

CONTRACT #6
RFS # 331.03-00211
FA # NA
Edison # 25275

Department of Education
Data and Research

VENDOR:
Public Consulting Group, Inc.



STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
9th FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

BILL HASLAM
GOVERNOR

KEVIN HUFFMAN
COMMISSIONER

February 11, 2014

The Honorable Bill Ketron
301 6th Avenue North Suite
5 Legislative Plaza
Nashville, TN 37243

Dear Senator Ketron:

First, I want to personally apologize to you and the Fiscal Review Committee for not providing adequate responses to all of the committee's questions pertaining to our contract with the Public Consulting Group (PCG) prior to the committee's January 27, 2014 meeting. The questions asked were fair and reasonable and our own internal communication breakdown led to the lapse in response. I assure you we will improve, and I sincerely appreciate the additional opportunity to provide the information that was requested. Below is a detailed description of where the reallocated funds relative to the contract have been spent over the last three years:

The services included in the contract were originally procured competitively through the state's request for proposals process (RFP) and the contract was awarded to PCG in March of 2011. The original focus of the contract was for PCG to work with some of the lowest performing schools in the state (which are geographically clustered across Tennessee) through a program called Exemplary Educators. In 2012, the department received a waiver from the U.S. Department of Education from the federal No Child Left Behind Act (NCLB) and passed a new state law on education accountability. Pursuant to the state's new education accountability system referenced at Tenn. Code Ann. § 49-1-602, priority schools represent the bottom five percent of schools in overall achievement and focus schools are the 10 percent of schools in the state with the largest achievement gaps. The department developed a strategy for improving all priority and focus schools. The department then focused internal (state and district) resources towards supporting priority schools, which are Tennessee's most challenged schools and utilized this particular contract to support focus schools. Therefore, the subset of schools that were to be served using the contract shifted to focus schools only.

Over 85 percent of the funds used for this contract are federal. These federal funds have general requirements for how they can be used by State Education Agencies (SEAs), and the SEA is responsible for allocating the funds to the programs and their respective districts and schools. After this contract was procured in 2011, the department did not receive the full amount from the U.S. Department of Education it was projected to receive and had allocated to this contract. This reduction in federal funds, along with the development of Tennessee's new statewide education accountability system, required the department to review all expenditures made with federal funds, including expenditures under this contract, to determine the

best way to maximize support to low performing schools and reallocations were made accordingly. The reduction in federal funding, the internal review of support to low performing schools, and resulting reallocations of resources are the primary reasons for the decrease in the maximum liability for the PCG contract. Below is a more detailed accounting of the reduction of the maximum liability:

	Projected	Actual	Difference	Narrative
SIG G/ARRA	\$5,955,846.68	\$689,301.65	-\$5,266,545.03	After the first year of this program, the department utilized this particular contract to support focus schools (as described above) so these funds could no longer be allocated towards this contract because they must be used for priority schools. This resulted in additional funds becoming available to serve the state's lowest-performing schools, identified as priority schools. These funds were primarily allocated to schools and districts directly through grants.
School Improvement A	\$8,423,923.32	\$3,903,077.16	-\$4,520,846.16	Sequestration occurred at the federal level reducing the amount of ESEA funds - including Title I that the state was set to receive. This funding was redirected to priority and focus school grants benefitting individual schools and districts with eligible schools. Schools and districts receiving the grants could implement their own improvement strategies approved under the grant requirements.
RTTT	\$8,000,000.00	\$5,900,000.00	-\$2,100,000.00	Because of the shift highlighted above in the first row, and the refocusing of department priorities, the RTTT funding amounts originally budgeted for this contract were redirected to other RTTT initiatives that provided professional development to teachers across the state and directly to schools to implement school improvement interventions.
State	\$2,250,000.00	\$1,935,256.87	-\$314,743.13	Unused funds were returned to the state.
Miscellaneous	\$400,000.00	\$1,298,380.51	\$898,380.51	Miscellaneous additional federal funds were identified that could be allocated directly to identified schools.
	\$19,073,923.32	\$13,036,714.54	-\$11,303,753.81	

If you have further questions regarding this contract, please do not hesitate to contact me. We look forward to appearing before the committee at its next meeting and, again, we apologize for our previous lack of effective communication.

Sincerely,



Bing Howell
Director of School Improvement

cc: **Lucien Guise, Director, Fiscal Review Committee**
Stephen Smith, Assistant Commissioner, Policy & Legislation
Christy Ballard, General Counsel



**GENERAL ASSEMBLY OF THE STATE OF TENNESSEE
FISCAL REVIEW COMMITTEE**

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

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M E M O R A N D U M

TO: Mike Perry, Chief Procurement Officer
 Department of General Services

FROM: Senator Bill Ketron, Chairman
 Representative Mark White, Vice-Chairman

DATE: January 31, 2014

SUBJECT: Contract Comments
 (Fiscal Review Committee Meeting 1/27/2014)

BK
MW

RFS# 331.01-00211 (Edison # 25275)

Department: Education

Division: Data and Research

Vendor: Public Consulting Group, Inc.

Summary: The vendor is responsible for selecting and contracting with Exemplary Educators (EE) to provide additional support to Tennessee public The proposed amendment revises the scope of services; extends current contract an additional three months; decreases maximum liability by \$11,353,754; revises payment methodology; replaces all references to EEs with Tennessee Academic Specialist (TAS); updates contract contact information; and adds the *Tennessee Department of Revenue Registration* language.

Current maximum liability: \$25,079,770

Proposed maximum liability: \$13,726,016

After review, the Fiscal Review Committee voted to roll the contract amendment to the next scheduled meeting to obtain additional information regarding the allocation and expenditures of this contract.

cc: The Honorable Kevin Huffman, Commissioner



BILL HASLAM
GOVERNOR

STATE OF TENNESSEE
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KEVIN HUFFMAN
COMMISSIONER

SUBMITTED VIA ELECTRONIC MAIL

TO: Lucien Guise, Fiscal Review Committee

FROM: Kevin Huffman, Commissioner

DATE: January 14, 2014

RE: Request to appear before the fiscal review committee regarding non-competitive contract amendment for agency tracking # 33101-00211

The Department of Education (TDOE) is requesting to amend its contract with Public Consulting Group, Inc. (PCG) to update the scope of services to better align TDOE's strategic plan and current needs. After a request for proposal process (RFP), the TDOE contracted with PCG to provide direct technical assistance to Focus Schools across the state, beginning in the 2011-12 school year. Under the TDOE accountability system which changed in 2011-12, the definition of a "Focus School" changed and 167 new Focus Schools were identified across the state.

Over the course of the last school year, it became clear that some of the existing contract language is overly restrictive and has hindered PCG's ability to place the most qualified individuals into the Focus Schools. It is also imperative to ensure that PCG is able to work with the identified schools through the full 2013-14 school year. The proposed amendments will change certain provisions in the contract to eliminate these challenges.

The maximum liability of the contract will decrease to \$13,726,016.19. PCG academic specialists will continue to provide support to their assigned Focus School, as they have always done. The TDOE believes that, at this juncture, this is an important amendment which will enable PCG to better fulfill its contractual duties and improve student achievement in these schools.

Thank you for your consideration.

