

CONTRACT #19
RFS # 331.35-00110
FA # 11-31867
Edison # 20932

Education

VENDOR:
Colyar Consulting Group, Inc.



STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
6th FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

BILL HASLAM
GOVERNOR

KEVIN HUFFMAN
COMMISSIONER

TO: Lucien Guise, Executive Director, Fiscal Review Committee
FROM: Kevin Huffman, Commissioner *KH*
DATE: December 7, 2012
RE: Request to appear before fiscal review committee regarding non-competitive amendment request RFS # 33135-00110

Please consider the enclosed request for non-competitive amendment to the contract with Colyar Consulting Group. The contract provides for an online web based School Nutrition System to support the administration of the USDA National School Lunch, School Breakfast, Afterschool Snack, Special Milk, Seamless Summer Option, and Fresh Fruit and Vegetable programs in Tennessee. This amendment will allow for the following:

- (1) Provision to provide an ability to better estimate the effects of the Community Eligibility Option on Local Education Agencies and School Food Administrations.
- (2) Provision to provide an enhancement to the new USDA Extra 6 cents provision for lunch.
- (3) Provision to provide secure file downloads necessary for the matching of children automatically eligible for free meals.
- (4) Provision for web hosting of system to include:
 - a. Six years of online data.
 - b. Daily and weekly data backup.
 - c. Secure database and file security.
 - d. Database software and all other associated software.
 - e. Database management.
 - f. Installation of all changes, updates, version changes, and fixes to software.
- (5) Provision to change USDA Management Review online process due to new changes in USDA regulations.

The State entered into a five year contract with the Colyar Consulting Group through the competitive RFP process. Colyar has provided the web based School Nutrition System to the state for 2 ½ years under the existing contract. At this half-way point in the contract new and enhanced system functionality is needed to better meet new USDA regulations and program changes. School systems are familiar with the use of this product and processing practices.

Thank you for your consideration.

KH: km

cc: Kristen McKeever, Director of Contracts
Sarah White, Executive Director of School Nutrition Program

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Sarah White	*Contact Phone:	615-532-4714		
*Original Contract Number:	FA1131867	*Original RFS Number:	33135-00110		
Edison Contract Number: <i>(if applicable)</i>	20932	Edison RFS Number: <i>(if applicable)</i>	N/A		
*Original Contract Begin Date:	July 15, 2010	*Current End Date:	July 14, 2015		
Current Request Amendment Number: <i>(if applicable)</i>	1				
Proposed Amendment Effective Date: <i>(if applicable)</i>	February 15, 2013				
*Department Submitting:	Education				
*Division:	School Nutrition				
*Date Submitted:	December 7, 2012				
*Submitted Within Sixty (60) days:	Yes.				
<i>If not, explain:</i>	N/A				
*Contract Vendor Name:	Colyar Consulting Group, Inc.				
*Current Maximum Liability:	\$544,900.00				
*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	FY2015	FY
\$318,900	\$56,500	\$56,500	\$56,500	\$56,500	\$
*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	FY2015	FY
\$296,069	\$79,331	\$56,500.00	\$	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:		Payment of July 2011 for \$22,831 was for June 2011 (which was FY 2010-2011) but it was placed into FY 2012.			
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:		N/A			
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:		N/A			
*Contract Funding Source/Amount:	State:	\$0.00	Federal:	\$544,900.00	
	Interdepartmental:	\$0.00	Other:	\$0.00	
If "other" please define:			N/A		
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>			Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>		
N/A			N/A		
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?			\$1,000,000		

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

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

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

Deliverable description:	FY:2011	FY:2012	FY:2013	FY:2014	FY:2015
Base product software successfully installed & tested	\$84,600.00	\$0.00	\$0.00	\$0.00	\$0.00
Modifications required to base produce for all functions in Scope of Services A.7. not found in base product successfully installed & tested	\$28,200.00	\$0.00	\$0.00	\$0.00	\$0.00
Modifications required unique to Tennessee and Tennessee terminology and state legal requirements/laws such as Tennessee's breakfast waiver successfully installed and tested	\$28,200.00	\$0.00	\$0.00	\$0.00	\$0.00
First application and agreement updated and entered successfully by a local school system, a RCCI, a charter school, milk only school, state school, private school, and camp.	\$28,200.00	\$0.00	\$0.00	\$0.00	\$0.00

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First claim entered by local school system and paid through the appropriate state channels and approvals.	\$28,200.00	\$0.00	\$0.00	\$0.00	\$0.00
First direct certification files uploaded and made available to local SFAs.	\$28,200.00	\$0.00	\$0.00	\$0.00	\$0.00
First CRE completed and information entered by staff via desktop and internet including all CRE forms, reviews, documentation and letters.	\$56,400.00	\$0.00	\$0.00	\$0.00	\$0.00
Per user license cost as outlined in Scope of Services A.4.b. (To include internet and local area network users)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Training costs per hour-- not included in Comprehensive SNP Reporting System not to exceed 20 hrs per year as outlined in Scope of Services A.4.c (2).	\$1,740.00	\$1,740.00	\$0.00	\$0.00	\$0.00
Yearly maintenance fee after initial installation year as referenced in Scope of Services A.4.b (4).	\$0.00	\$56,500.0	\$56,500.00	\$56,500.00	\$56,500.00
Change Order; A.7.j.	\$12,329.00	\$21,091.00	\$0.00	\$0.00	\$0.00
New functions and	\$0.00	\$0.00	\$7,600.00	\$0.00	\$0.00

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capabilities; A.8.					
Expanded 6 cents; A.9.	\$0.00	\$0.00	\$17,048.00	\$0.00	\$0.00
New online administrative reviews; A.10.	\$0.00	\$0.00	\$0.00	\$56,000.00	\$0.00
Enhanced CEO; A.11.	\$0.00	\$0.00	\$0.00	\$0.00	\$11,852.00
Secure Server & Hosting; A.12.	\$0.00	\$0.00	\$24,000.00	\$48,000.00	\$48,000.00
TOTAL	\$296,069.00	\$79,331.00	\$105,148.00	\$160,500.00	\$116,352.00
<p align="center">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.</p> <p align="center">We are unaware of any savings.</p>					
Deliverable description:	FY:2011	FY:2012	FY:2013	FY:2014	FY:2015
<p align="center">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.</p> <p>Listed below are the vendors that submitted proposals during the RFP process. Neither of the other vendors has access to the current Colyar Consulting Group production system code and cannot complete the updates requested. In the original RFP process. The amounts are those listed in their original cost proposals which are attached.</p>					
Proposed Vendor Cost: Vel Micro Works	FY:2011	FY:2012	FY:2013	FY:2014	FY:2015
Base product software successfully installed & tested	\$65,676.00	\$0.00	\$0.00	\$0.00	\$0.00
Modifications required to base produce for all functions in Scope of Services A.7. not found in base product successfully installed & tested	\$21,892.00	\$0.00	\$0.00	\$0.00	\$0.00
Modifications required unique to Tennessee and Tennessee terminology and state legal requirements/laws such as	\$21,892.00	\$0.00	\$0.00	\$0.00	\$0.00

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Tennessee's breakfast waiver successfully installed and tested					
First application and agreement updated and entered successfully by a local school system, a RCCI, a charter school, milk only school, state school, private school, and camp.	\$21,892.00	\$0.00	\$0.00	\$0.00	\$0.00
First claim entered by local school system and paid through the appropriate state channels and approvals.	\$21,892.00	\$0.00	\$0.00	\$0.00	\$0.00
First direct certification files uploaded and made available to local SFAs.	\$21,892.00	\$0.00	\$0.00	\$0.00	\$0.00
First CRE completed and information entered by staff via desktop and internet including all CRE forms, reviews, documentation and letters.	\$43,784.00	\$0.00	\$0.00	\$0.00	\$0.00
Per user license cost as outlined in Scope of Services A.4.b. (To include internet and local area network users)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Training costs per hour– not included in	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00	\$2,500.00

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Comprehensive SNP Reporting System not to exceed 20 hrs per year as outlined in Scope of Services A.4.c (2).					
Yearly maintenance fee after initial installation year as referenced in Scope of Services A.4.b (4).	\$0.00	\$33,000.00	\$33,000.00	\$33,000.00	\$33,000.00
Change Order; A.7.j.	\$15,900.00	\$15,900.00	\$15,900.00	\$15,900.00	\$15,900.00
TOTAL	\$237,320.00	\$51,400.00	\$51,400.00	\$51,400.00	\$51,400.00
Other Vendor Cost: CCH Consulting, Inc.	FY:	FY:	FY:2013	FY:2014	FY:2015
Base product software successfully installed & tested	\$2,550,000.00	\$0.00	\$0.00	\$0.00	\$0.00
Modifications required to base produce for all functions in Scope of Services A.7. not found in base product successfully installed & tested	\$850,000.00	\$0.00	\$0.00	\$0.00	\$0.00
Modifications required unique to Tennessee and Tennessee terminology and state legal requirements/laws such as Tennessee's breakfast waiver successfully installed and tested	\$850,000.00	\$0.00	\$0.00	\$0.00	\$0.00
First application and agreement updated and	\$850,000.00	\$0.00	\$0.00	\$0.00	\$0.00

Supplemental Documentation Required for
Fiscal Review Committee

entered successfully by a local school system, a RCCI, a charter school, milk only school, state school, private school, and camp.					
First claim entered by local school system and paid through the appropriate state channels and approvals.	\$850,000.00	\$0.00	\$0.00	\$0.00	\$0.00
First direct certification files uploaded and made available to local SFAs.	\$850,000.00	\$0.00	\$0.00	\$0.00	\$0.00
First CRE completed and information entered by staff via desktop and internet including all CRE forms, reviews, documentation and letters.	\$1,700,000.00	\$0.00	\$0.00	\$0.00	\$0.00
Per user license cost as outlined in Scope of Services A.4.b. (To include internet and local area network users)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Training costs per hour-- not included in Comprehensive SNP Reporting System not to exceed 20 hrs per year as outlined in Scope of Services A.4.c (2).	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00	\$10,000.00
Yearly	\$500,000.00	\$500,000.00	\$500,000.00	\$500,000.00	\$500,000.00

Supplemental Documentation Required for
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maintenance fee after initial installation year as referenced in Scope of Services A.4.b (4).					
Change Order; A.7.j.	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00	\$30,000.00
TOTAL	\$9,050,000.00	\$540,000.00	\$540,000.00	\$540,000.00	\$540,000.00

TN_PU_CN021 - Payments against a Contract

Edison Contract ID: 0000000000000000000020932

Fiscal Year: 2011

[View Results](#)

Download results in : [Excel Spreadsheet](#) [CSV Text File](#) [XML File](#) (1 kb)

View All

First 1-1 of 1 Last

Unit	Sum Amount	Edison Contract ID	Vendor ID	Vendor Name	Type	PO_ID	D.VOUCHER_ID	Year
1	33101	296069.000	0000000000000000000020932	0000127514	Colyar Consulting Group, Inc	DFA	0000017371 00082146	2011

TN_PU_CN021 - Payments against a Contract

Edison Contract ID: 0000000000000000000020932

Fiscal Year: 2012

[View Results](#)

Download results in : [Excel SpreadSheet](#) [CSV Text File](#) [XML File](#) (1 kb)

