

CONTRACT #18
RFS # 331.95-04510
FA # 10-30879
Edison # 17735

Education

VENDOR:
Yahasoft, 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's}
DATE: November 26, 2012
RE: Request to appear before fiscal review committee regarding FA1030879 non-competitive contract amendment

Please consider the enclosed information regarding a request for a non-competitive contract amendment between the Tennessee Department of Education (TDOE) and Yahasoft, Inc.

The proposed contract amendment will increase the maximum liability and allow the vendor to provide programming enhancements to Tennessee's Early Intervention Data System (TEIDS) during fiscal year 2013 and ongoing maintenance and support for fiscal years 2013 and 2014.

Due to challenges with the state's data center and the unique technology needs of maintaining TEIDS, the Division of Special Populations has determined that an amendment with the multi-year contract with Yahasoft, Inc. would be most cost effective in meeting the data requirements of Tennessee's Early Intervention System (TEIS) as well as uninterrupted early intervention monitoring and tracking of the Individualized Family Service Plans (IFSP's).

The State retains full ownership of this software created for TEIDS.

Thank you for your consideration.

cc: Kristen McKeever
Linda Hartbarger

**Supplemental Documentation Required for
Fiscal Review Committee**

*Contact Name:	Linda Hartbarger	*Contact Phone:	615-253-5032		
*Original Contract Number:	FA1030879	*Original RFS Number:	33195-04510		
Edison Contract Number: (if applicable)	17735	Edison RFS Number: (if applicable)	n/a		
*Original Contract Begin Date:	March 15, 2010	*Current End Date:	June 30, 2014		
Current Request Amendment Number: (if applicable)	1				
Proposed Amendment Effective Date: (if applicable)	February 1, 2013				
*Department Submitting:	Education				
*Division:	TEIS				
*Date Submitted:	November 26, 2012				
*Submitted Within Sixty (60) days: if not, explain:	Yes N/A				
*Contract Vendor Name:	Yahasoft, Inc.				
*Current Maximum Liability:	\$976,900.00				
*Current Contract Allocation by Fiscal Year: (as Shown on Most Current Fully Executed Contract Summary Sheet)					
FY:2010	FY:2011	FY:2012	FY:2013	FY2014	
\$344,970.00	\$180,551.40	\$180,551.40	\$180,551.40	\$90,275.80	
*Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from STARS or FDAS report)					
FY:2010	FY:2011	FY:2012	FY:2013	FY	FY
\$221,329.90	\$304,191.50	\$165,505.45	\$60,183.80	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:	N/A				
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:	N/A				
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:	N/A				
*Contract Funding Source/Amount:	State:	\$0.00	Federal:	\$976,900.00	
Interdepartmental:	\$0.00	Other:	\$0.00		
If "other" please define:	N/A				
Dates of All Previous Amendments or Revisions: (if applicable)	Brief Description of Actions in Previous Amendments or Revisions: (if applicable)				
N/A					
Method of Original Award: (if applicable)	Non-Competitive				

Supplemental Documentation Required for Fiscal Review Committee

*What were the projected costs of the service for the entire term of the contract prior to contract award?	Unknown
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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:2010	FY:2011	FY:2012	FY:2013	FY:2014
TEIDS Programming and Development	\$183,340.00	\$161,640.00	N/A	\$196,914.00	N/A
TEIDS Maintenance and Support	\$37,989.90	\$142,551.50	\$165,505.45	\$275,633.35	\$250,411.80
TOTAL	\$221,329.90	\$304,191.50	\$165,505.45	\$472,547.35	\$250,411.80

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.

PROPOSED SAVINGS BASED ON THE DIFFERENCE BETWEEN HOW MUCH IT WOULD COST FOR THE STATE TO PERFORM THE SERVICES VERSUS HOW MUCH IT WILL COST FOR THE VENDOR TO PERFORM THE SERVICES.

Deliverable description:	FY:2010	FY:2011	FY:2012	FY:2013	FY:2014
TEIDS Programming and Development	\$100,000.00	\$0.00	\$0.00	\$34,086.00	\$0.00
TEIDS Maintenance and Support	\$138,670.10	(\$69,063.50)	\$69,622.55	\$106,106.65	\$290,194.20
TOTAL	\$238,670.10	(\$69,063.50)	\$69,622.55	\$140,192.65	\$290,194.20

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.