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Mike Koprowski	*Contact Phone:	615-253-2588		
*Original Contract Number:	33101-00211	*Original RFS Number:	33101-00211		
Edison Contract Number: <i>(if applicable)</i>	25275	Edison RFS Number: <i>(if applicable)</i>	N/A		
*Original Contract Begin Date:	April 1, 2011	*Current End Date:	March 31, 2014		
Current Request Amendment Number: <i>(if applicable)</i>	1				
Proposed Amendment Effective Date: <i>(if applicable)</i>	March 15, 2014				
*Department Submitting:	Education				
*Division:	Data & Research				
*Date Submitted:	January 14, 2014				
*Submitted Within Sixty (60) days:	Yes				
<i>If not, explain:</i>	N/A				
*Contract Vendor Name:	Public Consulting Group, Inc				
*Current Maximum Liability:	\$25,079,770.00				
*Current Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i>					
FY:2011	FY:2012	FY:2013	FY:2014	FY	FY
\$500,000.00	\$8,413,846.66	\$8,365,923.34	\$7,800,000.00	\$	\$
*Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from STARS or FDAS report)</i>					
FY:2011	FY:2012	FY:2013	FY:2014	FY	FY
\$497,169.69	\$4,914,510.73	\$3,215,503.87	\$5,098,831.90	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:		The original contract allocations were well above the actual amounts spent. The amounts not used for the PCG contracts were used towards higher leveraged department priorities.			
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:		There have been no contract expenditures that have exceeded the contract allocation to date.			
*Contract Funding Source/Amount:	State:	\$2,250,000.00	Federal:	\$22,829,770.00	
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>		
Method of Original Award: <i>(if applicable)</i>			RFP		
*What were the projected costs of the service for the entire term of the contract prior to contract award?			Unknown		

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.

Deliverable description:	FY:2011	FY:2012	FY:2013	FY:2014 (July 1, 2013 through October 24, 2013)	FY: 2014 (Projected Oct. 25, 2013 through Jun. 2014)
Contracting with TASs; A.4	\$145,749.69	\$3,881,237.70	\$2,792,773.90	\$486,117.03	\$3,647,528.87
Quarterly Meetings; A.7	\$900.00	\$3,600.00	\$3,600.00	\$900.00	\$2,700.00
Design and deliver a program for training, development and support to TASs at three of the four quarterly meetings; A.8 (1)-(3)	\$176,773.00	\$707,092.00	\$530,319.00	\$176,733.00	\$554,199.00
Facilitate the quarterly meeting for the annual reviewing/scoring of School Improvement Plans; A.9	\$70,000.00	\$-	\$-	\$-	\$-
Communication System; A.10	\$73,880.00	\$-	\$-	\$-	\$-
Data analysis on program impact & formal written report; A.11	\$-	\$-	\$41,380.00	\$-	\$-
Quarterly reports on expenditures, performance results; A.14	\$-	\$41,380.00	\$41,380.00	\$10,345.00	\$31,035.00
School specific reports; A.14	\$-	\$23,325.00	\$19,125.00	\$6,750.00	\$10,125.00
Development of Survey instrument on effectiveness of the training sessions; A.15	\$22,400.00	\$-	\$-	\$-	\$-
Summarized report of survey results; A.15	\$7,467.00	\$14,934.00	\$29,868.00	\$7,467.00	\$14,932.00
TAS reimbursement for travel	\$-	\$-	\$-	\$	\$150,000.00
TOTAL	\$497,169.69	\$4,914,510.73	\$3,215,503.87	\$688,312.03	\$4,410,519.87
Proposed savings to be realized per fiscal year by entering into this contract. If amendment to an existing contract, please indicate the proposed savings to be realized by the amendment. Add rows as necessary to define all potential savings per deliverable.					
Deliverable description:	FY:	FY:	FY:	FY:	FY:

Supplemental Documentation Required for
Fiscal Review Committee

**See Below					
Comparison of cost per fiscal year of obtaining this service through the proposed contract or amendment vs. other options. List other options available (including other vendors), cost of other options, and source of information for comparison of other options (e.g. catalog, Web site). Add rows as necessary to indicate price differentials between contract deliverables.					
Proposed Vendor Cost:	FY: 2011	FY: 2012	FY: 2013	FY: 2014 (YTD)	FY:
Public Consulting Group	\$497,169.69	\$4,671,568.70	\$3,458,445.90	\$688,312.03	
Other Vendor Cost:	FY: 2011	FY: 2012	FY: 2013	FY: 2014 (YTD)	FY:
America's Choice, Inc.	\$508,930.96	\$9,526,368.46	\$6,920,896.77	\$1,245,081.94	
Other Vendor Cost:	FY: 2011	FY: 2012	FY: 2013	FY: 2014 (YTD)	FY:
Edvantia, Inc.	\$267,072.74	\$4,816,928.73	\$3,556,019.17	\$647,294.33	
Other Vendor Cost:	FY: 2011	FY: 2012	FY: 2013	FY: 2014 (YTD)	FY:
Mid-Continent Research for Education and Learning	\$1,042,521.92	\$5,665,122.47	\$4,310,084.53	\$887,515.11	

**Proposed Savings: The maximum liability for this contract is \$25,079,770.00. By entering into this contract with Public Consulting Group we will come in well under this original estimate. As of Oct. 24, 2013, we have paid \$9,315,496.32 against this contract and by extending the contract through June, 2014 the total contract expenditure will not exceed \$4,781,835.12. Since the PCG consultants are currently working in these Focus Schools, this is not only the cheapest way to extend service to the schools through 2013-14, but will also be the least disruptive service to schools.