View All

First 1-2 of 2 Last

Unit	Sum Amount	Edison Contract ID	Vendor ID	Vendor Name	Type	PO ID	Voucher ID	Invoice	Date	Fiscal Year
1 33101	22831.000	0000000000000000000020932	0000127514	Colyar Consulting Group, Inc	DFA	0000024786	00126501	992189	07/28/2011	2012
2 33101	56500.000	0000000000000000000020932	0000127514	Colyar Consulting Group, Inc	DFA	0000027005	00132954	992233	09/29/2011	2012

TN_PU_CN021 - Payments against a Contract

Edison Contract ID: 0000000000000000000020932

Fiscal Year: 2013

[View Results](#)

Download results in : [Excel SpreadSheet](#) [CSV Text File](#) [XML File](#) (1 kb)

View All

First 1-1 of 1 Last

Unit	Sum Amount	Edison Contract ID	Vendor ID	Vendor Name	Type	PO ID	Voucher ID	Invoice	Date	Fiscal Year
1	33101 56500.000	0000000000000000000020932	0000127514	Coiyar Consulting Group, Inc	DFA	0000035096	00176950	992614	08/23/2012	2013



OIR Pre-Approval Endorsement Request E-Mail Transmittal

TO : Jane Chittenden, OIR Procurement & Contract Management Director
Department of Finance & Administration
E-mail : Jane.Chittenden@tn.gov

FROM : Kristen McKeever, Director of Contracts
E-mail : Kristen.McKeever@tn.gov

DATE : November 15, 2012

RE : Request for OIR Pre-Approval Endorsement

Applicable RFS # 33135-00110
OIR Endorsement Signature & Date:
 Chief Information Officer
11/27/12
<i>NOTE: Proposed contract/grant support is applicable to the subject IT service technical merit.</i>

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

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

Contracting Agency	Education
Agency Contact (name, phone, e-mail)	Kristen McKeever, 532-8539, Kristen.McKeever@tn.gov
Subject Procurement Document (mark one)	
<input type="checkbox"/> RFP	<input type="checkbox"/> Contract
<input type="checkbox"/> Competitive Negotiation Request	<input type="checkbox"/> Contract Amendment
<input type="checkbox"/> Alternative Procurement Method Request	<input type="checkbox"/> Grant
<input type="checkbox"/> Non-Competitive Contract Request	<input type="checkbox"/> Grant Amendment
<input checked="" type="checkbox"/> Non-Competitive Amendment Request	
Information Systems Plan (ISP) Project Applicability	
<input type="checkbox"/> Not Applicable to this Request	
<input checked="" type="checkbox"/> Applicable— ISP Project# CA35001	
Response Confirmed by IT Director/Staff (name): Richard Charlesworth, CIO	

Applicable RFS # 33135-00110
Required Attachments (as applicable – copies without signatures acceptable) <ul style="list-style-type: none"><input checked="" type="checkbox"/> RFP, Competitive Negotiation Request, Alternative Procurement Method Request, Non-Competitive Contract Request, Non-Competitive Amendment Request<input checked="" type="checkbox"/> Original Contract/Grant or Amendment<input checked="" type="checkbox"/> Proposed Contract/Grant or Amendment
Subject Information Technology Service Description (Brief summary of information technology services involved. Clearly identify included technologies such as system development/maintenance, security, networking, etc. As applicable, identify the contract & solicitation sections related to the IT services.) Provide functions and capabilities that were previously housed at the SNP website and incorporate it into the Tennessee: Meals, Accounting, & Claiming (TMAC) site and make modifications to the system.

Non-Competitive Amendment Request

NOT required for a contract with a federal, Tennessee, or Tennessee local government entity or a grant.

Route a completed request, as one file in PDF format, via e-mail attachment sent to: AgSprs.Agspr@sate.tn.us

APPROVED

CENTRAL PROCUREMENT OFFICER

Request Tracking #	33135-00110	
1. Procuring Agency	Education	
2. Contractor	Colyar Consulting Group, Inc. (CCG)	
3. Contract #	FA1131867	
4. Proposed Amendment #	1	
5. Edison ID #	20932	
6. Contract Begin Date	July 15, 2011	
7. Current Contract End Date – with ALL options to extend exercised	July 15, 2015	
8. Proposed Contract End Date – with ALL options to extend exercised	July 15, 2015	
9. Current Maximum Contract Cost – with ALL options to extend exercised	\$544,900.00	
10. Proposed Maximum Contract Cost – with ALL options to extend exercised	\$781,400.00	
11. Office for Information Resources Endorsement – information technology service (N/A to THDA)	<input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/> Attached	
12. eHealth Initiative Support – health-related professional, pharmaceutical, laboratory, or imaging	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
13. Human Resources Support – state employee training service	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
14. Explanation Need for the Proposed Amendment	<p>The United States Department of Agriculture (USDA) that governs our program has initiated some massive changes for our local education agencies (LEAs) effective over the next several years. Each one requires programming changes not covered in the original contract.</p>	
15. Name & Address of the Contractor's Principal Owner(s) – NOT required for a TN state education institution	<p>Jeff Colyar, 22420 N. 18th Drive, Phoenix, AZ 85027</p>	

Request Tracking #	33135-00110
<p>16. Evidence Contractor's Experience & Length Of Experience Providing the Service</p> <p>CCG has unequalled experience in the development of the Child Nutrition Management Systems. They have been developing Child Nutrition and Food Distribution Programs for over eighteen years. CCG integrates emerging computer technologies with custom applications and system software to provide innovative, reliable, cost-effective, and turnkey solutions. CCG has over 250 years of staff experience working with Child Nutrition Programs and has implemented solutions in more than 50 percent of the nation, which has resulted in a national experience and exposure. This experience gives them a unique view into the differences in requirements between USDA regional offices as well as exposure to different state regulations, and can therefore provide Tennessee with optimum solutions to our support and enhancement requirements. They are operating similar programs in California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Iowa, Kentucky, Missouri, Nebraska, Nevada, New York, North Carolina, Ohio, Pennsylvania, South Carolina, South Dakota, Texas, Vermont, Washington, West Virginia, and Wyoming.</p>	
<p>17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives</p> <p>The original contract was procured through the RFP process. We did not identify alternatives for this amendment because the current contract runs through 2015 and it will be more cost effective to amend the current contract.</p>	
<p>18. Justification -- <i>specifically explain why non-competitive negotiation is in the best interest of the state</i></p> <p>The current contract with Colyar Consulting Group, Inc. was procured through the RFP process and runs through 2015. It is more cost effective to amend the current 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> 11/20/12</p>	



CONTRACT AMENDMENT

Agency Tracking # 33135-00110	Edison ID 20932	Contract # FA1131867	Amendment # 1		
Contractor Legal Entity Name Colyar Consulting Group, Inc.			Edison Vendor ID 0000127514		
Amendment Purpose & Effect(s) Increase maximum liability to cover USDA requirements.					
Amendment Changes Contract End Date: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		End Date: July 14, 2015			
TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A):			\$212,500.00		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	\$0.00	\$296,069.00	\$0.00	\$0.00	\$296,069.00
2012	\$0.00	\$79,331.00	\$0.00	\$0.00	\$79,331.00
2013	\$0.00	\$105,148.00	\$0.00	\$0.00	\$105,148.00
2014	\$0.00	\$160,500.00	\$0.00	\$0.00	\$160,500.00
2015	\$0.00	\$116,352.00	\$0.00	\$0.00	\$116,352.00
TOTAL:	\$0.00	\$757,400.00	\$0.00	\$0.00	\$757,400.00
American Recovery and Reinvestment Act (ARRA) Funding: <input type="checkbox"/> YES <input checked="" 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) ED00000038	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	33135-00110
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Edison ID	20932
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Fiscal Year	Department ID	Speedchart Number	Program Code	Account Code	Fund	Project/ Grant Code	CFDA #	Amount
2011	331350000	ED00000038	577000	70803000	25000	ED0000HB10AAX10	10.560	\$25,000.00
2011	331350000	ED00000038	577000	70899000	25000	ED0000HB10AAX10	10.560	\$271,069.00
2012	331350000	ED00000038	577000	70899000	25000	ED0000HB10AAX10	10.560	\$79,331.00
2013	331350000	ED00000038	577000	70803000	25000	ED0000HB10AAX10	10.560	\$25,000.00
2013	331350000	ED00000038	577000	70899000	25000	ED0000HB10AAX10	10.560	\$80,148.00
2014	331350000	ED00000038	577000	70803000	25000	ED0000HB10AAX10	10.560	\$25,000.00
2014	331350000	ED00000038	577000	70899000	25000	ED0000HB10AAX10	10.560	\$135,500.00
2015	331350000	ED00000038	577000	70803000	25000	ED0000HB10AAX10	10.560	\$25,000.00
2015	331350000	ED00000038	577000	70899000	25000	ED0000HB10AAX10	10.560	\$91,352.00
TOTAL								\$757,400.00

**AMENDMENT 1
OF CONTRACT FA1131867**

This Amendment is made and entered by and between the State of Tennessee, Department of Education, hereinafter referred to as the "State" and Colyar 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. The following is added as Contract section A.3.cc.
- cc. Community Eligibility Option (CEO) – USDA option where the claim reimbursement rate is based on the percentage of Directly Certified Children in each LEA/SFA. Children may be certified for free meals by either a completed family application form or from a number of approved lists that include foster children, migrant children, homeless children, and children receiving SNAP or Families First (TANF) benefits. Children on these lists are certified for free meals and the family does not have to complete a family application form. The LEA/SFA has the ability to participate in the CEO with all the schools in the LEA/SFA or any combination of schools within the LEA/SFA. The LEA/SFA may have any number of school combinations (groups) as long as a particular school is only in one group.
2. Contract section A.3.f is deleted in its entirety and replaced with the following:
 - f. Administrative Review - Required three year review of critical areas of National School Lunch Program
3. All references to "Coordinated Review Effort (CRE)" shall be deleted and replaced with "Administrative Review."
4. The following is added as Contract section A.8.
 - A.8. The Contractor shall provide the following functions and capabilities that were previously housed at the SNP website and incorporate it into the Tennessee: Meals, Accounting, & Claiming (TMAC) site.
 - a. Secure ability for LEAs and school food authorities to obtain and download necessary files for matching eligibility of children for free meals. This includes files for children receiving SNAP, Medicaid, foster children, and TANF.
 - (1) Each month the State School Nutrition Office shall provide the Contractor with 95 individual files, organized by county, of all children between the ages of three and 22 receiving SNAP and TANF benefits. The Contractor shall provide a secure download capability in TMAC for the LEAs/SFAs to download the files.
 - (2) Each month the State School Nutrition Office shall provide the Contractor with 95 individual files, organized by county, of foster children. The Contractor shall provide a secure download capability in TMAC for the LEAs/SFAs to download the files.
 - (3) Each year the State School Nutrition Office shall provide the Contractor with 95 individual files, organized by county, of children receiving Medicaid benefits. The Contractor shall provide a secure download capability in TMAC for the LEAs/SFAs to download the files.
 - b. Add farm to school information, which includes PDF files, downloads, etc. This will be accomplished by adding a downloadable form to the system.
 - c. Add a repository for the starter package which includes a free and reduced household application, household letters, verification guidance, verification selection letter, verification result letter, breakfast waiver form, Tennessee agriculture

compliance, 60/90 day claim submission guidance, certification of compliance, program participation agreement, and policy statement. This will be accomplished by adding a downloadable form to the system.

