notes	PhaseName
Jboss Operations Network (JON)		Current

## Discipline: Operations Management

### Technology Area: Backup/Retrieval

Product Component	Notes	PhaseName
ArcServe	Runs on Netware, Windows	Current
FDR	Runs on z/OS	Current
HSM	Runs on z/OS	Current
Veritas NetBackup 5.1	Runs on Solaris, Linux, Windows	Twilight
Veritas NetBackup 6.1	Runs on Solaris, Linux, Windows	Current
Veritas NetBackup 6.5	Runs on Solaris, Linux, Windows	Emerging

## Discipline: Release and Deployment Management

### Technology Area: Release and Deployment Management

# Technology Architecture Product Standards

## Technology Area: Software Distribution

Product Component	Notes	PhaseName
Novell ZENWorks	Runs on Netware, Desktop	Current
Novell ZENWorks v10		Emerging

## Discipline: Request Fulfillment

### Technology Area: Request Fulfillment

## Discipline: Service/Business Continuity

### Technology Area: Business Resumption

### Technology Area: Disaster Recovery

Product Component	Notes	PhaseName
Paradigm Systems International OpsPlanner	Disaster Recovery Planning Software	Current

## Discipline: Training

### Technology Area: Computer Based Training

Product Component	Notes	PhaseName
Phoenix	Runs on z/OS	Twilight

### Technology Area: Web Based Training

Product Component	Notes	PhaseName
Adobe Authorware		Current

**ATTACHMENT C**

**HIPAA BUSINESS ASSOCIATE AGREEMENT**

## HIPAA BUSINESS ASSOCIATE AGREEMENT

### IN COMPLIANCE WITH PRIVACY AND SECURITY RULES

THIS HIPAA BUSINESS ASSOCIATE AGREEMENT ("Agreement") is between **The State of Tennessee, Department of Finance and Administration, Bureau of TennCare** ("TennCare" or "Covered Entity"), 310 Great Circle Road, Nashville, TN 37243 and **Policy Studies, Inc.** ("Business Associate"), located at 1515 Wynkoop Street, Suite 400, Denver, CO 80202-1730, including all office locations and other business locations at which Business Associate data may be used or maintained. Covered Entity and Business Associate may be referred to herein individually as "Party" or collectively as "Parties."

### BACKGROUND

Covered Entity acknowledges that it is subject to the Privacy and Security Rules (45 CFR Parts 160 and 164) promulgated by the United States Department of Health and Human Services pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191.

If Business Associate provides services to Covered Entity pursuant to one or more contractual relationships, said Agreements are detailed below and hereinafter referred to as "Service Agreements."

### LIST OF AGREEMENTS AFFECTED BY THIS HIPAA BUSINESS ASSOCIATE AGREEMENT

#### Execution Date

**Electronic Health Record Incentive Administration System  
Development**

**May 16, 2011**

In the course of executing Service requests, Contracts, Agreements or Grant Contracts, (Service Agreements) Business Associate may come into contact with, use, or disclose Protected Health Information ("PHI") (defined in Section 1 below). Said Service Agreements are hereby incorporated by reference and shall be taken and considered as a part of this document the same as if fully set out herein.

In accordance with the federal privacy and security regulations set forth at 45 C.F.R. Part 160 and Part 164, Subparts A, C, D and E, which require Covered Entity to have a written memorandum with each of its Business Associates, the Parties wish to establish satisfactory assurances that Business Associate will appropriately safeguard PHI and, therefore, execute this Agreement.

### 1. DEFINITIONS

1.1 Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in 45 CFR Parts 160 and 164.

1.2 "Breach of the Security of the [Business Associate's Information] System" shall mean the unauthorized acquisition, including, but not limited to, access to, use, disclosure, modification or destruction, of unencrypted computerized data that materially compromises the security, confidentiality, or integrity of personal information maintained by or on behalf of the Covered Entity under the terms of Tenn. Code Ann. § 47-18-2107 and this Agreement.

1.3 "Commercial Use" means obtaining protected health information with the intent to sell, transfer or use it for commercial, or personal gain, or malicious harm; sale to third party for consumption, resale, or processing for resale; application or conversion of data to make a profit or obtain a benefit contrary to the spirit of this Agreement, including but not limited to presentation of data or examples of data in a conference or meeting setting where the ultimate goal is to obtain or gain new business.