Contract ID	Contract	PO BU	Amount	Dept	Account	Program	PC Bus	Project	Activity	Source T	Cat	Subc	Invoice Date	Amount
00000000025275	1	33101	25000.000	3310300000	70803000	346300	33101	ED0000CD11AAX11	FEDERAL				6/22/2012	25000.000
00000000025275	2	33101	231779.810	3310500000	70899000	869300	33101	EDARRASFGEXED10	FEDERAL				6/30/2011	231779.810
00000000025275	2	33101	243220.190	3310500000	70899000	869300	33101	EDARRASFGEXED10	FEDERAL				6/30/2011	243220.190
00000000025275	3	33101	15381.700	3310300000	70899000	346300	33101	ED0000CD11AAX11	FEDERAL				6/22/2012	15381.700
00000000025275	4	33101	100000.000	3310300000	70899000	346400	33101	ED0000CD11ACX11	FEDERAL				12/15/2011	100000.000
00000000025275	4	33101	100000.000	3310300000	70899000	346400	33101	ED0000CD11ACX11	FEDERAL				1/4/2012	100000.000
00000000025275	4	33101	39837.660	3310300000	70899000	346400	33101	ED0000CD11ACX11	FEDERAL				2/14/2012	39837.660
00000000025275	4	33101	135162.340	3310300000	70899000	346400	33101	ED0000CD11ACX11	FEDERAL				4/9/2012	135162.340
00000000025275	5	33101	293961.880	3310300000	70899000	372600	33101	ED0000CB11ACX11	FEDERAL				4/9/2012	293961.880
00000000025275	5	33101	239837.540	3310300000	70899000	372600	33101	EDARRACV10AAX10	FEDERAL	LABOR			6/22/2012	239837.540
00000000025275	5	33101	7467.000	3310300000	70899000	372600	33101	EDARRACV10AAX10	FEDERAL	LABOR			7/31/2012	7467.000
00000000025275	5	33101	16490.180	3310300000	70899000	372600	33101	EDARRACV10AAX10	FEDERAL	LABOR			7/31/2012	16490.180
00000000025275	5	33101	50000.000	3310300000	70899000	372600	33101	ED0000CT10AAX10	FEDERAL				1/3/2012	50000.000
00000000025275	5	33101	8741.880	3310300000	70899000	372600	33101	ED0000CT10AAX10	FEDERAL				2/8/2013	8741.880
00000000025275	5	33101	16163.600	3310300000	70899000	372600	33101	ED0000CT11AAX11	FEDERAL				6/3/2013	16163.600
00000000025275	5	33101	383926.320	3310300000	70899000	347000	33101	ED0000CB13AAX13	FEDERAL				5/6/2013	383926.320
00000000025275	6	33101	55898.320	3310300000	70899000	372600	33101	EDARRACV10AAX10	FEDERAL	LABOR			12/15/2011	55898.320
00000000025275	6	33101	10882.970	3310300000	70899000	372600	33101	EDARRACV10AAX10	FEDERAL	LABOR			1/4/2012	10882.970
00000000025275	6	33101	50000.000	3310300000	70899000	372600	33101	EDARRACV10AAX10	FEDERAL	LABOR			2/14/2012	50000.000
00000000025275	6	33101	136383.750	3310300000	70899000	372600	33101	EDARRACV10AAX10	FEDERAL	LABOR			3/1/2012	136383.750
00000000025275	6	33101	451105.160	3310300000	70899000	347000	33101	ED0000CB11AAX11	FEDERAL				5/9/2012	451105.160
00000000025275	6	33101	398211.560	3310300000	70899000	372600	33101	ED0000CB11ACX11	FEDERAL				6/22/2012	398211.560
00000000025275	6	33101	387349.690	3310300000	70899000	372600	33101	ED0000CB11ACX11	FEDERAL				7/31/2012	387349.690
00000000025275	6	33101	173632.820	3310300000	70899000	372600	33101	ED0000CB11ACX11	FEDERAL				7/31/2012	173632.820
00000000025275	6	33101	8375.760	3310300000	70899000	372600	33101	EDARRACV10AAX10	FEDERAL	LABOR			12/3/2012	8375.760
00000000025275	6	33101	26968.920	3310300000	70899000	372600	33101	EDARRACV10AAX10	FEDERAL	LABOR			1/3/2012	26968.920
00000000025275	6	33101	26447.500	3310300000	70899000	372600	33101	EDARRACV10AAX10	FEDERAL	LABOR			3/8/2013	26447.500
00000000025275	6	33101	35644.230	3310300000	70899000	372600	33101	EDARRACV10AAX10	FEDERAL	LABOR			4/15/2013	35644.230
00000000025275	7	33101	180155.190	3310300000	70899000	347000	33101	ED0000CB11AAX11	FEDERAL	LABOR			12/15/2011	180155.190

00000000025275	7 33101	31082.010	3310300000	70899000	347000	33101	ED0000CB11AAX11	FEDERAL	LABOR	1/4/2012	31082.010
00000000025275	7 33101	50000.000	3310300000	70899000	347000	33101	ED0000CB11AAX11	FEDERAL	LABOR	2/14/2012	50000.000
00000000025275	7 33101	100000.000	3310300000	70899000	347000	33101	ED0000CB11AAX11	FEDERAL	LABOR	3/1/2012	100000.000
00000000025275	7 33101	176773.000	3310300000	70899000	347000	33101	ED0000CB11AAX11	FEDERAL	LABOR	4/9/2012	176773.000
00000000025275	7 33101	52077.650	3310300000	70899000	347000	33101	ED0000CB12AAX12	FEDERAL		6/22/2012	52077.650
00000000025275	7 33101	83835.470	3310300000	70899000	347000	33101	ED0000CB12AAX12	FEDERAL		7/31/2012	83835.470
00000000025275	8 33101	22169.690	3310500000	70899000	869300					6/30/2011	22169.690
00000000025275	8 33101	314743.130	3310500000	70899000	869300	33101	EDARRASFGEXED11	FEDERAL		10/17/2011	314743.130
00000000025275	8 33101	177544.880	3310500000	70899000	869300					11/8/2011	177544.880
00000000025275	8 33101	209438.400	3310500000	70899000	869300					12/15/2011	209438.400
00000000025275	8 33101	175615.800	3310500000	70899000	869300					1/4/2012	175615.800
00000000025275	8 33101	159549.370	3310500000	70899000	869300					2/14/2012	159549.370
00000000025275	8 33101	298885.630	3310500000	70899000	869300					3/1/2012	298885.630
00000000025275	8 33101	450000.000	3310500000	70899000	869300					4/9/2012	450000.000
00000000025275	8 33101	127534.650	3310500000	70899000	869300					5/9/2012	127534.650
00000000025275	8 33101	116506.110	3310500000	70899000	869300					6/22/2012	116506.110
00000000025275	8 33101	197124.840	3310500000	70899000	869300					7/31/2012	197124.840
00000000025275	8 33101	887.500	3310500000	70899000	869300					7/31/2012	887.500
00000000025275	10 33101	3028.590	3310300000	70899000	347000	33101	ED0000CB12ACX12	FEDERAL		11/15/2012	3028.590
00000000025275	10 33101	1852.630	3310300000	70899000	347000	33101	ED0000CB12ACX12	FEDERAL		12/3/2012	1852.630
00000000025275	10 33101	110236.560	3310300000	70899000	347000	33101	ED0000CB12ACX12	FEDERAL		3/8/2013	110236.560
00000000025275	10 33101	130210.390	3310300000	70899000	347000	33101	ED0000CB12ACX12	FEDERAL		4/15/2013	130210.390
00000000025275	11 33101	126009.340	3315000000	70899000	114100	33101	EDRTTTRNWLSCL11	FEDERAL		9/4/2012	126009.340
00000000025275	11 33101	180456.130	3315000000	70899000	114100	33101	EDRTTTRNWLSCL11	FEDERAL		11/15/2012	180456.130
00000000025275	11 33101	89911.690	3315000000	70899000	114100	33101	EDRTTTRNWLSCL11	FEDERAL		12/3/2012	89911.690
00000000025275	11 33101	115973.110	3315000000	70899000	114100	33101	EDRTTTRNWLSCL11	FEDERAL		1/3/2012	115973.110
00000000025275	11 33101	151092.070	3315000000	70899000	114100	33101	EDRTTTRNWLSCL11	FEDERAL		2/8/2013	151092.070
00000000025275	11 33101	166404.220	3315000000	70899000	114100	33101	EDRTTTRNWLSCL11	FEDERAL		3/8/2013	166404.220
00000000025275	11 33101	332210.380	3315000000	70899000	114100	33101	EDRTTTRNWLSCL11	FEDERAL		4/15/2013	332210.380
00000000025275	11 33101	325524.810	3315000000	70899000	114100	33101	EDRTTTRNWLSCL11	FEDERAL		6/3/2013	325524.810
00000000025275	11 33101	82511.520	3315000000	70899000	114100	33101	EDRTTTRNWLSCL11	FEDERAL		5/6/2013	82511.520