- d. Links to USDA guidance. This will be accomplished by adding an appropriate link to the site home page.
- e. Guidance on food allergies and disabilities. This will be accomplished by either adding an appropriate link to the site home page or adding a downloadable form to the system.
- f. Listserv information. This will be accomplished by adding a downloadable form to the system.

5. The following is added as Contract section A.9.

A.9. The Contractor shall expand the requirements of the new USDA extra 6 cent requirement that requires each LEA/SFA be given the opportunity to qualify for an extra 6 cent reimbursement for all lunches served to eligible children. This will be achieved through the following additional online functionality.

- a. Add the ability to upload and store the required Annual Attestation Statement.
- b. Add the ability to upload and store the Early Breakfast Adoption form.
- c. Add contact information for the user preparing the above documents.
- d. Add the ability to track the status of each document.
- e. Add the ability to upload and store all menus for lunch and breakfast by age grade group.
- f. Add the ability to upload the menu worksheet for each menu uploaded.
- g. Add the ability to upload any nutritional analysis for each menu uploaded.
- h. Add the ability to identify the school sites where the menu is used.
- i. Add the ability to identify the menu planning method for each menu.
- j. Add the ability to identify the name and address of the school site where the uploaded menu is used.
- k. Add the ability to enter School Food Administration (SFA) and State comments on each menu.
- l. Add the ability to identify the date last updated for all documents.
- m. Add the ability to display a dashboard function that will identify at a glance the number of menus uploaded at each status and percentage of the whole of each represented by that status.
- n. Add the ability for online meal pattern communication between State and SFA personnel through the use of notes. All notes will in stored by date and will include the user ID of the creator to provide a history of data communications.

6. The following is added as Contract section A.10.

A.10. The Contractor shall provide database functionality to meet the requirements of the CEO as detailed below.

- a. Add the capability to better estimate the effects of the CEO option on the SFA's reimbursement with various combinations of schools and school groupings.
 - (1) SFA will select schools from their school list.
 - (2) School name will be displayed.
 - (3) SFA will select most current March or October.
 - (4) The enrollment entered on the claim will be displayed
 - (5) The direct certification percentage from claim month will be displayed for the school(s).
 - (6) The raw CEO percentage of free meals will be calculated and displayed.
 - (7) The adjusted CEO percentage of free meals will be calculated and displayed.

- (8) Lunches served for the month selected will be displayed.
- (9) Student payments for the month will be entered
- (10) Actual USDA reimbursement will be displayed.
- (11) Total actual revenue for the month will be displayed.
- (12) Estimated free meals with CEO will be calculated and displayed.
- (13) The reimbursement rate effective in the month selected will be displayed.
- (14) The estimated free meals will be multiply by the rate and the result displayed.
- (15) The estimated number of paid meals will be calculated and displayed.
- (16) The reimbursement rate for paid meals in the month selected will be displayed.
- (17) The estimated number of paid meals will be multiplied by the paid rate and the result displayed.
- (18) The estimated total reimbursement with the CEO will be calculated and displayed.
- (19) The difference between the actual reimbursement and the CEO estimated reimbursement will be calculated and displayed.
- (20) The function will be able to process multiple schools with a max of 200 schools
- (21) When multiple schools are used a total line will be generated with a estimate of the school groupings actual versus CEO estimate.

7. The following is added as Contract section A.11.

A.11. The Contractor shall update the **Administrative Review** functions beyond the standard USDA requirements. The USDA provides a paper format for reviews. The compliance monitoring functions for Tennessee takes the USDA paper process and converts the manual process to an automated format. Due to USDA regulation changes the USDA will update their paper forms. In addition the USDA has reduced the interval between reviews from five to three years making the automated process even more needed. Tennessee will review USDA paper forms and provide the Tennessee requirements to the following functions:

- a. Corrective Action Documents – Findings
- b. Review Information
- c. SFA Information
- d. SFA Notes to Agency
- e. SNP Dashboard
- f. Security Rights for Review Tracking
- g. State Agency Notes
- h. Review Tracking

8. The following is added as Contract section A.12.

A.12. The Contractor shall host a TMAC test and a TMAC production Internet site to include the following:

- a. Storage space.
 - (1) Provide storage space adequate to provide six years of online database data. (Five prior school years plus the current school year.)
 - (2) Provide storage space for all non database data included in the TMAC System including the capabilities listed in A.8.
 - (3) Provide storage space for all non database data included in the TMAC System including the capabilities listed in A.9.
- b. Secure server capability.
 - (1) Provide daily and weekly backup of all data base and data files.
 - (2) Provide backup following each change/update in online functionality.
 - (3) Provide data base and file security.

- c. Data base and associated Software.
 - (1) Provide data base software (Microsoft SQL).
 - (2) Provide all associated software needed for the correct functionality of the TMAC system (Microsoft Office, Adobe, etc.)
- d. TMAC System versions and updates.
 - (1) Apply all new versions.
 - (2) Apply all changes, updates, and fixes to TMAC software.
 - (3) Apply all monthly and yearly updates for data specified in A.8.

9. The following is added as Contract section A.13.

A.13. The Contractor shall maintain system security in accordance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99).

10. The following is added as Contract section A.14.

A.14. The Contractor shall create, maintain, and provide current technical documentation for the contracted system. This shall include documentation on security implementation, technical architecture of systems and databases, schemas, change logs, operating systems, and changes to any of the above. This documentation shall be provided to the State in an editable electronic format every six months. The State reserves the right to request this documentation more frequently shall a need arise for system integration, problem resolution or other request.

11. The following is added as Contract section A.15.

A.15. The Contractor shall not use any hardware or software that is declared "end of life" or "end of support" by the manufacturer.

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

A.16. The Contractor shall provide all updates, troubleshooting, maintenance and support up to problem resolution for all products and services provided in this contract.

13. 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 seven hundred fifty-seven thousand four hundred dollars and no cents (\$757,400.00). 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.

14. Contract section C.3.b is deleted in its entirety and replaced with the following:

- 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)
Comprehensive SNP Reporting System –including base product, modifications required to base product for all functions in Scope of Services A.7 not found in base product, modifications required unique to Tennessee, and Tennessee terminology and state legal requirements/laws such as Tennessee’s breakfast waiver.	
Base product software successfully installed and tested	\$84,600.00/30% of base amount
Modifications required to base product for all functions in Scope of Services A.7 not found in base product successfully installed and tested	\$28,200.00/10% of base amount
Modifications required unique to Tennessee and Tennessee terminology and state legal requirements/laws such as Tennessee’s breakfast waiver successfully installed and tested	\$28,200.00/10% of base amount
First application and agreement updated and entered successfully by a local school system, a RCCI, a charter school, milk only school, state school, private school, and camp.	\$28,200.00/10% of base amount
First claim entered by local school system and paid through the appropriate state channels and approvals.	\$28,200.00/10% of base amount
First direct certification files uploaded and made available to local SFAs.	\$28,200.00/10% of base amount
First Administrative Review completed and information entered by staff via desktop and internet including all Administrative Review forms, reviews, documentation and letters.	\$56,400.00/20% of base amount
Per user license cost as outlined in Scope of Services A.4.b. (To include internet and local area network users)	\$0.00/PER USER
Training costs per hour– not included in Comprehensive SNP Reporting System not to exceed 20 hrs per year as outlined in Scope of Services A.4.c (2).	\$87.00/PER HOUR
Yearly maintenance fee after initial installation year as referenced in Scope of Services A.4.b (4).	\$56,500.00/PER YEAR
New functions & capabilities; A.8.	\$7,600.00/Upon Completion
Expanded 6 Cents; A.9.	\$17,048.00/Upon Completion
New Online Administrative Reviews; A.10.	\$56,000.00/ Upon Completion
Enhanced CEO; A.11.	\$11,852.00/Upon completion
Secure server & hosting; A.12.	\$4,000.00/PER MONTH

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 February 15, 2013. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

COLYAR CONSULTING GROUP, INC.:

SIGNATURE **DATE**

PRINTED NAME AND TITLE OF SIGNATORY (above)

TENNESSEE DEPARTMENT OF EDUCATION:

KEVIN HUFFMAN, COMMISSIONER **DATE**



CONTRACT

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

Agency Tracking # 33135-00110	Edison ID 0000000000000000000020932
Contractor Colyar Consulting Group, Inc.	Contractor Federal Employer Identification or Social Security # <input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 86-0866675

Service
Internet based counting and claiming system for the School Nutrition Program

Contract Begin Date July 15, 2010	Contract End Date July 14, 2015	Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	CFDA #(s) 10.560
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FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2011	\$0.00	\$25,000.00	\$0.00	\$0.00	\$25,000.00
2011	\$0.00	\$293,900.00	\$0.00	\$0.00	\$293,900.00
2012	\$0.00	\$56,500.00	\$0.00	\$0.00	\$56,500.00
2013	\$0.00	\$56,500.00	\$0.00	\$0.00	\$56,500.00
2014	\$0.00	\$56,500.00	\$0.00	\$0.00	\$56,500.00
2015	\$0.00	\$56,500.00	\$0.00	\$0.00	\$56,500.00
TOTAL:	\$0.00	\$544,900.00	\$0.00	\$0.00	\$544,900.00

American Recovery and Reinvestment Act (ARRA) Funding -- YES NO

OCR USE FA	Agency Contact & Telephone # Sarah White- 615-532-4714
 F&A Secured Document # FA1131867	Agency Budget Officer Approval (there is a balance in the appropriation from which this obligation is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
	Speed Code: ED00000038 Account Code: 70803000/70899000 <i>Capital DB</i> July 20, 2010

Contractor Ownership/Control

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

Contractor Selection Method

RFP
 Competitive Negotiation *
 Alternative Competitive Method *
 Non-Competitive Negotiation *
 Other *

*Procurement Process Summary
RFP process.

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

This Contract, by and between the State of Tennessee, Department of Education, hereinafter referred to as the "State" and Colyar Consulting Group, Inc., hereinafter referred to as the "Contractor," is for the provision of an Internet based counting and claiming system for the School Nutrition Program, as further defined in the "SCOPE OF SERVICES."

The Contractor is a for-profit corporation.

Contractor Federal Employer Identification or Social Security Number: 86-0866675

Contractor Place of Incorporation or Organization: Arizona

A. SCOPE OF SERVICES:

- A.1. The Contractor shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.
- A.2. The Contractor shall work with the State to develop a comprehensive internet-based system that is written in SQL for complete counting, claiming, and other review efforts to be in compliance with state and federal law. The State's school nutrition system shall be designed to be valid and accessible for use by the local school nutrition programs, public, private and residential, as well as the state staff and the general public. The Contractor shall develop, implement, and maintain a system as required by 7CFR Parts 210 (CFDA 10.555 for lunch), 215 (CFDA 10.556 for special milk), 220 (CFDA 10.553 for breakfast), and 245 (Free and Reduced Price Eligibility); as well as other federal state and local requirements. All deliverables shall be reviewed and/or revised annually to meet changes required to be in compliance with Federal, USDA and State regulations, laws, and guidelines. The quantity of deliverables shall be determined and approved by the State and shall be finalized with the Contractor when the Work Plan is approved.
- A.3. Definitions:
- a. ADA – Average Daily Attendance
 - b. ADM – Average Daily Membership
 - c. ADP – Average Daily Participation in one of the programs such as National School Lunch or School Breakfast
 - d. Administrative Review – Coordinated Review Effort as defined by USDA plus state review requirements
 - e. Afterschool Snack Program – Program that is designed to provide snacks to students after the regular lunch day
 - f. Coordinated Review Effort (CRE) – Required 5-year review of critical areas of the National School Lunch Program
 - g. Direct Certification – Determination of children eligible for free benefits based on documentation obtained directly from an appropriate State or local agency authorized to certify that children are members of a Supplemental Nutrition Assistance Program (SNAP) household or members of a household receiving assistance under Families First, Homeless, migrant, runaway or participating Head Start/Even Start program.