1.4 "Confidential Information" shall mean any non-public, confidential or proprietary information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, which is supplied by TennCare to the Business Associate under this Agreement. Any information, whether written, graphic, oral, electronic, visual or fixed in any tangible medium or expression, relating to individuals enrolled in the TennCare program ("TennCare enrollees"), or relating to individuals who may be potentially enrolled in the TennCare program, which is provided to or obtained through the Trading Partner's

performance under this Agreement, shall also be treated as "Confidential Information" to the extent that confidential status is afforded such information under state and federal laws or regulations. All confidential information shall not be subject to disclosure under the Tennessee Public Records Act.

1.5 "Designated Record Set" shall have the meaning set out in its definition at 45 C.F.R. § 164.501.

1.6 "Electronic Protected Health Information" (ePHI) shall have the meaning set out in its definition at 45 C.F.R. § 160.103.

1.7 "Encryption" means the process using publicly known algorithms to convert plain text and other data into a form intended to protect the data from being able to be converted back to the original plain text by known technological means.

1.8 "Health Care Operations" shall have the meaning set out in its definition at 45 C.F.R. § 164.501.

1.9 "Individual" shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

1.10 "Marketing" shall have the meaning under 45 CFR § 164.501 and the act or process of promoting, selling, leasing or licensing any TennCare information or data for profit without the express written permission of Covered Entity.

1.11 "Privacy Officer" shall have the meaning as set out in its definition at 45 C.F.R. § 164.530(a)(1). The Privacy officer is the official designated by a Covered Entity or Business Associate to be responsible for compliance with HIPAA regulations.

1.12 "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Part 160 and Part 164, subparts A, and E.

1.13 "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity. PHI includes information in any format, including but not limited to electronic or paper.

1.14 "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.103.

1.15 "Security Incident" shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system.

1.16 "Security Event" shall mean an immediately reportable subset of security incidents which incident would include:

- a) a suspected penetration of Business Associate's information system of which the Business Associate becomes aware but for which it is not able to verify within FORTY-EIGHT (48) HOURS (of the time the Business Associate became aware of the suspected incident) that enrollee PHI or other confidential TennCare data was not accessed, stolen, used, disclosed, modified, or destroyed;
- b) any indication, evidence, or other security documentation that the Business Associate's network resources, including, but not limited to, software, network routers, firewalls, database and application servers, intrusion detection systems or other security appliances, may have been damaged, modified, taken over by proxy, or otherwise compromised, for which Business Associate cannot refute the indication within FORTY-EIGHT (48) HOURS of the time the Business Associate became aware of such indication;
- c) a breach of the security of the Business Associate's information system(s)(see definition 1.2 above), by unauthorized acquisition, including, but not limited to, access to or use, disclosure, modification or destruction, of unencrypted computerized data and which

incident materially compromises the security, confidentiality, or integrity of TennCare enrollee PHI; and/or

- d) the unauthorized acquisition, including but not limited to access to or use, disclosure, modification or destruction, of unencrypted TennCare enrollee PHI or other confidential information of the Covered Entity by an employee or authorized user of Business Associate's system(s) which materially compromises the security, confidentiality, or integrity of TennCare enrollee PHI or other confidential information of the Covered Entity.

If data acquired (including but not limited to access to or use, disclosure, modification or destruction of such data) is in encrypted format but the decryption key which would allow the decoding of the data is also taken, the parties shall treat the acquisition as a breach for purposes of determining appropriate response.

1.17 "Security Rule" shall mean the Security Standards for the Protection of Electronic Protected Health Information" at 45 CFR Parts 160 and 164, Subparts A and C.

1.18 "Unsecured PHI" shall mean protected health information that is not rendered unusable, unreadable, or indecipherable to unauthorized individuals through the use of a technology or methodology specified by the Secretary.

## **2. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE (Privacy Rule)**

2.1 Compliance with the Privacy Rule. Business Associate agrees to fully comply with the requirements under the Privacy Rule applicable to "business associates," as that term is defined in the Privacy Rule and not use or further disclose PHI other than as permitted or required by this Agreement, the Service Agreements, or as Required By Law. In case of any conflict between this Agreement and the Service Agreements, this Agreement shall govern.