00000000025275	12 33101	900.000	3310300000	70899000	347000	33101	ED0000CB12AAX12	FEDERAL	10/15/2012	900.000
00000000025275	12 33101	127200.980	3310300000	70899000	347000	33101	ED0000CB12AAX12	FEDERAL	12/3/2012	127200.980
00000000025275	12 33101	50000.000	3310300000	70899000	347000	33101	ED0000CB12AAX12	FEDERAL	1/3/2012	50000.000
00000000025275	12 33101	21899.020	3310300000	70899000	347000	33101	ED0000CB12AAX12	FEDERAL	2/8/2013	21899.020
00000000025275	17 33101	19968.750	3315000000	70899000	114100	33101	EDRTTTRNWLSC11	FEDERAL	10/15/2012	19968.750
00000000025275	17 33101	300002.190	3315000000	70899000	114100	33101	EDRTTTRNWLSC11	FEDERAL	7/23/2013	300002.190
00000000025275	17 33101	33455.590	3315000000	70899000	114100	33101	EDRTTTRNWLSC11	FEDERAL	9/11/2013	33455.590
00000000025275	17 33101	354854.250	3315000000	70899000	114100	33101	EDRTTTRNWLSC11	FEDERAL	9/11/2013	354854.250

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

APPROVED

CENTRAL PROCUREMENT OFFICER

Request Tracking #	33101-00211	
1. Procuring Agency	Education (TDOE)	
2. Contractor	Public Consulting Group, Inc. (PCG)	
3. Contract #	None	
4. Proposed Amendment #	1	
5. Edison ID #	25275	
6. Contract Begin Date	April 1, 2011	
7. Current Contract End Date – with ALL options to extend exercised	March 30, 2014	
8. Proposed Contract End Date – with ALL options to extend exercised	June 30, 2014	
9. Current Maximum Contract Cost – with ALL options to extend exercised	\$25,079,770.00	
10. Proposed Maximum Contract Cost – with ALL options to extend exercised	\$13,726,016.19	
11. Office for Information Resources Endorsement – information technology service (N/A to THDA)	<input checked="" type="checkbox"/> Not Applicable <input 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>PCG’s academic specialists are currently providing direct technical assistance to approximately 120 Focus Schools in Tennessee. However, it is clear that some of the existing contract language is overly restrictive and has hindered PCG’s ability to place the most qualified individuals in these schools. The proposed amendment will change the language for four provisions in the contract.</p> <p>The first provision is the “in-school hours” provision. This provision requires that PCG academic specialists only be paid for the hours that they spend inside the school. The</p>		

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<p>provision prevents PCG from paying their specialists for travel time. In past years, this provision made sense because the TDOE asked PCG to support schools that were geographically concentrated in certain areas of the state – not much travel was required. However, this year, the TDOE has asked PCG to support the newly-designated Focus Schools, which are spread fairly evenly across all corners of the state. Some are located in very remote regions of the state. Because of this new mission and new subset of schools, PCG has had to significantly re-deploy its specialists in a short amount of time. Unfortunately, the “in-school hours” clause has created a serious problem because it dissuades high-quality specialists from supporting schools that are a distance away from their home. This year, 50 specialists could not commit to 2-3 hours a day driving to and from Focus Schools. This forces PCG to recruit new individuals that are closer to each Focus School, even if that new individual is less qualified to provide support than someone living further away. The recruiting process for new candidates can also be very lengthy, but it is important that PCG is able to provide timely support to all of its assigned schools. If PCG was able to pay for travel time, under certain circumstances, it would have access to a wider geographical area and be better suited to place its most qualified specialists in all of its assigned schools. The proposed amendment would enable PCG to pay for travel time under certain circumstances, pending explicit approval by the TDOE.</p> <p>The second restrictive provision requires that PCG specialists possess a minimum of 10 years of licensed, educational experience. This also hinders PCG’s ability to recruit and select the most qualified individuals. Across the state, and particularly in the remote regions where recruiting and selecting is most challenging, PCG is finding that individuals with the right skill-sets cannot be considered because they do not have the requisite 10 years of experience. In one case, a very high-quality individual was suggested to PCG by TDOE leadership, but PCG could not consider her because she only had 8 years of experience. It is important to note that requiring 10 years of experience is not supported by existing research on teacher effectiveness. The research demonstrates that teachers do become more effective with a few years of experience, but after that, their effectiveness tends to level off and, at the 10 year mark, in some cases, effectiveness actually declines. The proposed amendment would reduce the 10 year minimum requirement to a 3 year minimum requirement, which is more consistent with the “ground realities” that PCG faces and the existing research. This change would broaden PCG’s pool of high-quality candidates significantly.</p> <p>The third provision specifies that PCG will use an in-person interview before selecting a specialist. The proposed change would clarify this process and add a layer of oversight. Under the proposed language, there would be two rounds of in-person interviews; the first interview will be conducted by PCG and the second interview will be conducted by the TDOE. PCG would not be able to contract with a specialist until the TDOE has interviewed the specialist and given its express approval. This change, by providing the TDOE with greater oversight, will help ensure that the highest quality specialists are being placed in Focus Schools.</p> <p>The last provision modifies the timeline for conclusion of services. Our schools are building very deep partnerships with their PCG specialists, which, in turn, are shaping how the schools are operating throughout the entire school year. The current contract has these services expiring in March of 2013 which will impact the continuity of services and programs well before the conclusion of the school year. We are requesting an extension of that window through the 2013-14 school year (June 30, 2014) to ensure full implementation of all initiatives.</p> <p>None of these changes would increase the maximum liability of the contract.</p>	
<p>15. Name & Address of the Contractor’s Principal Owner(s) – NOT required for a TN state education institution</p> <p>Robbie Ammons Public Consulting Group 401 Church Street Nashville, TN 37219 615-983-5311</p>	
<p>16. Evidence Contractor’s Experience & Length Of Experience Providing the Service</p> <p>This particular contract has been in existence since April 2011, but PCG has been working</p>	

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with the state on other programs for many years.	
<p>17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives</p> <p>This contract was the result of the request for proposal (RFP) process and no procurement alternatives were sought for this amendment.</p>	
<p>18. Justification – <i>specifically explain why non-competitive negotiation is in the best interest of the state</i></p> <p>The original contract was the result of the RFP process. It is in the best interest to amend the current contract rather than issue a new RFP because the TDOE is only changing four provisions in the contract.</p>	
<p>Agency Head Signature and Date – <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 style="text-align: center;">   </p>	



CONTRACT AMENDMENT

Agency Tracking # 33101-00211	Edison ID 25275	Contract # FA1134658	Amendment # 1		
Contractor Legal Entity Name Public Consulting Group, Inc.			Edison Vendor ID 0000004919		
Amendment Purpose & Effect(s) Revise scope to better align with the State's strategic plan and current needs					
Amendment Changes Contract End Date: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		End Date: June 30, 2014			
TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A):			(\$11,353,753.81)		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	\$22,169.69	\$475,000.00	\$0.00	\$0.00	\$497,169.69
2012	\$1,715,074.84	\$3,199,435.89	\$0.00	\$0.00	\$4,914,510.73
2013	\$198,012.34	\$3,017,491.53	\$0.00	\$0.00	\$3,215,503.87
2014	\$0.00	\$5,098,831.90	\$0.00	\$0.00	\$5,098,831.90
TOTAL:	\$1,935,256.87	\$11,790,759.32	\$0.00	\$0.00	\$13,726,016.19
American Recovery and Reinvestment Act (ARRA) Funding: <input checked="" type="checkbox"/> YES <input type="checkbox"/> 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.					
Speed Chart (optional) Various	Account Code (optional) Various				