- h. Direct Verification – The use of public records as a means to verify children's eligibility for free and reduced meals. Direct verification may be conducted with SNAP, Families First, or Medicaid program data.
- i. Fiscal Year (FY) - The State accounting period of July 1 through June 30.
- j. Fresh Fruits and Vegetables Program (FFVP) – A competitive grant that provides fresh fruits and vegetables to students at times other than the school lunch and breakfast programs.
- k. Grade Levels – PreK, Kindergarten, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, EvenStart, GED.
- l. Local Education Agency (LEA) – A school district or school system that is the financial and administrative agency for school(s) in a certain region of the State.
- m. National School Lunch Program (NSLP)– Governed by 7CFR Part 210 – provides lunches to students in public, private, and residential school.
- n. Online Applications – Information required with yearly updates for local education agencies and school food authorities to apply to be on the national school lunch program, school program, seamless summer feeding program, fresh fruits and vegetables program, and afterschool snack program.
- o. Quarterly Report – Comprehensive summary report as defined in A.6.c.2 and A.6.c.3.
- p. Residential and Child Care Institution (RCCI) – A not-for-profit institution that has overnight students and is on the school lunch and/or school breakfast programs.
- q. School Breakfast Program (SBP)– Governed by 7CFR Part 220 – provides breakfasts to students in public, private and residential schools.
- r. School Nutrition Program (SNP) – Department of Education's unit that supervises and administers the United States Department of Agriculture's nutrition programs.
- s. Seamless Summer Option (SSO) – Part of National School Lunch Program which allows students to eat throughout the entire year.
- t. Special Milk Program – Provides milk for school and camps where a lunch program and/or breakfast program is not available.
- u. State Administrative Expense (SAE) –USDA funding provided to State Agencies that operate the National School Lunch and Breakfast programs for administration of the programs.
- v. State ID Number – For purposes of direct certification and direct verification this will be the social security number of the student and/or parent or guardian.
- w. State Matching Funds – Funds disseminated to all public schools, including state schools, once yearly.
- x. State Special Schools – A school that is managed by the State. Summary data for State Special Schools is included with public schools. Current schools include but are not limited to: Alvin C. York Institute, Tennessee Governor's Academy, Tennessee School for the Blind, Tennessee School for the Deaf, West Tennessee School for the Deaf, and Departments of Children's Services and Corrections.
- y. System – Technology system being designed, installed by the Contractor.
- z. TCA – Tennessee Code Annotated.
- aa. Verification – Confirmation of eligibility for free and reduced price meals under the NSLP or SBP application process.

bb. Web-Based – Delivered via the Internet World Wide Web.

- A.4. Schedule: The State shall approve all materials and/or deliverables developed under this Contract. The Contractor shall not disseminate any written information, materials, or deliverables to the LEAs, public, or any other third party without the State's written approval. The Contractor shall allow the State a minimum of five (5) days to review materials and/or deliverables. If necessary, the Contractor shall make modifications as directed by the State and provide additional time of not less than three (3) days for the State to review and sign-off on the revised submission. The Contractor is responsible for any costs associated with making modifications to materials and deliverables necessary to obtain the State's approval at no cost to the State.

The Contractor shall provide the deliverables under this Contract in accordance with the delivery schedule stated below:

- a. Annual Deliverables: These deliverables shall be delivered on the dates specified below for the first portion of the system. The due dates for subsequent system additions will be established in the Work Plan as outlined in A.5.a and must be approved by the State.
 - (1) Work Plan – To include all federal regulatory updates. Final is due 30 days after the Contract is executed and July 1 thereafter. The initial Work Plan shall cover the period from the execution of the Contract through June 30, 2011.
 - (2) Online applications shall be provided to the State beginning August 15, 2010. Specific dates for component deliverables shall be detailed in the Work Plan.
 - b. Future Deliverables:
 - (1) Desktop/laptop applications including necessary internet and local area network user licenses shall be provided to the State beginning August 15, 2010.
 - (2) Technical Support Services – Technical support services for all online applications (including online reporting) shall be provided to the State beginning November 2010. Specific dates for component deliverables shall be detailed in the Work Plan.
 - (3) Development and Field Testing of the System shall be completed by the Contractor by January 2011.
 - (4) Invoice for annual maintenance fee to be paid July 1 each year after the first year of operation which includes charges for keeping the system current with state and federal/USDA regulations, rates, guidance, and documents. These are required updates occurring after initial installation period.
 - c. One Time Deliverables:
 - (1) Introductory Training Materials – Receipt by State of System and School level materials by February 2011. Meetings shall be scheduled during May June and/or July, 2011.
 - (2) Desktop and online application for System including training by Contractor of state staff via on-site, webinar, and/or written materials. Training hours are not to exceed 20 hours per year.
 - d. The State shall provide the following by May 15, 2011:
 - (1) List of commonly used reports by locals
 - (2) List of Tennessee Educators and supervisors for purposes of password Contact information, including email, for System and School users of online System
 - (3) The Contractor will work with the State to adhere to any changes in Federal or State Legislation, Rule or Policy. Such work shall include but not be limited to any documents, papers, or records requested by the State or the United States Department of Agriculture for review and audit purposes.
- A.5. Administrative Activities: The Contractor shall provide all services from testing to implementation to carry out the scope of the contract.

The Contractor shall develop, produce, and deliver materials to facilitate the schedule for implementation of the System. All administrative materials shall be provided to the State in Microsoft Word and/or Excel for use on the State internet or in training.

- a. **Work Plan:** The Contractor shall prepare, for State approval, a detailed Work Plan that incorporates the development schedules for the activities of this contract. The Plan for this contract will indicate the essential steps leading to the transition between the Contractor and the current Easy Soft program prior to implementation. The Work Plan shall include the steps for all project work tasks and deliverables including initiation and completion dates, and task responsibilities to avoid any disruption of services, requirements or deliverables to the directors of schools, supervisors, state staff, public, schools, LEAs, SFAs, and State.

The Work Plan will outline by task and due date each activity to be performed under this contract. The Work Plan must describe all activities related to the development and implementation of desktop and web-based support processes, training materials, reports, 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 Work Plan will serve as a monitoring document to be used by the State to assure timely completion of tasks as scheduled.

The Contractor shall establish secure share point or file transfer protocol (FTP) websites for use in maintaining the Work Plan and other communications, including posting materials, test data, test sites and training materials, with the State for contract management. Materials shall be considered delivered and final after written notification is given to the Contractor via email or other electronic methods by the State contact in E.2 or their official designee. The Work Plan shall be delivered in Microsoft Project and shall be maintained as a fluid, ongoing project document for each test administration. Both the State and the Contractor shall have access to and the ability to edit and update the Work Plan as needed. All changes must be approved by the State. The Contractor shall provide each year for a Work Plan review between the representatives of the State and the Contractor for planning, materials development, and report approval, as needed. State representatives in consultation with the Contractor shall make selection of the meeting site and dates. Meeting participants shall include the key project staff including project coordinators and their supervisors from both organizations.

The Work Plan shall be reviewed annually to incorporate changes required by additional USDA, Federal, and/or State laws, regulations, mandates. This shall be completed by July 1 of each year after the initial contract period as outlined in A.4.a (1).

- b. **Security Procedures:** The Contractor shall provide detailed, standardized security procedures for review and approval by the State. Approved security procedures shall be included in the Work Plan. The procedures must:
- (1) Provide a secure architecture to protect processing, storing, and reporting environments from network-based attacks.
 - (2) Provide security procedures and safeguards to ensure that electronic files and data are developed, used, and maintained in a secure manner to protect the confidentiality of all students and parent names, and individual information.
 - (3) Provide security procedures and safeguards to ensure the security of the items, and all ancillary materials during development, production, field testing, calibration, printing, and reporting. The procedures shall ensure day-to-day security to prohibit unauthorized personnel access to prohibited information through deliberate or unintentional actions.
 - (4) Utilize encryption to ensure security of all director/supervisor/school/system information entered through all online programs.
 - (5) The Contractor is held responsible for the actions of its team and must guard against a breach of security.

- c. Quality Control: The Contractor shall provide detailed, standardized, quality control procedures for review and approval by the State. Approved quality control procedures shall be included in the work plan. The Contractor shall provide quality control measures including the following:
- (1) Item development, field testing, forms calibration, materials printing and packaging, administration, processing, and reporting.
 - (2) Errors in work products arising from activities that are the responsibility of the Contractor including print errors and program functions. Such corrections may involve activities that include the following:
 - i. Conduct analyses to identify the cause and extent of errors.
 - ii. Edit, revise, and/or reprogram online applications.
 - iii. Reprint and/or reproduce products or other materials.
 - iv. Provide additional training to Contractor support staff, State staff and LEA personnel as needed via training materials, webinars and/or regional meetings.
 - v. Replace and/or correct data files.
 - vi. Reproduce reports
 - vii. Ship replacement products or reports to the State or systems using expedited shipping services.
 - (3) The State will conduct a rigorous acceptance test of the system prior to initial installation. The contractor shall support this testing effort as required by the State.

A.6. Operations Management Activities

- a. Project Team: The Contractor shall assign a single point of contact for this program to manage all inquires related to the school nutrition system. Sub-contractors used to perform services for the Contractor under this contract must provide the State information pertaining to personnel and agree to the terms of this section.
- (1) All members of the Contractors project team must be current members of the Contractor's regular organizational staff with experience within the company in school nutrition data development and implementation activities. Team members must have at a minimum technical experience, knowledge, and operational experience in the following areas:
 - i. managing or coordinating the development and implementation of large scale school nutrition programs,
 - ii. communicating effectively both orally and in writing,
 - iii. managing large scale data integration systems
 - (2) The Contractor shall provide a personnel roster and resumes of project team members who shall be assigned to perform duties or services under this Contract.
 - (3) The Contractor shall not remove or reassign key personnel (including: Program Manager, Project Manager, Project Coordinator, Software Project Manager, Lead Software Developer, and other personnel in Lead or Director level positions) without prior written approval of the State.
 - (4) The Contractor shall provide qualified replacements in the event that key personnel become unavailable to provide services due to resignation, illness, or other factors outside of the Contractor's control. The Contractor shall provide the State with written notice immediately upon determination of the need for replacement personnel. The Contractor shall provide the State with written notification and the resume or vitae of all personnel proposed for the project team for review and written approval, for which approval shall not be unreasonably withheld.