2.2 Privacy Safeguards and Policies. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by the Service Agreement(s), this Agreement or as Required By Law. This includes the implementation of administrative, physical, and technical safeguards to reasonably and appropriately protect the Covered Entity's PHI against any reasonably anticipated threats or hazards, utilizing the technology commercially available to the Business Associate (See also Section 3.2). The Business Associate shall maintain appropriate documentation of its compliance with the Privacy Rule, including, but not limited to, its policies, procedures, records of training and sanctions of members of its workforce.

2.3 Business Associate Contracts. Business Associate shall require any agent, including a subcontractor, to whom it provides PHI received from, maintained, created or received by Business Associate on behalf of Covered Entity, or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI or other confidential TennCare information, to agree, by written contract with Business Associate, to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

2.4 Mitigation of Harmful Effect of Violations. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

2.5 Reporting of Violations in Use and Disclosure of PHI. Business Associate agrees to require its employees, agents, and subcontractors to promptly report to Business Associate any use or disclosure of PHI in violation of this Agreement and to report to Covered Entity any use or disclosure of the PHI not provided for by this Agreement. The Business Associate shall report such violation to Covered Entity within FORTY-EIGHT (48) HOURS of event.

2.6 Access of Individual to PHI and other Requests to Business Associate. If Business Associate receives PHI from Covered Entity in a Designated Record Set, Business Associate agrees to provide access to PHI in a Designated Record Set to Covered Entity in order to meet its requirements under 45 CFR § 164.524. If Business Associate receives a request from an Individual for a copy of the individual's PHI, and the PHI is in the sole possession of the Business Associate, Business Associate will provide the requested copies to the individual in a timely manner. If Business Associate receives a request for PHI not in its possession and in the possession of the Covered Entity, or receives a request to exercise other

individual rights as set forth in the Privacy Rule, Business Associate shall promptly forward the request to Covered Entity. Business Associate shall then assist Covered Entity as necessary in responding to the request in a timely manner. If a Business Associate provides copies of PHI to the individual, it may charge a reasonable fee for the copies as the regulations shall permit.

2.7 Requests to Covered Entity for Access to PHI. The Covered Entity shall forward to the Business Associate in a timely manner any Individual's request for access to or a copy of their PHI that shall require Business Associate's participation, after which the Business Associate shall provide access to or deliver such information as follows:

- a) The Parties understand that if either Party receives a request for access to or copies of PHI from an Individual which the Party may complete with only its own onsite information, the time for such response shall be thirty (30) days, with notification to the Covered Entity upon completion.
- b) If Covered Entity does not have the requested PHI onsite and directs Business Associate to provide access to or a copy of his/her PHI directly to the Individual, the Business associate shall have sixty (60) days from the date of the Individual's request to provide access to PHI or deliver a copy of such information to the Individual. The Business Associate shall notify the Covered Entity when it completes the response.
- c) If the Covered Entity receives a request and requires information from the Business Associate in addition to the Covered Entity's onsite information to fulfill the request, the Business Associate shall have thirty (30) days from date of Covered Entity's notice to provide access or deliver such information to the Covered Entity so that the Covered Entity may timely respond to the Individual within the sixty (60) day requirement of 45 CFR § 164.524.
- d) If the Party designated above responding to the Individual's request is unable to complete the response to the request in the time provided, that Party shall provide the Individual with a written statement of the reasons for the delay and the date by which the Party will complete its action on the request. The Party may extend the response time once for no more than thirty (30) additional days.

2.8 Individuals' Request to Amend PHI. If Business Associate receives PHI from Covered Entity in a Designated Record Set, Business Associate agrees to make any amendments to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526, regarding an Individual's request to amend PHI. The Business Associate shall make the amendment promptly in the time and manner designated by Covered Entity, but shall have thirty (30) days notice from Covered Entity to complete the amendment to the Individual's PHI and to notify the Covered Entity upon completion.

2.9 Recording of Designated Disclosures of PHI. Business Associate agrees to document disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528.