S U P P L E M E N T A L S U M M A R Y S H E E T

RFS Number		33101-00211						
Edison ID		25275						
Fiscal Year	Department ID	Speedchart Number	Program Code	Account Code	Fund	Project/ Grant Code	CFDA #	Amount
2011	3310500000	ED00000570	869300	70899000	25000	EDARRASFGEXED10	84.397	\$475,000.00
2011	3310500000	ED00000541	869300	70899000	25000	n/a	n/a	\$22,169.69
2012	3310300000	ED00000085	347000	70899000	25000	ED00000CB11AAX11	84.010	\$989,115.36
2012	3310300000	ED00000604	372600	70899000	25000	ED00000CB11ACX11	84.010	\$692,173.44
2012	3310300000	ED00000085	347000	70899000	25000	ED00000CB12AAX12	84.010	\$102,077.65
2012	3310300000	ED00000086	346300	70803000	25000	ED0000CD11AAX11	84.367	\$40,381.70
2012	3310300000	ED00000087	346400	70899000	25000	ED0000CD11ACX11	84.367	\$375,000.00
2012	3310300000	ED00000422	372600	70899000	25000	ED00000CT10AAX10	84.377	\$50,000.00
2012	3310300000	ED00000094	372600	70899000	25000	EDARRACV10AAX10	84.388	\$519,971.50
2012	3310500000	ED00000570	869300	70899000	25000	EDARRASFGEXED10	84.397	\$314,743.13
2012	3315000000	ED00000676	114100	70899000	25000	EDRTTTRNWLSC11	84.377	\$115,973.11
2012	3310500000	ED00000541	869300	70899000	25000	n/a	n/a	\$1,715,074.84
2013	3310300000	ED00000604	372600	70899000	25000	ED00000CB11ACX11	84.010	\$560,982.51
2013	3310300000	ED00000085	347000	70803000	25000	ED00000CB12AAX12	84.010	\$233,835.47
2013	3310300000	ED00000604	347000	70899000	25000	ED0000CB12ACX12	84.010	\$245,328.17
2013	3310300000	ED00000085	347000	70899000	25000	ED0000CB13AAX13	84.101	\$383,926.32
2013	3310300000	ED00000422	372600	70899000	25000	ED0000CT10AAX10	84.377	\$24,905.48
2013	3315000000	ED00000676	114100	70899000	25000	EDRTTTRNWLSC11	84.377	\$1,474,088.91
2013	3310300000	ED00000094	372600	70899000	25000	EDARRACV10AAX10	84.388	\$94,424.67
2013	3310500000	ED00000541	869300	70899000	25000	n/a	n/a	\$198,012.34
2014	3315000000	ED00000676	114100	70899000	25000	EDRTTTRNWLSC11	84.377	\$429,921.43

S U P P L E M E N T A L S U M M A R Y S H E E T

RFS Number		33101-00211						
Edison ID		25275						
Fiscal Year	Department ID	Speedchart Number	Program Code	Account Code	Fund	Project/ Grant Code	CFDA #	Amount
2014	3310300000	ED00000085	347000	70899000	25000	ED0000CB13AAX13	84.010	\$152,224.97
2014	3310300000	ED00000093	347800	70899000	25000	ED0000CZ13AAX13	84.358	\$93,255.68
2014	3310300000	ED00000604	347000	70899000	25000	ED0000CB13ACX13	84.010	\$343,413.27
2014	3315000000	ED00000676	114100	70803000	25000	EDRTTTRNWLSC11	84.377	\$25,000.00
2014	3315000000	ED00000676	114100	70899000	25000	EDRTTTRNWLSC11	84.377	\$3,855,016.55
2014	3310300000	ED00000604	347000	70899000	25000	ED0000CB14ACX14	84.010	\$200,000.00
TOTAL								\$13,726,016.19

**AMENDMENT 1
OF CONTRACT FA1134658**

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

1. Contract section preamble is deleted in its entirety and replaced with the following:

This Contract, by and between the State of Tennessee, Department of Education, hereinafter referred to as the "State" and Public Consulting Group, Inc., hereinafter referred to as the "Contractor," is for the provision of selecting and contracting with **Tennessee Academic Specialists**, as further defined in the "SCOPE OF SERVICES."

2. Contract section A.3 is deleted in its entirety and replaced with the following:

A.3. The Contractor shall develop and administer a **Tennessee Academic Specialist (TAS)** Program for the purpose of providing additional support to those Tennessee public schools or school districts in greatest need of increasing student achievement. The schools in greatest need of increasing student achievement shall be identified by the State, and the Contractor shall be notified in writing by the State of the names and locations of the schools so identified.

3. Contract section A.4 is deleted in its entirety and replaced with the following:

A.4. The Contractor shall be responsible for selecting and contracting with **TASs**. **TASs** are self-employed and serve as independent contractors. The Contractor shall select **TASs** using a formal process that includes the following elements:

- (1) Professional Resume;
- (2) Three (3) confidential professional references that speak to the applicant's ability to serve as a TAS;
- (3) Written responses to questions addressing work experience, content knowledge and expertise in the areas of reading, language arts and mathematics, continued professional development, knowledge and experience of school improvement planning and the use of data-driven decision making, curriculum and instruction plan development, and ability to work with diverse populations;
- (4) Minimum of Bachelor's degree;
- (5) Minimum of **three** years relevant, licensed educational experience;
- (6) Assurance statement; and
- (7) **Two rounds of in-person interviews; the first interview will be conducted by the Contractor and the second interview will be conducted by the State.**

The State expects that the Contractor chooses TASs from a pool of educators whose experience and expertise can benefit the schools and districts they are assigned to assist. **The Contractor cannot contract with a TAS until the State has interviewed the candidate and given its express approval.**

4. The following is added as Contract section A.16.

A.16. The Contractor shall not compensate TASs for travel time to the primary location of service provision, unless the Contractor receives express permission from the State to do so. If the Contractor wishes to compensate a TAS for travel time, the Contractor must seek the State's permission for each individual TAS. The State will consider the Contractor's request to compensate for travel time on a case-by-case basis.

5. Contract section B.1 is deleted in its entirety and replaced with the following:

B.1. This Contract shall be effective for the period beginning April 1, 2011, and ending on **June 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.

6. Contract section C.1 is deleted in its entirety and replaced with the following:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed **thirteen million seven hundred twenty-six thousand sixteen dollars and nineteen cents (\$13,726,016.19)**. The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

7. Contract section C.3 is 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:

Service Description	Amount (per compensable increment)
Contracting with TASs ; A.4	\$355.00 per TAS per day
Quarterly Meetings; A.7	\$900.00 per meeting
Design and deliver a program for training, development and support to TASs at three of the four quarterly meetings; A.8 (1)- (3)	\$176,773.00 per program
Facilitate the quarterly meeting for the annual reviewing/scoring of School Improvement Plans; A.9	\$7,000.00 per meeting
Communication System; A.10	\$73,880.00
Data analysis on program impact & formal written report; A.11	\$41,380.00 per analysis / report
Quarterly reports on expenditures, performance results; A.14	\$10,345.00 per report
School specific reports; A.14	\$75.00 per report

Development of Survey instrument on effectiveness of the training sessions; A.15	\$22,400.00
Summarized report of survey results; A.15	\$7,467.00 per report
TAS reimbursement for travel	<p>Compensation to the TASs for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time and upon prior approval by the State.</p> <p>The Contractor must include (in addition to other invoice requirements of this Contract) a complete itemization of travel compensation requested for each TAS in accordance with and attaching to the invoice appropriate documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations."</p>

- c. The Contractor shall not be compensated for travel time to the primary location of service provision.
- d. A "day" shall be defined as a minimum of eight (8) hours of service. If the Contractor provides fewer than eight hours of service in a standard twenty-four hour day, the Contractor shall bill *pro rata* for only those portions of the day in which service was actually delivered. The Contractor shall not bill more than the daily rate even if the Contractor works more than eight hours in a day.
8. Contract section E.2 is 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:

Mike Koprowski, Special Assistant for Accountability Implementation
Tennessee Department of Education
710 James Robertson Parkway
Nashville, TN 37243
Mike.Koprowski@tn.gov
Telephone # (615) 253-2588

The Contractor:

Robbie Ammons, Tennessee Project Manager
Public Consulting Group, Inc.
401 Church Street
Nashville, TN 37219
rammons@pcgus.com

Telephone # (615) 983-5300
 FAX # (615) 983-5301

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

9. The following is added as Contract section E.12:
- E.12. All references to "Exemplary Educators (EEs)" shall be deleted and replaced with "Tennessee Academic Specialist (TAS)."
10. The following is added as Contract section E.13:
- E.13 Tennessee Department of Revenue Registration. The Contractor shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.