State OIR Data Center & TDOE IT	FY:2010	FY:2011	FY:2012	FY:2013	FY:2014
TEIDS Programming and Development See Attachment A	\$460,000.00	\$235,128.00	\$235,128.00	\$215,173.00	\$207,471.00
TEIDS Maintenance and Support See Attachment A	\$0.00	\$0.00	\$0.00	\$397,567.00	\$333,135.00
TOTAL	\$460,000.00	\$235,128.00	\$235,128.00	\$612,740.00	\$540,606.00

Supplemental Documentation Required for Fiscal Review Committee

ATTACHMENT A OIR/DOE DATA CENTER COST COMPARISON

The estimated annual cost to the State for developing and keeping TEIDS in place from 3/15/10 through 6/30/14 via the State Data Center would total **\$2,083,602.00** as follows:

Personnel 8.3 Full Time Equivalents (FTE)	Total Cost
Department of Education (DOE) Programmer/Analyst-1.0 FTE salary w/benefits @ \$74,500.00 a year Programmer/Analyst-1.0 FTE salary w/benefits @ \$77,000 a year - 1 FTE full time @ 1 FTE Part Time FY13 & FY14	\$553,833.00
OIR Database Administrator-15 hours/wk (.40 FTE) no benefits @ \$95/hr ¹ = \$70,200.00 a year; OIR Database Administrator-15 hours/wk (.40 FTE) no benefits @ \$95hr ¹ = \$74,100year FY13 & FY14	\$674,100.00
DOE Database Administrator (1.0 FTE) salary w/benefits @ \$79,074.00 a year; DOE Database Administrator (1.0 FTE) salary w/benefits @ \$81,446year FY13 & FY14	\$505,304.00
Personnel Total	\$1,733,237.00

¹\$95.00 per hour rate is the state's current OIR approved rate for part time consultants

Non-Personnel Services	Total Cost
Four OIR servers @ \$545/mo ¹ x 53 months	\$28,885.00
Four database licenses ² , per processor, initial fee @ \$28,500.00 ³ each for year 1 only	\$114,000.00
Four RAC licenses ² , per processor, initial fee @ \$14,250.00 ³ each for year 1 only	\$57,000.00
Non-Personnel Total	\$199,885.00

¹This rate is from the State's OIR Intranet Catalogue of Services

²Licensing rates are from the 2009-10 Oracle Retail Catalogue

³Includes a 40% discount

Support of Oracle Database Licensing	Total Cost
Support for four database licenses for year 1-4	\$25,080.00
Support for four RAC licenses for years 1-4	\$12,540.00
Support Total	\$150,480.00

	Total Cost
Personnel 8.3 Full Time Equivalents (FTE)	\$1,733,237.00
Non-Personnel Services	\$199,885.00
Support of Oracle Database Licensing	\$150,480.00
Grand Total	\$2,083,602.00

Data System Personnel/Support Source: Dustin Heath, Executive Director, Department of Education, Information Systems

Personnel/Salary/Benefits Source: Vickie Hall, Director, Department of Education Human Resources

Effective October 30, 2009

TN_PU_CN021 - Payments against a Contract

Edison Contract ID: 0000000000000000000017735

Fiscal Year: 2010

[View Results](#)

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

View All

First 1-4 of 4 Last

	Unit	Sum Amount	Edison Contract ID	Vendor ID	Vendor Name	Type	PO ID	Voucher ID	Invoice	Date	Fiscal Year
1	33101	375.000	0000000000000000000017735	0000035369	Yahasoft Inc.	DFA	0000012924	00060877	3/1-14/10	04/26/2010	2010
2	33101	7523.000	0000000000000000000017735	0000035369	Yahasoft Inc.	DFA	0000012925	00060878	3/15-31/10	04/26/2010	2010
3	33101	15045.950	0000000000000000000017735	0000035369	Yahasoft Inc.	DFA	0000013363	00063570	04/01-30/10	05/18/2010	2010
4	33101	198385.950	0000000000000000000017735	0000035369	Yahasoft Inc.	DFA	0000014119	00067890	3/15-5/31	06/15/2010	2010

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: Agsprrs.Agsprsr@state.tn.us

APPROVED

Jessica Robertson (CPO)

CENTRAL PROCUREMENT OFFICER - CPO

Request Tracking #	33195-04510	
1. Procuring Agency	Education	
2. Contractor	Yahasoft, Inc.	
3. Contract #	FA1030879	
4. Proposed Amendment #	1	
5. Edison ID #	17735	
6. Contract Begin Date	March 15, 2010	
7. Current Contract End Date <i>- with ALL options to extend exercised</i>	June 30, 2014	
8. Proposed Contract End Date <i>- with ALL options to extend exercised</i>	June 30, 2014	
9. Current Maximum Contract Cost <i>- with ALL options to extend exercised</i>	\$976,900.00	
10. Proposed Maximum Contract Cost <i>- with ALL options to extend exercised</i>	\$ 1,413,986.00	
11. Office for Information Resources Endorsement <i>- information technology service (N/A to THDA)</i>	<input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/> Attached	
12. eHealth Initiative Support <i>- health-related professional, pharmaceutical, laboratory, or imaging</i>	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
13. Human Resources Support <i>- state employee training service</i>	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
14. Explanation Need for the Proposed Amendment	<p style="text-align: center;">These proposed upgrades to the Tennessee's Early Intervention Data System (TEIDS) will strengthen the Individualized Family Service Plan (IFSP) system, improve the monitoring features by alerting staff to upcoming services & meetings, enhance the goals screen, improve outcome data validation and automate the family survey function.</p>	
15. Name & Address of the Contractor's Principal Owner(s) <i>- NOT required for a TN state education institution</i>		