2.10 Accounting for Disclosures of PHI. The Business Associate agrees to provide to Covered Entity or to an Individual, in time and manner designated by Covered Entity, information collected in accordance with this Agreement, to permit Covered Entity to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. The Covered Entity shall forward the Individual's request requiring the participation of the Business Associate to the Business Associate in a timely manner, after which the Business Associate shall provide such information as follows:

- a) If Covered Entity directs Business Associate to provide accounting of disclosures of the Individual's PHI directly to the Individual, the Business Associate shall have sixty (60) days from the date of the Individual's request to provide access to or deliver such information to the Individual. The Covered Entity shall provide notice to the Business Associate in time to allow the Business Associate a minimum of thirty (30) days to timely complete the Individual's request.
- b) If the Covered Entity elects to provide the accounting to the Individual, the Business Associate shall have thirty (30) days from date of Covered Entity's notice of request to provide information

for the Accounting to the Covered Entity so that the Covered Entity may timely respond to the Individual within the sixty (60) day period.

- c) If either of the Parties is unable to complete the response to the request in the times provided above, that Party shall notify the Individual with a written statement of the reasons for the delay and the date by which the Party will complete its action on the request. The Parties may extend the response time once for no more than thirty (30) additional days.
- d) The accounting of disclosures shall include at least the following information: (1) date of the disclosure; (2) name of the third party to whom the PHI was disclosed, (3) if known, the address of the third party; (4) brief description of the disclosed information; and (5) brief explanation of the purpose and basis for such disclosure.
- e) The Parties shall provide one (1) accounting in any twelve (12) months to the Individual without charge. The Parties may charge a reasonable, cost-based fee, for each subsequent request for an accounting by the same Individual if he/she is provided notice and the opportunity to modify his/her request. Such charges shall not exceed any applicable State statutes or rules.

2.11 Minimum Necessary. Business Associate agrees it must use reasonable efforts to limit any use, disclosure, or request for use or disclosure of PHI to the minimum amount necessary to accomplish the intended purpose of the use, disclosure, or request in accordance with the requirements of the Privacy Rule.

2.11.1 Business Associate represents to Covered Entity that all its uses and disclosures of, or requests for, PHI shall be the minimum necessary in accordance with the Privacy Rule requirements.

2.11.2 Covered Entity may, pursuant to the Privacy Rule, reasonably rely on any requested disclosure as the minimum necessary for the stated purpose when the information is requested by Business Associate.

2.11.3 Business Associate agrees to adequately and properly maintain all PHI received from, or created or received on behalf of, Covered Entity

2.12 Privacy Compliance Review upon Request. Business Associate agrees to make its internal practices, books and records, including policies, procedures, and PHI, relating to the use and disclosure of PHI received from, created by or received by Business Associate on behalf of Covered Entity available to the Covered Entity or to the Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the requester, for purposes of determining Covered Entity's or Business Associate's compliance with the Privacy Rule.

2.13 Cooperation in Privacy Compliance. Business Associate agrees to fully cooperate in good faith and to assist Covered Entity in complying with the requirements of the Privacy Rule.

2.14 HITECH Act Compliance. The Health Information Technology for Economic and Clinical Health Act (HITECH Act) was adopted as part of the American Recovery and Reinvestment Act of 2009. The HITECH Act and its implementing regulations impose new requirements on Business Associates with respect to privacy, security, and breach notification. These provisions of the HITECH Act and the regulations applicable to Business Associates are collectively referred to as the "HITECH BA Provisions." The HITECH BA Provisions shall apply commencing on February 17, 2010, or such other date as may be specified in the applicable regulations, whichever is later (Applicable Effective Date).

Business Associate hereby acknowledges and agrees that to the extent it is functioning as a Business Associate of Covered Entity, Business Associate will comply with the HITECH BA Provisions and with the obligations of a Business Associate as proscribed by HIPAA and the HITECH Act commencing on the Applicable Effective Date of each such provision. Business Associate and the Covered Entity further agree that the provisions of HIPAA and the HITECH Act that apply to business associates and that are required to be incorporated by reference in a business associate agreement are incorporated into this Agreement between Business Associate and Covered Entity as if set forth in this Agreement in their entirety and are effective as of the Applicable Effective Date and as amended.

### 3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE (Security Rule)

3.1 Compliance with Security Rule. Business Associate agrees to fully comply with the requirements under the Security Rule applicable to "business associates," as that term is defined in the Security Rule. In case of any conflict between this Agreement and Service Agreements, this Agreement shall govern.