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 March 15, 2014. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

PUBLIC CONSULTING GROUP, INC:

SIGNATURE

DATE

PRINTED NAME AND TITLE OF SIGNATORY (above)

TENNESSEE DEPARTMENT OF EDUCATION:

KEVIN HUFFMAN, COMMISSIONER

DATE

**CONTRACT**

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

Begin Date April 1, 2011	End Date March 31, 2014	Agency Tracking # 33101-00211	Edison Record ID 0000000000000000000025275		
Contractor Legal Entity Name Public Consulting Group, Inc.			Edison Vendor ID 0000004919		
Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor		CFDA # Various	FEIN or SSN (optional)		
Service Caption (one line only) Select and contract with Exemplary Educators					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	\$0.00	\$500,000.00	\$0.00	\$0.00	\$500,000.00
2012	\$2,250,000.00	\$6,163,846.66	\$0.00	\$0.00	\$8,413,846.66
2013	\$0.00	\$8,365,923.34	\$0.00	\$0.00	\$8,365,923.34
2014	\$0.00	\$7,800,000.00	\$0.00	\$0.00	\$7,800,000.00
TOTAL:	\$2,250,000.00	\$22,829,770.00	\$0.00	\$0.00	\$25,079,770.00
American Recovery and Reinvestment Act (ARRA) Funding: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO					
Ownership/Control					
<input type="checkbox"/> African American <input type="checkbox"/> Asian <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Female <input type="checkbox"/> Person w/Disability <input type="checkbox"/> Small Business <input type="checkbox"/> Government <input checked="" type="checkbox"/> NOT Minority/Disadvantaged <input type="checkbox"/> 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. <i>John F. Sharp 3-9-2011</i>			OCR USE - FA FA1134658		
Speed Code Various	Account Code Various				

S U P P L E M E N T A L S U M M A R Y S H E E T

RFS Number		33101-00211						
Edison ID		0000000000000000000025275						
Fiscal Year	Department ID	Speedchart Number	Program Code	Account Code	Fund	Project/ Grant Code	CFDA #	Amount
2011	3310500000	ED00000570	869300	70803000	25000	EDARRASFGRXED10	84.397	\$25,000.00
2011	3310500000	ED00000570	869300	70899000	25000	EDARRASFGRXED10	84.397	\$475,000.00
2012	3310300000	ED00000087	346300	70803000	25000	ED0000CD11ACX11	84.367	\$25,000.00
2012	3310300000	ED00000087	346300	70899000	25000	ED0000CD11ACX11	84.367	\$375,000.00
2012	3310300000	ED00000422	372600	70899000	25000	ED00000CT12AAX12	34.377	\$2,750,000.00
2012	3310300000	ED00000094	372600	70899000	25000	EDARRACV10AAX10	84.388	\$2,339,923.34
2012	3310300000	ED00000085	347000	70899000	25000	ED00000CB10AAX10	84.010	\$673,923.32
2012	3310500000	ED00000541	869300	70899000	25000	N/A	N/A	\$2,250,000.00
2013	3310300000	ED00000422	372600	70803000	25000	ED00000CT12AAX12	84.377	\$25,000.00
2013	3310300000	ED00000422	372600	70899000	25000	ED00000CT12AAX12	84.377	\$3,925,000.00
2013	3310300000	ED00000604	347000	70899000	25000	ED00000CB12ACX12	84.010	\$3,250,000.00
2013	3310300000	ED00000087	346300	70899000	25000	ED0000CD12ACX12	84.367	\$500,000.00
2013	3310300000	ED00000094	372600	70899000	25000	EDARRACV10AAX10	84.388	\$665,923.34
2014	3310300000	ED00000422	372600	70803000	25000	ED00000CT12AAX12	84.377	\$25,000.00
2014	3310300000	ED00000422	372600	70899000	25000	ED00000CT12AAX12	84.377	\$3,225,000.00
2014	3310300000	ED00000604	347000	70899000	25000	ED00000CB13ACX13	84.010	\$3,750,000.00
2014	3310300000	ED00000087	346300	70899000	25000	ED0000CD13ACX13	84.367	\$500,000.00
2014	3310300000	ED00000085	347000	70899000	25000	ED00000CB13AAX13	84.040	\$300,000.00
TOTAL								\$25,079,770.00

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF EDUCATION
AND
PUBLIC CONSULTING GROUP, INC.**

This Contract, by and between the State of Tennessee, Department of Education, hereinafter referred to as the "State" and Public Consulting Group, Inc., hereinafter referred to as the "Contractor," is for the provision of selecting and contracting with Exemplary Educators, as further defined in the "SCOPE OF SERVICES."

The Contractor is a For-Profit Corporation.

Contractor Federal Employer Identification, Social Security, or Edison Registration ID # 0000004919

Contractor Place of Incorporation or Organization: Massachusetts

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. **Annual Work Plan.** The Contractor shall prepare, for State approval, a detailed Work Plan for each deliverable (A.3-A.15) that incorporates the development of schedules for the activities of this contract. The Work Plan shall include the steps for all project work tasks and deliverables including initiation and completion dates, task responsibilities to avoid any disruption of services, requirements or deliverables to the State.

The Annual Work Plan will outline by task and due date each activity to be performed under this contract. The Annual Work Plan must describe all activities related to the development and implementation of each item listed in this Scope, including each stage of production. It shall provide due dates for each activity and indicate areas of responsibility for the Contractor and the State. The Annual Work Plan will serve as a monitoring document to be used by the State to assure timely completion of tasks as scheduled.

The initial Annual Work Plan shall be due to the State within thirty (30) days of the execution of this contract. Subsequent Annual Work Plans will be due no later than June 1 prior to the effective fiscal year.

- A.3. The Contractor shall develop and administer an Exemplary Educators (EEs) Program for the purpose of providing additional support to those Tennessee public schools or school districts in greatest need of increasing student achievement. The schools in greatest need of increasing student achievement shall be identified by the State, and the Contractor shall be notified in writing by the State of the names and locations of the schools so identified.
- A.4. The Contractor shall be responsible for the selecting and contracting with Exemplary Educators. Exemplary Educators are self-employed and serve as independent contractors. The Contractor shall select Exemplary Educators using a formal process that includes the following elements:
- (1) Professional Resume;
 - (2) Three (3) confidential professional references that speak to the applicant's ability to serve as an EE;
 - (3) Written responses to questions addressing work experience, content knowledge and expertise in the areas of reading, language arts and mathematics, continued professional development, knowledge and experience of school improvement planning and the use of

data-driven decision making, curriculum and instruction plan development, and ability to work with diverse populations;

- (4) Minimum of Bachelor's degree;
- (5) Minimum of ten years relevant, licensed educational experience;
- (6) Assurance statement; and
- (7) An in-person interview.