- b. **Continuity of Contracts:** The Contractor shall maintain the established project team, especially the Project Coordinator and other key lead personnel through the end of the contract, including completion and delivery of all services and deliverables, to work with the State to ensure a smooth and seamless transition.
- c. **Management Meetings:** The Contractor shall:
- (1) Provide for a minimum of one monthly management meeting between the Contractor and State staff. These management meetings shall include review of the Work Plan and provide an opportunity to discuss task implementation and status.
 - (2) Produce quarterly progress reports with relevant tasks and activities from the schedule and progress noted for each. Progress reports shall include a report of activities completed during the prior quarter. The reports shall provide a list of significant operational problems needing corrective action and shall address the following elements for each problem:
 - i. identify the problem,
 - ii. assign responsibility for taking corrective action,
 - iii. evaluate the importance of the problem,
 - iv. investigate possible causes of the problem,
 - v. analyze the problem,
 - vi. recommend actions to prevent recurrence of this or similar problems,
 - vii. implement new process controls as necessary,
 - viii. determine what to do with the failed items, and
 - ix. record permanent changes in process documentation.
 - (3) Each quarterly progress report shall also contain:
 - i. a section that summarizes questions or complaints,
 - ii. a section that addresses issues or problems raised by the State,
 - iii. a section that addresses ongoing problems,
 - iv. a section that details the invoices submitted and paid, and
 - v. an executive summary that provides an informative and substantive description of the major problems and recommendations.

Unanticipated issues or problems shall be reported and addressed as they occur. All progress reports should be submitted in a format and layout approved by the State in Microsoft Word or Microsoft Excel via email.

- d. **Records and Minutes:** The Contractor shall take minutes and record lists of participants, for all meetings. All minutes, records and lists of participants shall be provided by the Contractor to the State for review and approval after each meeting. All records and minutes should be provided in a State approved style and format in Microsoft Word via email or other electronic media. The Contractor shall review contact information for each meeting and update contact information if changed.
- e. **New Software Releases –** New software versions will not be released to State end users until tested and approved by the State. The contractor shall provide the proposed software release to the State for acceptance/ regression testing. The contractor shall support such testing as required by the State. The contractor shall release the tested software version to State users only when authorized in writing by the State."
- A.7. **Development Activities:** The Contractor shall provide a computer software system that:
- a. Allows eight defined users with varying aspects of security and functionality. These are grouped by major areas and are not in priority order. There are eight different user roles in the system. Those roles, their description, and their general data access privileges are listed below.

Role	Role Description	Has Access to SNP Data For:
School Food Authority (SFA)	Local Education Agency, Charter	Enter, view, and change their Agreement, Claims, Direct

	School, Residential Child Care Institution, or Private School	Certification and Medicaid information and reports only
SNP Claims	Reviews submitted claims and moves those claims to the pay list or on hold	Process claims, state matching, and generates USDA reports
SNP Consultants/Coordinators	Performs on-site reviews of the school nutrition programs	Read only claims, generate reports, agreements for any SFA. For Audit information, update the information of any SFA
SNP Review Coordinator	Oversees the Administrative Review Process	Read only claims, generate reports, agreement for any SFA. Can update the Audit information of any SFA
SNP Administrator	Oversees the entire School Nutrition Program	Create new forms in Audit and Agreement function. Update in Agreement and Audit function. Modify in Claims function of any SFA
SNP Technical Administrator	Oversees the technology of the entire School Nutrition Program system	Create new forms in Audit and Agreement function. Update in Agreement and Audit function. Modify in Claims function of any SFA; create new reports, make minor system adjustments
SNP Support Staff	Works with consultants and supervisors	Read only for any SFA Claim and Agreement data
Public	Requests varying degrees of information	Read only for local data and statewide data

- b. Provides the following general requirements:
- (1) All users must access the components of the School Nutrition Program System through a single point of entry (portal). The single point of entry is a public domain website which contains public information on the School Nutrition Program provided by the State.
 - (2) Access to all other application components listed in this document must be restricted by role based security. Roles will be determined by user-ids and password
 - (3) The same individual cannot be assigned to two different roles within the same SFA. This is in order to comply with audit requirements (two different review signatures).
 - (4) Access to the different components of the system listed in this document must be secured (restricted) by unique user-ids and passwords that will be defined by the vendor with input from SNP staff.
 - (5) The system must conform to World Wide Web Consortium (W3C) and be Schools Interoperability Framework (SIF) compliant.
 - (6) The following documentation and help files must be part of the initial system delivery and implementation: 1) Functional Specifications; 2) Technical Specifications; 3) User Guide; 4) On-line help.
 - (7) The system must provide an interface for the Administrators and SNP Claims to update school year and fiscal year parameters that allow for continuity of claims processing.

- (8) The system must be designed to process claims by program as a self-sufficient component, in order to facilitate the addition, removal or changes in programs over time. (For instance; if a state payment for reduced students were to be added, the effort to add it would be minor and would not require a complete overhaul of the system; same for regulatory changes to different programs).
 - (9) The system must provide an interface for the SNP Administrators to enter the rates to be used for the programs and meal categories once a year. The rates are provided by USDA and no other user has access to add / update / delete the rates.
 - (10) The system must allow for reviewing the rates history upon entry of the range date (year)
 - (11) The system must store data in non-proprietary format, in a relational SQL database that records one fact in one place; that is organized so that it is understandable to business analysts; and uses table names and column names that are meaningful, such that the data is externally queryable without using vendor's application. The system must be able to export all data elements contained in the system.
 - (12) The system must display on a screen a listing of all users, including State users, who have access to the system. The Administrators must be able to use this display. The display and corresponding printed report must list the SFA, user first name, user last name, user-id, and user role(s). Both outputs must have a primary sort on SFA and secondary sort on user last name. The security Administrator must be able to make either single or multiple (to include "ALL") choice of the SFAs in the system for display / printing.
 - (13) The system must allow the Technology Administrators to make minor updates in the program working with the contractor.
 - (14) The system must store in a SQL database 15 years' worth of claims and claims amendments. SNP Claims, the SNP CN Administrator, and the SNP CN Consultant must be able to view claims, amendments and then sort them based on the following criteria: 1) SFA / Charter / RCCI / Private, 2) Date. Ten years of our current claims data requires 300 megabytes of storage.
 - (15) The system must incorporate all State specific identifiers such as name of state, state seal, appropriate Tennessee addresses, Tennessee terminology, Tennessee specific tables such as Tennessee Department of Education regional offices, regional staff, and Tennessee counties covered by each office and Tennessee congressional districts.
- c. Provides for the following integration:
- (1) The vendor must perform data migration / conversion between the existing EasySoft system and replacement system.
 - (2) The system must generate a file compliant with the State payment process to pay claim.
 - (3) The system must provide the ability to upload the Excel spreadsheet from the State that contains the information on Unrestricted Indirect Cost rate per unit. This information must be pre-populated into the Agreement.
 - (4) The system must upload each of the Department of Human Services (DHS) provided files over the course of the year, including direct certification and direct verification information.

- (5) The subset file downloaded by the SFA to support their direct certification processes must be a compatible (comma delimited, tab delimited, or formatted text) with existing vendors software, at the county level that are currently performing automated verification of eligibility.
 - (6) The system must provide the ability for the SFA user to select more than one month and more than one county's DHS information for download into a comma delimited, tab delimited, or formatted text file.
 - (7) The data collection / upload mechanism for the student eligibility data must interface / support the vendors within the State that process Eligibility for the SFAs. A list of software vendors currently being used in the State will be provided upon request.
 - (8) Support role base security for each of the following system user type: 1) SFA, 2) SNP Claims, 3) SNP Consultants/Coordinators, 4) SNP Administrator, 5) SNP Technical Administrator, 6) SNP Support Staff 7) Superintendents/Directors of Schools, 8) View Only for public.
- d. Provides the following USDA and Tennessee Program Application functionality:
- (1) The system must allow the SFA administrator to submit (first time) and renew once a year (by June 30) the School Nutrition Program Agreement on-line. The Agreement is a legally binding document which includes multiple sections. No other users are authorized to submit, renew or amend Agreements. Elements of the Agreement include all items in the application, Free and Reduced Price Policy Statement, Schedule A, Collection Procedures, Eligibility Templates, Tennessee Certificate of Compliance, Tennessee Breakfast Waiver, Tennessee Agriculture Compliance, and Food Service Management Company (FSMC) and addendum. Once required criteria are submitted, the agreement must be automatically approved.
 - (2) The SFA administrator must be able to submit amendments to the Agreements as needed.
 - (3) The system must be able to transfer data from the current Easy Soft System for each of the agreement elements.
 - (4) Each SFA type must follow the appropriate Agreement preparation and/or renewal process based on the specific requirements of the user institution.
 - (5) A flow chart format must be used to direct the user to the areas of the SNP agreement that pertains to the type of user.
 - (6) The system must track program participation information (by school or other individual site) for the School Breakfast Program, School Lunch Program, Seamless Summer Option, Special Milk Program and After School Snack Program.
 - (7) The system must allow the SFA School Nutrition Administrator to re-submit forms following denial. No duplicate submissions are allowed.
 - (8) The School Nutrition Program Agreement must contain all elements currently in the Agreement Application (see snp.state.tn.us/tn doe: log in Viewer, password – test).
 - (9) All sections of the Agreement must be completed before the SFA administrator can submit the agreement for approval, including adult meal prices.
 - (10) Upon completion of the Agreement page, the SFA administrator must be prompted to agree/disagree with the submitted information. Agreement is required to flag the section as ready for superintendent review.

- (11) Upon review by the Superintendent/Director of Schools, the Superintendent /Director of Schools must be asked to agree/disagree with the submitted information. Agreement is required to flag the section as completed for submittal.
- (12) The Policy Statement must contain the following information: SFA number / Name, legal information; contact / liaison information and Name page (signature page). See snp.state.tn.us, choose Start Up package, Name Viewer, Password test.
- (13) Upon completion of the Policy statement page, the SFA administrator must be prompted to agree / disagree with the submitted information. Agreement is required to flag the section as ready for Superintendent/Director of Schools review.
- (14) Upon review by the Superintendent/Director of Schools, the Superintendent/Director of Schools must be notified and have the ability to agree / disagree with the submitted information. Agreement is required to flag the section as completed for submittal.
- (15) Application should contain the following information: SFA code / Name and contact information for each school: school code, name, type of program, Grade level, Severe need status; Needy %; State and Federal participation per program (Lunch Milk, Breakfast, Summer Seamless Option) and area eligible. The SFA administrator must mark it as completed.
- (16) The Collection Procedure Form must contain the following information per SFA: school code and name, collection procedure number per program and an Offer Vs. Serve check. The collection and accountability procedures are part of the Collection Procedure form.
- (17) Eligibility Forms templates. Multiple types of eligibility form templates must be available to be selected (the templates must be available for review and download). The SFA administrator must select the template that more closely conforms to the form they use.
- (18) The system must provide a means to add / remove eligibility form templates
- (19) The system supports the following statuses for an Agreement: 1) Submitted (new agreement), 2) Renewed (once a year agreement renewal), 3) Amended, 4) Approved, 5) Additional information required.
- (20) The system must transfer data for selected elements of the SNP Agreement from the prior year to the current year; the user must make modifications to the prior year information/data as needed to make the data current. This has to be done before a claim is accepted by the system.
- (21) The SNP Administrators must have access to a date-parameter interface that allows them to setup the time window for Agreement/Application renewal and the Consolidated Unit Screen submission. (For instance, setting up a 45 day window).
- (22) The time renewal window for SFA agreement must be able to be set from one day to multiple months. The SNP Administrators must be able to update it at any time.
- (23) The system must consolidate, in one screen, the information required on the current EasySoft system Schedule A (by school), Application, and Agreement. The new screen, referred to as the Consolidated Unit Screen is submitted on-line. The information required is: 1) For the SFA: School year; SFA code and address, superintendent/director of schools, state educational region, School

Nutrition Director/Supervisor and school nutrition supervisor names, phone numbers and e-mail identification data; Summary schools information; Rates and the % of free and reduced from the last two years . (Note; the Free and Reduced Price percentage is calculated from the site information on application at the unit level for the two prior years). 2) For each school within the SFA: School identification and contact information, TN congressional district, US Congressional district, principal and manager of cafeteria name and contact information; program participation; Number of Health Inspections (0,1,2) and explanation if less than 2; Grade level, ADA; ADM; # children each approved for free, reduced and for paid meals; percentages based on those numbers; Severe Need status; type of site and serving times for breakfast, lunch, and snack.