3.2 Security Safeguards and Policies. Business Associate agrees to implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the covered entity as required by the Security Rule. This includes specifically, but is not limited to, the utilization of technology commercially available at the time to the Business Associate to protect the Covered Entity's PHI against any reasonably anticipated threats or hazards. The Business Associate understands that it has an affirmative duty to perform a regular review or assessment of security risks, conduct active risk management and supply best efforts to assure that only authorized persons and devices access its computing systems and information storage, and that only authorized transactions are allowed. The Business Associate will maintain appropriate documentation of its compliance with the Security Rule.

3.3 Security Provisions in Business Associate Contracts. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides electronic PHI received from, maintained, or created for Covered Entity or that carries out any duties for the Business Associate involving the use, custody, disclosure, creation of, or access to PHI supplied by Covered Entity, shall execute a bilateral contract (or the appropriate equivalent if the agent is a government entity) with Business Associate, incorporating the same restrictions and conditions in this Agreement with Business Associate regarding PHI.

3.4 Tennessee Consumer Notice of System Breach. Business Associate understands that the Covered Entity is an "information holder" (as may be Business Associate) under the terms of Tenn. Code Ann. § 47-18-2107, and that in the event of a breach of the Business Associate's security system as defined by that statute and Definition 1.2 of this agreement, the Business Associate shall indemnify and hold the Covered Entity harmless for expenses and/or damages related to the breach. Such obligation shall include, but is not limited to, the mailed notification to any Tennessee resident whose personal information is reasonably believed to have been acquired by an unauthorized individual. In the event that the Business Associate discovers circumstances requiring notification of more than one thousand (1,000) persons at one time, the person shall also notify, without unreasonable delay, all consumer reporting agencies and credit bureaus that compile and maintain files on consumers on a nationwide basis, as defined by 15 U.S.C. § 1681a, of the timing, distribution and content of the notices. Substitute notice, as defined by Tenn. Code Ann. § 47-18-2107(e)(2) and (3), shall not be permitted except as approved in writing in advance by the Covered Entity. The parties agree that PHI includes data elements in addition to those included by "personal information" under Tenn. Code Ann. § 47-18-2107, and agree that Business Associate's responsibilities under this paragraph shall include all PHI.

3.5 Reporting of Security Incidents. The Business Associate shall track all security incidents as defined by HIPAA and shall periodically report such security incidents in summary fashion as may be requested by the Covered Entity, but not less than annually within sixty (60) days of the anniversary of this Agreement. The Covered Entity shall not consider as security incidents, for the purpose of reporting, external activities (port enumeration, etc.) typically associated with the "footprinting" of a computing environment as long as such activities have only identified but not compromised the logical network perimeter, including but not limited to externally facing firewalls and web servers. The Business Associate shall reasonably use its own vulnerability assessment of damage potential and monitoring to define levels of Security Incidents and responses for Business Associate's operations. However, the Business Associate shall expediently notify the Covered Entity's Privacy Officer of any Security Incident which would constitute a Security Event as defined by this Agreement, including any "breach of the security of the system" under Tenn Code Ann. § 47-18-2107, within FORTY-EIGHT (48) HOURS of any unauthorized acquisition including but not limited to use, disclosure, modification, or destruction of PHI by an employee or otherwise authorized user of its system of which it becomes aware. The Business Associate shall likewise notify the Covered Entity within FORTY-EIGHT (48) HOURS of event.

3.5.1 Business Associate shall identify in writing key contact persons for administration, data processing, Marketing, Information Systems and Audit Reporting within thirty (30) days of execution of this

Agreement. Business Associate shall notify Covered Entity of any reduction of in-house staff persons during the term of this Agreement in writing within ten (10) business days.

3.6 Contact for Security Event Notice. Notification for the purposes of Sections 2.5, 3.4 and 3.5 shall be in writing made by certified mail or overnight parcel within FORTY-EIGHT (48) HOURS of the event, with supplemental notification by facsimile and/or telephone as soon as practicable, to:

Privacy Officer  
Bureau of TennCare  
310 Great Circle Rd.  
Nashville Tennessee  
Phone: (615) 507-6855  
Facsimile: (615) 532-7322

3.7 Security Compliance Review upon Request. Business Associate agrees to make its internal practices, books, and records, including policies and procedures relating to the security of electronic PHI received from, created by or received by Business Associate on behalf of Covered Entity, available to the Covered Entity or to the Secretary of the United States Department of Health in Human Services or the Secretary's designee, in a time and manner designated by the requester, for purposes of determining Covered Entity's or Business Associate's compliance with the Security Rule.