The State expects that the Contractor to choose EE's from a pool of recently retired educators whose experience and expertise can benefit the schools and districts they are assigned to assist.

- A.5. The Contractor shall ensure a sufficient number of Exemplary Educators not to exceed 125 will be available to serve all schools and systems as identified by the State. A typical Exemplary Educator assignment is between 100 and 120 days per school year and shall not exceed 170 days per school year. The Contractor shall make Exemplary Educator assignments regionally in an effort to be cost effective.
- A.6. The Exemplary Educators Program shall be administered by the Contractor in such a manner as to ensure that the Program meets the following performance expectations and such other expectations as determined by the State for each identified school or school district:
 - (1) Capacity Building – seek to build capacity at the school or school district level so that the school or school district has the ability to assess and improve its own performance without outside assistance;
 - (2) Focus on Results – focus school or school district staff on improving student performance by improving the teaching and learning process through data analysis and implementation of effective practice;
 - (3) Curriculum, Instruction, and Assessment – help the school or school district focus on and develop effective strategies for improvement that impact curriculum, instruction, and assessment at the building and classroom level;
 - (4) Re-culturing – assist school or school district staff in strengthening the overall educational program including the cultural norms/values of the school or school district and community involvement/communication;
 - (5) Leadership – provide the school or school district with support and direction in promoting a continuous improving teaching and learning environment at the building level;
 - (6) Organization – support the school or school district in maximizing its use of time, space, and other resources by focusing on student achievement, staff performance, and a safe and orderly environment; and
 - (7) Parent Community Involvement – assist the school or school district staff in focusing on and developing effective strategies for parent and community involvement.
- A.7. The Contractor shall be available to meet at least quarterly with appropriate State personnel, committees, boards and commissions at the State's facilities in Nashville to discuss the operation of the Exemplary Educators Program and miscellaneous questions or problems in relation thereto.
- A.8. The Contractor shall design and deliver a program for training, development, and support for the Cadre of Exemplary Educators at three out of the four quarterly meetings. The Contractor will:

- (1) Design the professional development components for the Cadre of Tennessee Exemplary Educators;
- (2) Develop, produce and/or broker materials to support the training design;
- (3) Implement the training with existing and future cohorts of Exemplary Educators. The Contractor shall ensure that each training event includes the appropriate meeting space, adequate lodging for all participants, meals and snacks as appropriate, materials such as nametags and handouts as appropriate, and sufficient staff to facilitate meeting.

A.9. The Contractor shall facilitate one quarterly meeting per year for the annual reviewing/scoring of School Improvement Plans for High Priority Schools. The Contractor shall ensure that the meeting includes the appropriate meeting space, adequate lodging for all participants, meals and snacks as appropriate, materials such as nametags and handouts as appropriate, and sufficient staff to facilitate meeting. Participants include EEs, Contractor staff and State program staff.

A.10. The Contractor shall provide communication among Exemplary Educators.

The Contractor shall develop and operate an electronic communication, documentation, and dissemination system to include such components as listservs to link Exemplary Educators to best practice databases, other national resources, and electronic journaling.

The Contractor shall assist the Exemplary Educators and the State's Division of Accountability, Teaching & Learning in developing organizational and communication structures that will support ongoing collaboration and sharing among Exemplary Educators-particularly among individuals within the same region or serving similar school populations-and assure that the program, the people, and the processes meet established performance standards.

A.11. The Contractor shall assemble the necessary data and statistical analyses once a year that will allow the researchers and program managers to identify and understand the key operational features of the Exemplary Education Program. The Contractor shall use quantitative, results-based, performance measures to evaluate successful completion of activities required by this Contract. Prior to any evaluation, these measures must be approved by the State as demonstrating results to be achieved. The Contractor shall compile and present the data, as needed, to:

- (1) Document improvement in student achievement;
- (2) Determine program impact; and
- (3) Provide information that demonstrates the results in all areas of the program to State decision makers.

The Contractor shall provide a formal, written report of findings which will be published upon completion of the research and evaluation study.

A.12. The State reserves the right to require the Contractor to reassign or otherwise remove from performance of this Contract any employee or representative of the Contractor found unacceptable by the State.

A.13. The State shall receive a non-exclusive, perpetual, royalty-free, non-transferable license to use the information and data within the EE Program. Ownership terms are addressed in Section E.5 of the Contract.

- A.14. The Contractor shall prepare and submit quarterly reports on expenditures, performance results based on an approved plan for each identified school or school district, and all other responsibilities listed in the Scope of Services. Reports specific to schools or school districts shall include beginning of school year directives, mid-year status reports, and end of school year reports. The State shall determine which schools/systems will necessitate such reports.
- A.15. The Contractor shall develop a survey instrument which will be approved by the State and which will be provided to Exemplary Educators at the completion of each training session in order to ascertain the effectiveness of the training sessions and determine whether the sessions were an appropriate use of fiscal resources. The Contractor shall provide the State a summarized report of the surveys received within twenty (20) days upon completion of training.

B. CONTRACT PERIOD:

- B.1. Contract Period. This Contract shall be effective for the period beginning April 1, 2011, and ending on March 31, 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.
- 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 five (5) 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 twenty-five million seventy-nine thousand seven hundred seventy dollars and no cents (\$25,079,770.00). The payment rates in section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

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

- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description	Amount (per compensable increment)
Contracting with Exemplary Educators; A.4	\$355.00 per EE per day
Quarterly Meetings; A.7	\$900.00 per meeting
Design and deliver a program for training, development and support to EEs at three of the four quarterly meetings; A.8 (1)- (3)	\$176,773.00 per program
Facilitate the quarterly meeting for the annual reviewing/scoring of School Improvement Plans; A.9	\$70,000.00 per meeting
Communication System; A.10	\$73,880.00
Data analysis on program impact & formal written report; A.11	\$41,380.00 per analysis / report
Quarterly reports on expenditures, performance results; A.14	\$10,345.00 per report
School specific reports; A.14	\$75.00 per report
Development of Survey instrument on effectiveness of the training sessions; A.15	\$22,400.00
Summarized report of survey results; A.15	\$7,467.00 per report

- c. The Contractor shall not be compensated for travel time to the primary location of service provision.
- d. A "day" shall be defined as a minimum of eight (8) hours of service. If the Contractor provides fewer than eight hours of service in a standard twenty-four hour day, the Contractor shall bill *pro rata* for only those portions of the day in which service was actually delivered. The Contractor shall not bill more than the daily rate even if the Contractor works more than eight hours in a day.
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices monthly, with all necessary supporting documentation, to:

Eve Carney, Fiscal Director
Office of Federal Programs
Department of Education
710 James Robertson Parkway
5th Floor Andrew Johnson Tower
Nashville, TN 37243
eve.carney@tn.gov
Telephone # 615-532-1245
FAX # (615) 253-5703

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice Number (assigned by the Contractor)
 - (2) Invoice Date
 - (3) Contract Number (assigned by the State)
 - (4) Customer Account Name: Tennessee Department of Education & Division of Accountability, Teaching and Learning
 - (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
 - (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 or Milestone Description (including name & title as applicable) of each service invoiced
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
 - iv. Amount Due by Service
 - v. Total Amount Due for the invoice period
- b. The Contractor understands and agrees that an invoice under this Contract shall:
- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
 - (2) only be submitted for completed service and shall not include any charge for future work;
 - (3) not include sales tax or shipping charges; and
 - (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.
- C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.