- (24) Part of the information for the Consolidated Unit Screen must be automatically populated from the Application form of the Agreement. Amendments to the Agreement that updates the Application information must automatically update this screen.
 - (25) The SFA administrator must be able to make updates to the Consolidated Unit Screen at any time and submit them. The system must save partial data entry for the Consolidated Unit Screen without it being flagged as submitted.
 - (26) The Consolidated Unit Screen must be updated as required. Application data should be updated by school in June and October.
 - (27) The system must not allow claim submissions from SFAs that have not processed the renewal Agreements or submissions within the timeframe set-up by the School Nutrition Administrators.
 - (28) The SFA administrator must be able to review their SFA's Agreement and amendments. No access to other SFA's agreements is available. The system must allow a sort by date.
 - (29) The SFA administrator must be able to review their SFA's Consolidated Unit Screen and amendments. No access to other SFA's agreements is available. The system must allow a sort by date.
 - (30) SNP Claims and the SNP Administrators must be able to view and generate the following exports from the system (statewide) based on SFA type: numbers of free and reduce lunch student counts used to calculate percentages of Free and reduced by school and by year.
- e. Provides the following USDA Claim functionality:
- (1) The system must ensure all claims are submitted by the SFA and/or Administrators. No other users are allowed to submit claims.
 - (2) The system must ensure all School Nutrition Claims are processed based on monthly meal participation by category multiplied by USDA reimbursement rate. Claims processing is based exclusively on participation as required by USDA Federal regulations
 - (3) The system must ensure meal counts per SFA category are required to process the monthly claims. NO individual school meal count data are required for claims processing.
 - (4) The system must allow year round processing of School Nutrition claims for all Federal and State programs - Breakfast, Lunch, Special Milk, Seamless Summer Food Service and After School Snack Programs, and other special programs and grants such as the Fresh Fruit and Vegetable Program (FFVP).

- (5) The system must process claims year-round (claim processing will not be stopped during the summer to process school year and fiscal year change maintenance jobs).
- (6) The system must support the following statuses for submitted claims and claims amendments:
 - i. On-hold
 - ii. Denied
 - iii. To pay list
 - iv. Paid(or other similar terminology to reflect these statuses)
- (7) The system must allow SNP Claims and SNP Administrators to manually withhold claims for cause.
- (8) The system must allow SNP Claims to place all reviewed claims or amendments into one of the following statuses:
 - i. On hold
 - ii. To pay list
- (9) The system must allow SNP Claims must be able to review this pay list and possibly move some of the claims to "on hold" status if necessary. SNP Claims must be able to put claims on hold or release claims for payment without interference to other claims processing, even for the same SFA, across any date at any time.
- (10) The system must allow for multiple fiscal years to be processed within the same pay list.
- (11) Upon confirmation of submission for payment by SNP Claims, the system must generate the payment file.
- (12) The system must have a screen that allows SNP Claims to select the sponsor/unit number and the payment type (example: lunch, milk, and regular breakfast).
- (13) The SFA administrators must be able to review their unit's claims and claim amendment status. No access to other unit's claims is available.
- (14) The system must allow approved users (based on their role) to view claims and sort them based on the following criteria :
 - i. kind of SFA ("All" must be an option)
 - ii. claim status: submitted, on-hold
 - iii. denied
 - iv. to pay list, paid
 - v. date range
- (15) The SFA administrator must be allowed to submit claims only within the allowed window of submission within USDA defined parameters.
- (16) SNP Claims must be able to submit claims for all School Food Authorities without any time restriction.
- (17) The system must accept a claim that is consistent with the information in the application / Agreement and must deny with an error message claims that should not be submitted.
- (18) The system must indicate to the user the claims items were inconsistent with the information in the application / Agreement.

- (19) The system must tag the original Claim submission and each amendment with an audit trail that notes if the claim is an original or an amendment, an amendment number, the data changed, the user-ids that submitted the change and the date of the amendment.
 - (20) Currently program application information is required once a year, by June 30. The system must provide an upload mechanism with the flexibility to increase the number of uploads per year as needed.
 - (21) SNP Claims, SNP Consultant and SNP Administrators must be available to review on-line the application information sorted by SFA.
 - (22) The SFA administrators must be able to enter monthly income and expenditures as part of the claim.
 - (23) The system must reject any applications, claims, and other information that does not meet the edits required by federal (USDA) regulations.
 - (24) The system must withhold claims from all SFAs with more than 3 months operating balance until State agency receives and approves a spend-down plan. This plan is due to the state annually no later than September 15.
- f. Provides the ability to perform Direct Certification and Direct Verification:
- (1) The SFA must have the ability to access the original DHS annual file and the monthly updates independently listed and easily identified (date) to directly certify students for meal eligibility.
 - (2) The system must allow creation of a Direct Certification file for download based on the following selection criteria: One or multiple counties can be selected.
 - (3) The SFA must have the ability to access the annual DHS Medicaid file for Direct Verification of students.
 - (4) The system must allow creation of a Direct Verification file for download based on the following selection criteria: One or multiple counties can be selected.
 - (5) The system must allow for removal of the posted files in a timely fashion, as regulated by the memorandum of agreement between the state and Tennessee Department of Human Services.
- g. Provides the following Audit, Coordinated Review Effort (CRE), Administrative Review functionality
- (1) The system must allow the School Food Authority to upload information needed for the review from the SFA.
 - (2) SNP Consultant/Coordinator, Administrators, SNP Review Coordinator, and Claims must be able to conduct CRE Reviews on a standalone laptop at the SFA site and then be able to upload to a website at a later time.
 - (3) The system must allow multiple reviewers to gather information for the same SFA review. The standalone laptop system must be able to merge multiple reviewer information at the review site and allow an upload of this data at a later time to the central database.
 - (4) SNP Consultant/Coordinator, Administrators, SNP Review Coordinator and Claims must be able to complete the USDA Critical Worksheets while on-site on a standalone laptop and be able to upload to a website at a later time.
 - (5) SNP Consultant/Coordinator, Administrators, SNP Review Coordinator and Claims must be able to complete the USDA/State General Area Worksheets while on-site on a standalone laptop and upload to a website at a later time.

- (6) SNP Consultant/Coordinator, Administrators, SNP Review Coordinator and Claims must be able to complete the USDA Fiscal Worksheets while on-site on a standalone laptop and upload to a website at a later time.
 - (7) SNP Consultant/Coordinator, Administrators, SNP Review Coordinator and Claims must be able to complete the USDA Worksheets W-2 and W-5 while on-site on a standalone laptop and upload to a website at a later time.
 - (8) SNP Consultant/Coordinator, Administrators, SNP Review Coordinator and Claims must be able to complete all USDA Worksheets and Snack while on-site on a standalone laptop and upload to a website at a later time.
 - (9) SNP Consultant/Coordinator, Administrators, and Claims must be able to complete the USDA/State School Meal Initiative (SMI) Review Worksheets while on-site on a standalone laptop and upload to a website at a later time.
 - (10) The system must allow the School Food Authority to enter, change, and submit the Corrective Action Plan Report on-line.
 - (11) The system must provide the SNP Review Coordinator the ability to track the CRE progress throughout the review period.
 - (12) The system must allow the SNP Review Coordinator to close out the review once all CRE steps have been successfully completed. It will not be necessary to re-open a review once it is closed.
 - (13) The system must have the ability to allow SNP-Administrators to add additional review areas as needed to ensure compliance with State Statutes and/or State Board Policies.
 - (14) The SFA must have the ability to upload the verification summary with edit checks to ensure that all required fields contain data. Verification reports that are incomplete or not in compliance with USDA Verification requirements must be held in error until corrected by the SFA.
 - (15) The SFA must have the ability to review and update their verification reports in error.
 - (16) The system must allow the SNP Review Coordinator to automatically generate the USDA Corrective Action Plan Report.
 - (17) The system must allow the SNP Review Coordinator to automatically complete the USDA 640 Report after each CRE is complete and approved.
 - (18) The system must provide the SNP Review Coordinator the ability to complete the USDA FNS-640 Annual Report for the entire CRE year.
 - (19) The system must provide SNP Administrators the ability to prepare individual verification reports according to USDA requirements. Verification reports must be able to handle up to 1,000 entries/names.
 - (20) The system must be able to compile, aggregate and sort Verification data in order for the SNP Administrators to generate required USDA Verification Report.
- h. Provides the following automated notifications:
- The system must be able to notify appropriate system users as described below:
- (1) The system must notify the SNP Claims that a claims submission or amendment is available for review and/or approval.