3.8 Cooperation in Security Compliance. Business Associate agrees to fully cooperate in good faith and to assist Covered Entity in complying with the requirements of the Security Rule.

#### **4. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE**

4.1 Use of PHI for Operations on Behalf of Covered Entity. Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services (i.e., treatment, payment or health care operations) for, or on behalf of, Covered Entity as specified in Service Agreements, provided that such use or disclosure would not violate the Privacy and Security Rule, if done by Covered Entity.

4.2 Other Uses of PHI. Except as otherwise limited in this Agreement, Business Associate may use PHI within its workforce as required for Business Associate's proper management and administration, not to include Marketing or Commercial Use, or to carry out the legal responsibilities of the Business Associate.

4.3 Third Party Disclosure Confidentiality. Except as otherwise limited in this Agreement, Business Associate may disclose PHI for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or, if permitted by law, this Agreement, and the Service Agreement, provided that, if Business Associate discloses any PHI to a third party for such a purpose, Business Associate shall enter into a written agreement with such third party requiring the third party to: (a) maintain the confidentiality, integrity, and availability of PHI and not to use or further disclose such information except as Required By Law or for the purpose for which it was disclosed, and (b) notify Business Associate of any instances in which it becomes aware in which the confidentiality, integrity, and/or availability of the PHI is breached within FORTY-EIGHT (48) HOURS of event.

4.4 Data Aggregation Services. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation Services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).

4.5 Other Uses Strictly Limited. Nothing in this Agreement shall permit the Business Associate to share PHI with Business Associate's affiliates or contractors except for the purposes of the Service Agreement(s) between the Covered Entity and Business Associate(s) identified in the "LIST OF AGREEMENTS AFFECTED BY THIS HIPAA BUSINESS ASSOCIATE AGREEMENT" on page one of this Agreement.

4.6 Covered Entity Authorization for Additional Uses. Any use of PHI or other confidential TennCare information by Business Associate, its affiliate or Contractor, other than those purposes of this Agreement, shall require express written authorization by the Covered Entity, and a Business Associate agreement or amendment as necessary. Activities which are prohibited include, but not are not limited to, Marketing, as defined by 45 CFR § 164.503 or the sharing for Commercial Use or any purpose construed by Covered

Entity as Marketing or Commercial use of TennCare enrollee personal or financial information with affiliates, even if such sharing would be permitted by federal or state laws.

4.7 Prohibition of Offshore Disclosure. Nothing in this Agreement shall permit the Business Associate to share, use or disclose PHI in any form via any medium with any third party beyond the boundaries and jurisdiction of the United States without express written authorization from the Covered Entity.

4.8 Data Use Agreement - Use and Disclosure of Limited Data Set. Business Associate may use and disclose a Limited Data Set that Business Associate creates for Research, public health activity, or Health Care Operations, provided that Business Associate complies with the obligations below. Business Associate may not make such use and disclosure of the Limited Data Set after any cancellation, termination, expiration, or other conclusion of this Agreement.

4.9 Limitation on Permitted Uses and Disclosures. Business Associate will limit the uses and disclosures it makes of the Limited Data Set to the following: Research, public health activity, or Health Care Operations, to the extent such activities are related to covered functions, including business planning and development such as conducting cost-management and planning-related analysis related to managing and operating Business Associates functions, formulary development and administration, development and improvement of methods of payment or coverage policies, customer service, including the provision of data analysis for policy holders, plan sponsors, or other customers, to the extent such activities are related to covered functions, provided that PHI is not disclosed and disclosure is not prohibited pursuant to any other provisions in this Agreement related to Marketing or Commercial use.

## **5. OBLIGATIONS OF COVERED ENTITY**

5.1 Notice of Privacy Practices. Covered Entity shall provide Business Associate with the notice of Privacy Practices produced by Covered Entity in accordance with 45 CFR § 164.520, as well as any changes to such notice.