- a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH).
- b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.

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 Personnel, 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 Personnel, 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 thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

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

- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document 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 Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.

- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*
- D.11. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.12. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.13. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.14. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.15. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.16. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.17. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.18. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.

- D.19. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.20. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.21. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

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

The State:

Debbie Owens, Executive Director
Office of Federal Programs
Tennessee Department of Education
710 James Robertson Parkway
5th Floor Andrew Johnson Tower
Nashville, TN 37243
Debbie.Owens@tn.gov
Telephone # 615-532-6297
FAX # 615-253-5706

The Contractor:

Robbie Ammons, Tennessee Project Manager
Public Consulting Group, Inc.
401 Church Street, Suite
Nashville, TN 37219
rammons@pcgus.com
Telephone # 615-983-5300
FAX # 615-983-5301

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. 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.6. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:
- a. The Contract document and its attachments
 - b. All Clarifications and addenda made to the Contractor's Proposal

- c. The Request for Proposal and its associated amendments
- d. Technical Specifications provided to the Contractor
- e. The Contractor's Proposal

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

- E.7. 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-33101-00211 (Attachment 6.2, Section B, Item B.15.) 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.8. Federal Economic Stimulus Funding. This Contract requires the Contractor to provide products and/or services that are funded in whole or in part under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, (Recovery Act). The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of the Recovery Act are met and that the Contractor provides information to the State as required.

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

- a. Federal Grant Award Documents, as applicable.
- b. Executive Office of the President, Office of Management and Budget (OMB) Guidelines as posted at www.whitehouse.gov/omb/recovery_default/, as well as OMB Circulars, including but not limited to A-102 and A-133 as posted at www.whitehouse.gov/omb/financial_offm_circulars/.
- c. Office of Tennessee Recovery Act Management Directives (posted on the Internet at www.tnrecovery.gov).
- d. The Recovery Act, including but not limited to the following sections of that Act:
 - (1) Section 1604 – Disallowable Use. No funds pursuant to this Contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
 - (2) Section 1512 – Reporting and Registration Requirements. The Contractor must report on use of Recovery Act funds provided through this Contract. Information from these reports will be made available to the public.
 - (3) Section 1553 – Recovery Act Whistleblower Protections. An employee of any non-Federal employer receiving covered funds under the Recovery Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or

law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee believes is evidence of one or more of the following related to the implementation or use of covered funds:

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

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

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

- (4) **Section 902 – Access Of Government Accountability Office.** The Contractor shall provide that the Comptroller General and his representatives are authorized:
 - i. to examine any records of the Contractor or any of its subcontractors, that directly pertain to, and involve transactions relating to, this Contract or a subcontract; and
 - ii. to interview any officer or employee of the Contractor or any of its subcontractors regarding such transactions.
- (5) **Section 1514 – Inspector General Reviews.** Any inspector general of a federal department or executive agency has the authority to review, as appropriate, any concerns raised by the public about specific investments using such funds made available in the Recovery Act. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in the Recovery Act, shall be posted on the inspector general's website and linked to the website established by Recovery Act Section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under sections 552 and 552a of title 5, United States Code.
- (6) **Section 1515 – Access of Offices of Inspector General to Certain Records and Employers.** With respect to this Contract, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized:
 - i. to examine any records, of the Contractor or any of its subcontractors, that pertain to and involve transactions relating or pursuant to this Contract; and
 - ii. to interview any officer or employee of the Contractor or any subcontractors regarding such transactions.

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

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

- (8) **Section 1605 – Buy American Requirements for Construction Material – Buy American, Use of American Iron, Steel, and Manufactured Goods.** None of the funds provided by this Contract may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.
- e. The Contractor agrees to comply with any modifications or additional requirements that may be imposed by law and future guidance and clarifications of Recovery Act requirements.
- f. If the Contractor enters into one or more subcontracts for any of the services performed under this Contract, each subcontract shall contain provisions specifically imposing on the subcontractor all requirements set forth in this Contract Section E.9., "Federal Economic Stimulus Funding."
- E.9. **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.10. **FERPA Compliance.** The State and Contractor shall comply with the Family Education Rights and Privacy Act of 1974 (20 U.S.C. § 1232g) (FERPA) and its accompanying regulations (34 C.F.R. 99). Contractor warrants that it is familiar with requirements of FERPA and its accompanying regulations and that it will comply with all applicable FERPA requirements in the performance of its duties in this contract. Contractor agrees to cooperate with the State as required by FERPA and its regulations in the performance of its duties in this contract. Contractor agrees to maintain the confidentiality of all education records and student information and use such records and information for the exclusive purpose of performing its duties in this contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the Authorization and Acknowledgement of Compliance document at Attachment B.
- E.11. **Printing Authorization.** The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed pursuant to this contract unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).

IN WITNESS WHEREOF,

PUBLIC CONSULTING GROUP, INC.:

William S. Mesakowski 3/7/2011
CONTRACTOR SIGNATURE DATE

WILLIAM S. MESAKOWSKI, PRESIDENT
PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

TENNESSEE DEPARTMENT OF EDUCATION:

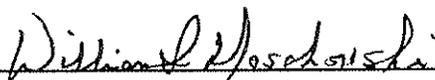
Patrick Smith 3/9/11
PATRICK SMITH, ACTING COMMISSIONER DATE

ATTACHMENT A

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	Public Consulting Group, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	04-2942913

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



CONTRACTOR SIGNATURE

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

PRINTED NAME AND TITLE OF SIGNATORY

3/7/2011

DATE OF ATTESTATION

ATTACHMENT B
AUTHORIZATION AND ACKNOWLEDGEMENT OF COMPLIANCE

Whereas, State has contracted with Public Consulting Group, Inc. on April 1, 2011 through March 31, 2016 (RFS # 33101-00211), for a selecting, contracting with and managing Exemplary Educators, and

Whereas, The above referenced contract may require the disclosure by the State to Public Consulting Group, Inc. of certain personally identifiable student information that is confidential under the Family Educational Rights and Privacy Act (FERPA), and

Whereas, 34 C.F.R. 99.31 and 34 C.F.R. 99.35, authorize an educational agency or institution to disclose personally identifiable information from an education record of a student without the consent required by Sec. 99.30 to authorized representatives of State and local educational authorities in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements which relate to those programs.

Therefore, the State and Public Consulting Group, Inc. hereby agree as follows:

1. Public Consulting Group, Inc. is authorized to maintain certain student information for the sole purpose of compliance with the requirements of the above referenced contract. This student information may include: name, social security number, address, phone number, and parent/guardian name.
2. Public Consulting Group, Inc. as authorized representative of State for the sole purpose of complying with the requirements of the above contract agrees to comply fully with FERPA by maintaining the confidentiality of all student information and to use the information solely to fulfill its obligations under the above referenced contract with the state.
3. Public Consulting Group, Inc. agrees to destroy all confidential student information when it is no longer needed for purposes of fulfilling its obligations under the above referenced contract.

Patrick Smith

State

Date

3/9/11

William H. ...

Public Consulting Group, Inc.

Date

3/7/2011