- (2) The system must notify SNP Administrators and the appropriate SNP Consultants/Coordinators via email of all SFAs in their region with greater than 3 months operating balance when a claim is submitted.
 - (3) The system must notify the appropriate regional SNP Consultants/Coordinators via email of all SFAs in their region that submit a claim that does not meet the edit check criteria.
 - (4) The system must notify SFA School Nutrition Administrators with an operating balance higher than 3 months via email when their claim for reimbursement is submitted.
 - (5) The SNP Administrators must be notified electronically of the agreement status; the user must automatically be notified of the agreement status (approval status).
 - (6) The system must notify SFA School Nutrition Administrators participating in the Seamless Summer Food Service Program that they are to update the appropriate mechanism with meal sites; all sites must be approved by the SNP Coordinator/SNP Administrator before the SFA may enter a claim.
 - (7) The system must notify SFA School Nutrition Administrators participating in the Special Milk Program to complete the annual site approval document; all sites must be automatically approved before the SFA School Nutrition Administrator may enter a claim.
 - (8) The system must notify the SFA School Nutrition Administrator of Summer Seamless Option and special Milk Program site approval when approved.
 - (9) The system must notify the SFA School Nutrition Administrator when a Summer Seamless Option site is denied and reason for denial.
 - (10) The system must notify the SNP Administrators and SNP Review Coordinator that the SFA Corrective Action Plan has been completed and is ready for review.
 - (11) The system must allow the SNP Review Coordinator to automatically send the USDA Corrective Action Plan Report via email to the SFA.
- i. Provides the following reports locally and online: The system must produce all reports in a print preview display that provides the option of exporting the report data in either a comma delimited or excel file and/or printing the report. SNP Administrator and SNP Technical Administrator can produce all reports.
- (1) SNP Claims must be able to generate the USDA FNS-10 report in the format and date ranges specified by the USDA.
 - (2) SNP Claims must be able generate the USDA FNS-269 report in the format and date ranges specified by the USDA.
 - (3) SNP Claims must be able to generate a Claims Audit trail export by SFA by selected SFA(s) and within the specified time frame. The report will provide the following information for each SFA Claim for reimbursement: Date original claim submitted, user-id of SFA Administrator submitting the claim, and reimbursement by category; date of each amendment, user-id of SFA Administrator that submitted the amended claim, data changed, and resulting change in reimbursement by category.
 - (4) SNP Claims must be able to generate a pay list information report. The pay list information report contains the following information:
 - i. Pay list date range
 - ii. SFA type (Charter, RCCI, Private, Public, State)
 - iii. Claim / amendment month

- iv. Date payment generated for Local Payments
 - v. Reimbursement amount by grant number
 - vi. Pay List #
- (5) The SFA Administrator must be able to generate a Claims Payment Summary Report for their SFA.
- (6) SNP Claims must be able to generate a Claims status report. The Claims status report contains the following information:
- i. Date range selected
 - ii. SFA (Charter, RCCI)
 - iii. List of claims and amendments per SFA within period
 - iv. Status of each claim / amendment: submitted, on-hold, paid
 - v. Date of Local Payment selection and pay list number
 - vi. Total amount per status (submitted or on-hold).
- (7) SNP Claims must be able to generate a Pay list history report. The Pay list history report contains the following information per pay list number selected:
- i. Current year and last year
 - ii. Meal type
 - iii. Number of meals
 - iv. Meal Rates
 - v. Amount
- (8) SNP Claims must be able to generate the Excess Balance report listing SFA that have an excess balance (an operating balance greater than three times average expenses) and the amount in excess.
- (9) SNP Claims must be able to generate the Breakfast Waiver report required by state law. The Breakfast Waiver report contains the following information: breakfast waivers required based on state law and breakfast waivers submitted by state and by State Legislative District.
- (10) SNP Claims must be able to generate the following statewide reports from the system by SFA: 1) Monthly statistics for Lunch, Breakfast, Milk, Severe Need, Snacks, Seamless Summer Option (SSO), Additional .02 cents, and other programs. This includes dollar amounts as well as number for participation.
- (11) SNP Claims must be able to generate the following reports from the system: Free and reduced Lunch data year-to-date per SFA type.
- (12) SNP Claims and SNP Consultants/Coordinators must be able generate the following reports from the system by region:
- i. late claims report
 - ii. late and/or incomplete applications report
 - iii. late breakfast waiver reports
- (13) SNP Claims must be able to generate a Seamless Summer Option report of claims data for any month, combination of months or the entire school year by SFA.
- (14) SNP Claims and SNP Consultants/Coordinators must be able to generate the following miscellaneous exports from the system per year:
- i. summary of monthly meal participation
 - ii. average daily participation per program

- (15) The SNP Claims must be able to generate the confirmation of reimbursement report. The information contained in that report is:
 - i. historical per meal type summary table plus pay list dates
 - ii. current year, per month, per meal type and pay list date
 - iii. summary line with totals per current year.
 - (16) SNP Consultants/Coordinators must be able to generate a Free and Reduced Percentage report by school/site, district, region, legislative district, or congressional district by year from yearly application data.
 - (17) SNP Consultants/Coordinators must be able to generate a Free and Reduced Percentage report by district, region, legislative district, or congressional district by selected month/year/range of months from monthly claim data.
 - (18) SNP Consultants/Coordinators must be able to generate an SFA Agreement status report by region.
 - (19) SNP Consultants/Coordinators must be able to generate the following agreement-related reports: Audit trail report on Amendments to the SFA Agreement per year (amendments to either original or the yearly renewal) with the following information: data elements changed, author and date of changes and date of approval.
 - (20) SNP Claims SNP Consultants/Coordinators must be able to generate a tracking report of the SFA renewal progress. The information consists of a list of the SFA's and missing information.
 - (21) SNP Consultants/Coordinators must be able to generate an Audit trail report on Amendments to the Consolidated Unit Screen with the following information: data elements changed, author and date of changes.
 - (22) SNP Consultants/Coordinators must be able to generate a Agreement Approval Status report. The information consists of both time and count data. The time data is the date and time of the display. The count data consists of the number of Agreements with the following status:
 - i. submitted / pending approval,
 - ii. approved,
 - iii. returned for correction,
 - iv. corrections made / resubmitted,
 - v. not approved, and
 - vi. not submitted.
 - (23) The SNP Consultants/Coordinators and the SNP Review Consultant must be able to generate the USDA Correction Action Plan Report.
 - (24) The SNP Review Consultant must be able to generate the USDA 640 Report after CRE is complete and the CRE is approved by SNP.
 - (25) The SNP Review Consultant must be able to generate the USDA FNS-640 Annual Report for the entire CRE year.
 - (26) SNP Administrators must be able to generate the USDA Verification Report.
- j. Change Orders. The State may, at its sole discretion and with written notice to the Contractor, request changes in the scope of services that are necessary but were inadvertently unspecified in the scope of services of this Contract.
- a. Memorandum of Understanding— No event more than ten (10) business days after receipt of a written change order request from the State, the Contractor

shall respond with a written proposal for completing the service. Said proposal must specify:

- (1) the effect, if any, of implementing the requested change(s) on all other services required under this Contract;
- (2) the specific effort involved in completing the change(s);
- (3) the expected schedule for completing the change(s);
- (4) the maximum number and position type of person hours required for the change(s); and
- (5) the maximum materials and associated actual costs required for the change(s); and
- (6) the maximum cost for the change(s), PROVIDED THAT such maximum cost shall not exceed the product of the of person hours required multiplied by the appropriate payment rate proposed for change order work plus the actual cost of materials, if any required.

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

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

B. CONTRACT TERM:

This Contract shall be effective for the period commencing on July 15, 2010 and ending on July 14, 2015. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed Five Hundred Forty-Four Thousand Nine Hundred Dollars and No Cents (\$544,900.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

- C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service.
 - 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)
Comprehensive SNP Reporting System –including base product, modifications required to base product for all functions in Scope of Services A.7 not found in base product, modifications required unique to Tennessee, and Tennessee terminology and state legal requirements/laws such as Tennessee's breakfast waiver.	
Base product software successfully installed and tested	\$84,600.00/30% of base amount
Modifications required to base product for all functions in Scope of Services A.7 not found in base product successfully installed and tested	\$28,200.00/10% of base amount
Modifications required unique to Tennessee and Tennessee terminology and state legal requirements/laws such as Tennessee's breakfast waiver successfully installed and tested	\$28,200.00/10% of base amount
First application and agreement updated and entered successfully by a local school system, a RCCI, a charter school, milk only school, state school, private school, and camp.	\$28,200.00/10% of base amount
First claim entered by local school system and paid through the appropriate state channels and approvals.	\$28,200.00/10% of base amount
First direct certification files uploaded and made available to local SFAs.	\$28,200.00/10% of base amount
First CRE completed and information entered by staff via desktop and internet including all CRE forms, reviews, documentation and letters.	\$56,400.00/20% of base amount
Per user license cost as outlined in Scope of Services A.4.b. (To include internet and local area network users)	\$0.00/PER USER
Training costs per hour– not included in Comprehensive SNP Reporting System not to exceed 20 hrs per year as outlined in Scope of Services A.4.c (2).	\$87.00/PER HOUR

Yearly maintenance fee after initial installation year as referenced in Scope of Services A.4.b (4).	\$56,500.00/PER YEAR
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- c. The Contractor shall not be compensated for travel time to the primary location of service provision.
- d. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.7.j, without a formal amendment of this contract based upon the payment rates detailed in the schedule below and as agreed pursuant to said Section A.7.j, PROVIDED THAT compensation to the Contractor for such "change order" work shall not exceed TEN PERCENT (10%) of the base amount for the Comprehensive SNP Reporting System. If, at any point during the Contract period, the State determines that the cost of necessary "change order" work would exceed said maximum amount, the State may amend this Contract to address the need.

Change Order Service Description	Amount (per compensable increment)
Application Systems Analyst	\$125.00/PER HOUR
System Administrator	\$125.00/PER HOUR
Programmer	\$87.00/PER HOUR
Software Engineer	\$87.00/PER HOUR

- e. For each approved Memorandum of Understanding (MOU) applicable to Change Orders involving material costs, the State will reimburse the Contractor for actual costs of approved materials.
- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in Section C.3, above, and as required below prior to any payment.
- a. The Contractor shall submit invoices no more often than monthly, with all necessary supporting documentation, to:
- TN Department of Education
State Director
School Nutrition Program
1240 Foster Avenue
Nashville, TN 37243-0389
- b. The Contractor agrees that each invoice submitted shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information:
- (1) Invoice/Reference Number (assigned by the Contractor);
 - (2) Invoice Date;
 - (3) Invoice Period (period to which all invoiced charges are applicable);
 - (4) Contract Number (assigned by the State to this Contract);
 - (5) Account Name: Department of Education & School Nutrition Program;
 - (6) Account/Customer Number (uniquely assigned by the Contractor to the above-referenced Account Name);
 - (7) Contractor Name;
 - (8) Contractor Federal Employer Identification Number or Social Security Number (as referenced in this Contract);

- (9) Contractor Contact (name, phone, and/or fax for the individual to contact with billing questions);
 - (10) Contractor Remittance Address;
 - (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name /title as applicable) of each service invoiced;
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced;
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced;
 - iv. Amount Due by Service; and
 - v. Total Amount Due for the invoice period.
- c. The Contractor understands and agrees that an invoice to the State under this Contract shall:
- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
 - (2) not include any future work but will only be submitted for completed service; and
 - (3) not include sales tax or shipping charges.
- d. The Contractor agrees that timeframe for payment (and any discounts) begins when the State is in receipt of each invoice meeting the minimum requirements above.
- e. The Contractor shall complete and sign a "Substitute W-9 Form" provided to the Contractor by the State. The taxpayer identification number contained in the Substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor. The Contractor shall not invoice the State for services until the State has received this completed form.
- C.6. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any Contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other Contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.
- D. STANDARD TERMS AND CONDITIONS:**
- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.

- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least sixty (60) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.
- a. The Contractor hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document 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:

Sarah White, State Director
 School Nutrition Program
 1240 Foster Avenue
 Nashville, TN 37243-0389
 Sarah.C.White@tn.gov
 Telephone # 615-532-4714
 FAX # 615-532-0362

The Contractor:

Jeff Colyar, President
 Colyar Consulting Group, Inc.
 22420 N. 18th Drive
 Phoenix, AZ 85037
 jeff.colyar@ccglink.com
 Telephone # 623-209-1717

FAX # 623-209-1718

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

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.5. Voluntary Buyout Program. The Contractor acknowledges and understands that, for a period of two years beginning August 16, 2008, restrictions are imposed on former state employees who received a State of Tennessee Voluntary Buyout Program (VBP) severance payment with regard to contracts with state agencies that participated in the VBP.
- a. The State will not contract with either a former state employee who received a VBP severance payment or an entity in which a former state employee who received a VBP severance payment or the spouse of such an individual holds a controlling financial interest.
 - b. The State may contract with an entity with which a former state employee who received a VBP severance payment is an employee or an independent contractor. Notwithstanding the foregoing, the Contractor understands and agrees that there may be unique business circumstances under which a return to work by a former state employee who received a VBP severance payment as an employee or an independent contractor of a State contractor would not be appropriate, and in such cases the State may refuse Contractor personnel. Inasmuch, it shall be the responsibility of the State to review Contractor personnel to identify any such issues.
 - c. With reference to either subsection a. or b. above, a contractor may submit a written request for a waiver of the VBP restrictions regarding a former state employee and a contract with a state agency that participated in the VBP. Any such request must be submitted to the State in the form of the *VBP Contracting Restriction Waiver Request* format available from the State and the Internet at: www.state.tn.us/finance/rds/ocr/waiver.html. The determination on such a request shall be at the sole discretion of the head of the state agency that is a Party to this Contract, the Commissioner of Finance and Administration, and the Commissioner of Human Resources.
- E.6. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information

in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.

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

E.7. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).

E.8. Ownership of Software and Work Products.

a. Definitions.

- (1) "Contractor-Owned Software," which shall mean commercially available software the rights to which are owned by Contractor, including but not limited to commercial "off-the-shelf" software which is not developed using State's money or resources.
- (2) "Custom-Developed Application Software," which shall mean customized application software developed by Contractor solely for State.
- (3) "Rights Transfer Application Software," which shall mean any pre-existing application software owned by Contractor or a third party, provided to State and to which Contractor will grant and assign, or will facilitate the granting and assignment of, all rights, including the source code, to State.
- (4) "Third-Party Software," which shall mean software not owned by the State or the Contractor.
- (5) "Work Product," which shall mean all deliverables exclusive of hardware, such as software, software source code, documentation, planning, etc., that are created, designed, developed, or documented by the Contractor for the State during the course of the project using State's money or resources, including Custom-Developed Application Software. If the system solution includes Rights Transfer Application Software, the definition of Work Product shall also include such software.

b. Rights and Title to the Software

- (1) All right, title and interest in and to the Contractor-Owned Software shall at all times remain with Contractor, subject to any license granted herein.
- (2) All right, title and interest in and to the Work Product, and to modifications thereof made by State, including without limitation all copyrights, patents, trade secrets and other intellectual property and other proprietary rights embodied by and

arising out of the Work Product, shall belong to State. To the extent such rights do not automatically belong to State, Contractor hereby assigns, transfers, and conveys all right, title and interest in and to the Work Product, including without limitation the copyrights, patents, trade secrets, and other intellectual property rights arising out of or embodied by the Work Product. Contractor shall execute any other documents that State or its counsel deem necessary or desirable to document this transfer and/or allow State to register its claims and rights to such intellectual property rights or enforce them against third parties, and Contractor shall cooperate fully in the foregoing endeavors.

- (3) All right, title and interest in and to the Third-Party Software shall at all times remain with the third party, subject to any license granted thereby.
 - c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.
 - d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.
- E.9. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:
- a. The Contract document and its attachments
 - b. All Clarifications and addenda made to the Contractor's Proposal
 - c. The Request for Proposal and its associated amendments
 - d. Technical Specifications provided to the Contractor
 - e. The Contractor's Proposal

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

- E.10. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.
- E.11. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the

Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

E.12. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:

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

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

E.13. 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-33135-00110 (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 Business Diversity Enterprise in form and substance as required by said office.

E.14. Limitation of Liability. The parties agree that the Contractor's liability under this Contract shall be limited to an amount equal to two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this section limit the liability of the Contractor for intentional torts, criminal acts, or fraudulent conduct.

E.15. Copyrights and Patents. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State for infringement of any laws regarding patents or copyrights which may arise from the Contractor's performance of this Contract. In any such action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any final judgment for infringement. The Contractor further agrees it shall be liable for the reasonable fees of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State. The

State shall give the Contractor written notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof.

- E.16. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

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

- E.17. Breach. A party shall be deemed to have breached the Contract if any of the following occurs:

- failure to perform in accordance with any term or provision of the Contract;
- partial performance of any term or provision of the Contract;
- any act prohibited or restricted by the Contract, or
- violation of any warranty.

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

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

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

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

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

The State may assess Liquidated Damages against the Contractor for any failure to perform which ultimately results in a Partial Default with said Liquidated Damages to cease when said Partial Default is effective. Upon Partial Default, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount. Contractor agrees to cooperate fully with the State in the event a Partial Default is taken.

- (4) Contract Termination— In the event of a Breach, the State may terminate the Contract immediately or in stages. The Contractor shall be notified of the termination in writing by the State. Said notice shall hereinafter be referred to as Termination Notice. The Termination Notice may specify either that the termination is to be effective immediately, on a date certain in the future, or that the Contractor shall cease operations under this Contract in stages. In the event of a termination, the State may withhold any amounts which may be due Contractor without waiver of any other remedy or damages available to the State at law or at equity. The Contractor shall be liable to the State for any and all damages incurred by the State and any and all expenses incurred by the State which exceed the amount the State would have paid Contractor under this Contract. Contractor agrees to cooperate with the State in the event of a Contract Termination or Partial Takeover.

- b. State Breach— In the event of a Breach of Contract by the State, the Contractor shall notify the State in writing within 30 days of any Breach of Contract by the State. Said notice shall contain a description of the Breach. Failure by the Contractor to provide said written notice shall operate as an absolute waiver by the Contractor of the State's Breach. In no event shall any Breach on the part of the State excuse the Contractor from full performance under this Contract. In the event of Breach by the State, the Contractor may avail itself of any remedy at law in the forum with appropriate jurisdiction; provided, however, failure by the Contractor to give the State written notice and opportunity to cure as described herein operates as a waiver of the State's Breach. Failure by the Contractor to file a claim before the appropriate forum in Tennessee with jurisdiction to hear such claim within one (1) year of the written notice of Breach shall operate as a waiver of said claim in its entirety. It is agreed by the parties this provision establishes a contractual period of limitations for any claim brought by the Contractor.

- E.18. 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 C.

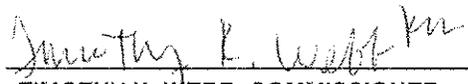
- E.19. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or contracted services. Such procurements shall be made on a competitive basis, where practical. The Contractor shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Contract. In each instance where it is determined that use of a competitive procurement method was not practical, said documentation shall include a written justification, approved by the Commissioner of the Department of Education, for such decision and non-competitive procurement.

IN WITNESS WHEREOF,

COLYAR CONSULTING GROUP, INC.:

	<i>7-19-10</i>
_____ CONTRACTOR SIGNATURE	_____ DATE
<i>Jeffrey A. Colyar, President</i>	
_____ PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)	

DEPARTMENT OF EDUCATION:

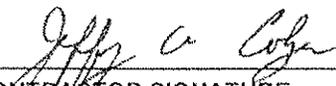
	<i>7/20/10</i>
_____ TIMOTHY K. WEBB, COMMISSIONER	_____ DATE

ATTACHMENT A

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	Colyar Consulting Group, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	86-0866675

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.

Jeffrey A Colyar, President

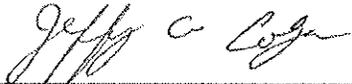
 PRINTED NAME AND TITLE OF SIGNATORY

7-19-2010

 DATE OF ATTESTATION

**ATTACHMENT B
Liquidated Damages**

Performance Area	Performance Item	Liquidated Damages
Schedules	Failure to provide Federal regulatory updates by May 1 of each year following initial installation as required in A.4.a.	\$200 per day beyond May 1 of each year following initial installation until delivered.
Administrative Activities: Training	Failure to provide training as required in A. 5.	\$200 per day based on due dates established in state-approved annual work plan until completed.
Development Activities: System function	Failure to develop the system that provides the functionality defined in A.7 a-e .	\$200 per day based on due dates established in state-approved annual work plan until completed.
Development Activities: Direct Certification and Direct Verification	Failure to develop the system that provides the functionality defined in A.7 f .	\$200 per day based on due dates established in state-approved annual work plan until completed.
Development Activities: Audit, CRE and Administrative Review Function	Failure to develop the system that provides the functionality defined in A.7 g.	\$200 per day based on due dates established in state-approved annual work plan until completed.
Development Activities: Notification functions.	Failure to develop the system that provides the functionality defined in A.7 h .	\$200 per day based on due dates established in state-approved annual work plan until completed.
Development Activities: Reports	Failure to generate required federal, state, and local reporting as defined in A. 7 i.	\$200 per day based on due dates established in state-approved annual work plan until completed.

FA CONTRACT INFORMATION SUPPLEMENT	
FOR ALL FA-TYPE CONTRACTS — COMPLETE <u>EITHER</u> SECTION A <u>OR</u> SECTION B	
Contract RFS #	33135-00110
Contractor:	Colyar Consulting Group, Inc.
SECTION A— CONTRACTOR IS AN INDIVIDUAL	SECTION B— CONTRACTOR IS A COMPANY <small>(e.g., sole proprietorship, partnership, or corporation)</small>
Is or has the contractor been a state employee? <input type="checkbox"/> NO <small>(no additional information required)</small> <input type="checkbox"/> YES	Does an individual, who is or has been a state employee, own controlling interest in (or own) the contractor company? <input checked="" type="checkbox"/> NO <small>(no additional information required)</small> <input type="checkbox"/> YES
Was such employment within the past six months? <input type="checkbox"/> NO <input type="checkbox"/> YES <small>(an approved rule exception permitting a contract within six months of employment is also required)</small>	Was such employment within the past six months? <input type="checkbox"/> NO <input type="checkbox"/> YES <small>(an approved rule exception permitting a contract within six months of employment is also required)</small>
Does the contractor receive Tennessee Consolidated Retirement System (TCRS) retirement benefits? <input type="checkbox"/> NO <input type="checkbox"/> YES <small>(the procuring agency general counsel MUST sign an analysis of this procurement using the TCRS analysis guidelines)</small>	Does the individual who owns controlling interest in the contractor company receive Tennessee Consolidated Retirement System (TCRS) retirement benefits? <input type="checkbox"/> NO <input type="checkbox"/> YES <small>(the procuring agency general counsel MUST sign an analysis of this procurement using the TCRS analysis guidelines)</small>
CONTRACTOR SIGNATURE	
 7-19-2010	
CONTRACTOR	DATE

November 2011

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	FA-11-31867-00
CONTRACTOR LEGAL ENTITY NAME:	Colyar Consulting Group, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	860866675

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.

Jeff COLYAR

PRINTED NAME AND TITLE OF SIGNATORY

10 / 17 / 2011

DATE OF ATTESTATION

33135-00110

APRIL 2011

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	FA-11-31867-00
CONTRACTOR LEGAL ENTITY NAME:	Colyar Consulting Group, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	880866875

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.

Jeffrey A. Colyar

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.

Jeffrey A. COLYAR President

PRINTED NAME AND TITLE OF SIGNATORY

3-22-2011

DATE OF ATTESTATION