5.2 Notice of Changes in Individual's Access or PHI. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses.

5.3 Notice of Restriction in Individual's Access or PHI. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Business Associate's use of PHI.

5.4 Reciprocity for Requests Received by Business Associate. The Parties agree that this Section (Section 5) is reciprocal to the extent Business Associate is notified or receives an inquiry from any individual within Covered Entity's covered population.

## **6. PERMISSIBLE REQUESTS BY COVERED ENTITY**

6.1 Requests Permissible under HIPAA. Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy or Security Rule.

## **7. TERM AND TERMINATION**

7.1 Term. This Agreement shall be effective as of the date on which it has been signed by both parties and shall terminate when all PHI which has been provided, regardless of form, by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if the Parties agree that it is unfeasible to return or destroy PHI, subsection 7.3.5 below shall apply.

7.2 Termination for Cause. This Agreement authorizes and Business Associate acknowledges and agrees Covered Entity shall have the right to immediately terminate this Agreement and Service Agreement in the event Business Associate fails to comply with, or violates a material provision of this Agreement and any provision of the Privacy and Security Rules.

7.2.1 Upon Covered Entity's knowledge of a material breach by Business Associate, Covered Entity shall either:

- a) Provide notice of breach and an opportunity for Business Associate to reasonably and promptly cure the breach or end the violation, and terminate this BAA if Business Associate does not cure the breach or end the violation within the reasonable time specified by Covered Entity; or
- b) Immediately terminate this BAA if Business Associate has breached a material term of this BAA and cure is not possible; or
- c) If termination, cure, or end of violation is not feasible, Covered Entity shall report the violation to the Secretary.

7.3 Effect of Termination. Upon termination of this Agreement for any reason, except as provided in subsections 7.3.2 and 7.3.5 below, Business Associate shall at its own expense either return and/or destroy all PHI and other confidential information received, from Covered Entity or created or received by Business Associate on behalf of Covered Entity. This provision applies to all confidential information regardless of form, including but not limited to electronic or paper format. This provision shall also apply to PHI and other confidential information in the possession of sub-contractors or agents of Business Associate.

7.3.1 The Business Associate shall consult with the Covered Entity as necessary to assure an appropriate means of return and/or destruction and shall notify the Covered Entity in writing when such destruction is complete. If information is to be returned, the Parties shall document when all information has been received by the Covered Entity.

7.3.2 This provision (Section 7.3 and its subsections) shall not prohibit the retention of a single separate, archived file of the PHI and other confidential TennCare information by the Business Associate if the method of such archiving reasonably protects the continued privacy and security of such information and the Business Associate obtains written approval at such time from the Covered Entity. Otherwise, neither the Business Associate nor its subcontractors and agents shall retain copies of TennCare confidential information, including enrollee PHI, except as provided herein in subsection 7.3.5.

7.3.3 The Parties agree to anticipate the return and/or the destruction of PHI and other TennCare confidential information, and understand that removal of the confidential information from Business Associate's information system(s) and premises will be expected in almost all circumstances. The Business Associate shall notify the Covered Entity whether it intends to return and/or destroy the confidential with such additional detail as requested. In the event Business Associate determines that returning or destroying the PHI and other confidential information received by or created for the Covered Entity at the end or other termination of the Service Agreement is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction unfeasible.

7.3.4 Except for Business Associate Agreements in effect prior to April 21, 2005 when the Security Rule became effective, for the renewal or amendment of those same Agreements, or for other unavoidable circumstances, the Parties contemplate that PHI and other confidential information of the Covered Entity shall not be merged or aggregated with data from sources unrelated to that Agreement, or Business Associate's other business data, including for purposes of data backup and disaster recovery, until the parties identify the means of return or destruction of the TennCare data or other confidential information of the Covered Entity at the conclusion of the Service Agreement, or otherwise make an express alternate agreement consistent with the provisions of Section 7.3 and its subsections.

7.3.5 Upon written mutual agreement of the Parties that return or destruction of PHI is unfeasible and upon express agreement as to the means of continued protection of the data, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction unfeasible, for so long as Business Associate maintains such PHI.

## 8. MISCELLANEOUS

8.1 Regulatory Reference. A reference in this Agreement to a section in the Privacy and/or Security Rule means the section as in effect or as amended.

8.2 Amendment. The Parties agree to take such action to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act, Public Law 104-191. Business Associate and Covered Entity shall comply with any amendment to the Privacy and Security Rules, the Health Insurance Portability and Accountability Act, Public Law 104-191, and related regulations upon the effective date of such amendment, regardless of whether this Agreement has been formally amended, including, but not limited to, changes required by the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

8.3 Survival. The respective rights and obligations of Business Associate under Section 7.3 of this Agreement shall survive the termination of this Agreement.

8.4 Interpretation. Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity and the Business Associate to comply with the Privacy and Security Rules.

8.5 Headings. Paragraph Headings are used in this Agreement are for the convenience of the Parties and shall have no legal meaning in the interpretation of the Agreement.

8.6 Notices and Communications. All instructions, notices, consents, demands, or other communications required or contemplated by this Agreement shall be in writing and shall be delivered by hand, by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below, or to such other party, facsimile number, or address as may be hereafter specified by written notice. (For purposes of this section, effective notice to "Respective Party" is not dependent on whether the person named below remains employed by such Party.) The Parties agree to use their best efforts to immediately notify the other Party of changes in address, telephone number, fax numbers and to promptly supplement this Agreement as necessary with corrected information. **Notifications relative to Sections 2.5, 3.4 and 3.5 of this Agreement must be reported to the Privacy Officer pursuant to Section 3.6.**

COVERED ENTITY:

Darin Gordon  
Director  
State of TN  
Department of Finance and Adm.  
Bureau of TennCare  
310 Great Circle Road  
Nashville, TN 37243  
Phone: (615) 507-6443  
Fax: (615) 253-5607

BUSINESS ASSOCIATE:

Carroll Wallace  
Chief Financial Officer  
Policy Studies, Inc.  
1515 Wynkoop Street, Suite 400  
Denver Colorado 80202  
Phone: (303) 863-0900  
Fax: (303) 285-0244

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

8.7 Strict Compliance. No failure by any Party to insist upon strict compliance with any term or provision of this Agreement, to exercise any option, to enforce any right, or to seek any remedy upon any default of any other Party shall affect, or constitute a waiver of, any Party's right to insist upon such strict compliance, exercise that option, enforce that right, or seek that remedy with respect to that default or any prior, contemporaneous, or subsequent default. No custom or practice of the Parties at variance with any provision of this Agreement shall affect, or constitute a waiver of, any Party's right to demand strict compliance with all provisions of this Agreement.

8.8 Severability. With respect to any provision of this Agreement finally determined by a court of competent jurisdiction to be unenforceable, such court shall have jurisdiction to reform such provision so that it is enforceable to the maximum extent permitted by applicable law, and the Parties shall abide by such court's determination. In the event that any provision of this Agreement cannot be reformed, such

provision shall be deemed to be severed from this Agreement, but every other provision of this Agreement shall remain in full force and effect.

8.9 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Tennessee except to the extent that Tennessee law has been pre-empted by HIPAA and without giving effect to principles of conflicts of law. Jurisdiction shall be Davidson County, Nashville, Tennessee, for purposes of any litigation resulting from disagreements of the parties for purpose of this Agreement and the Service Agreement (s).

8.10 Compensation. There shall be no remuneration for performance under this Agreement except as specifically provided by, in, and through, existing administrative requirements of Tennessee State government and Services Agreement(s) referenced herein.

**IN WITNESS WHEREOF, the Parties execute this Agreement to be valid and enforceable from the last date set out below:**

**BUREAU OF TENNCARE**

By: Darin Gordon /sr  
*Darin Gordon, Director*

Date: 5/3/11

State of Tennessee, Dept of Finance & Adm.  
310 Great Circle Road  
Nashville, Tennessee 37243  
Phone: (615) 507-6443  
Fax: (615) 253-5607

**BUSINESS ASSOCIATE**

By: Carroll Wallace  
*Carroll Wallace, Chief Financial Officer*

Date: 4/29/11

Policy Studies, Inc.  
1515 Wynkoop Street, Suite 400  
Denver Colorado 80202  
Phone: (303) 863-0900  
Fax: (303) 285-0244