Request Tracking #	33195-04510
Roy Su, President Yahasoft, Inc. 9505 Knollcrest Blvd; Alpharetta, GA 30022	
16. Evidence Contractor's Experience & Length Of Experience Providing the Service Yahasoft, Inc., with Roy Su's expertise and leadership, developed TEIDS as a child tracking system for TEIS and has provided all deliverables with uninterrupted service and support for this data system since April, 2005.	
17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives Other vendors have not been identified to compete for this contract since Yahasoft, Inc. was the initial lowest bidder in the 2004 RFP and continues to provide market priced hourly rates (comparable to the state's Office of Information Resources plus the hour rates include host server).	
18. Justification – <i>specifically explain why non-competitive negotiation is in the best interest of the state</i> For the past eight years, the Department of Education has benefitted by the expertise of Yahasoft, Inc. in creating a custom-made web based product (TEIDS) which is owned by the state. Entering into a competitive bid process would be time consuming and possibly disruptive to a system which is running well and already cost effective.	
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>  10/31/12	



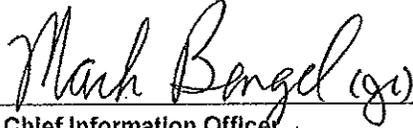
OIR Pre-Approval Endorsement Request E-Mail Transmittal

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 : October 30, 2012

RE : Request for OIR Pre-Approval Endorsement

Applicable RFS #	33195-04510
OIR Endorsement Signature & Date:	
 	
Chief Information Officer	
<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# CA36002	
Response Confirmed by IT Director/Staff (name): Richard Charlesworth, CIO	

Applicable RFS # 33195-04510
Required Attachments (as applicable – copies without signatures acceptable) <input type="checkbox"/> RFP, Competitive Negotiation Request, Alternative Procurement Method Request, Non-Competitive Contract Request, Non-Competitive Amendment Request <input type="checkbox"/> Original Contract/Grant or Amendment <input checked="" type="checkbox"/> Proposed Contract/Grant or Amendment
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.) Enhancements to TEIDS



CONTRACT AMENDMENT

Agency Tracking # 33195-04510	Edison ID 17735	Contract # FA1030879	Amendment # 1		
Contractor Legal Entity Name Yahasoft, Inc.			Edison Vendor ID 0000035369		
Amendment Purpose & Effect(s) Enhancements to Tennessee's Early Intervention Data System (TEIDS) & increase maximum liability					
Amendment Changes Contract End Date: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		End Date: June 30, 2014			
TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A):			\$437,086.00		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2010	\$0.00	\$221,329.90	\$0.00	\$0.00	\$221,329.90
2011	\$0.00	\$304,191.50	\$0.00	\$0.00	\$304,191.50
2012	\$0.00	\$165,505.45	\$0.00	\$0.00	\$165,505.45
2013	\$0.00	\$472,547.35	\$0.00	\$0.00	\$472,547.35
2014	\$0.00	\$250,411.80	\$0.00	\$0.00	\$250,411.80
TOTAL:	\$0.00	\$1,413,986.00	\$0.00	\$0.00	\$1,413,986.00
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) ED00000237/ED00000561		Account Code (optional) 70899000			

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		33195-04510						
Edison ID		17735						
Fiscal Year	Department ID	Speedchart Number	Program Code	Account Code	Fund	Project/ Grant Code	CFDA #	Amount
2010	3319500000	ED00000561	658000	70899000	25000	ARRA0KR9AAX09	84.393	\$221,329.90
2011	3319500000	ED00000561	658000	70899000	25000	ARRA0KR9AAX09	84.393	\$304,191.50
2012	3319500000	ED00000237	658000	70899000	25000	ARRA0KR9AAX09	84.393	\$30,091.90
2012	3319500000	ED00000237	658000	70899000	25000	ED00000KA12AAX12	84.181	\$135,413.55
2013	3319500000	ED00000237	658000	70803000	25000	ED00000KA12AAX12	84.181	\$25,000.00
2013	3319500000	ED00000237	658000	70899000	25000	ED00000KA12AAX12	84.181	\$447,547.35
2014	3319500000	ED00000237	658000	70803000	25000	ED00000KA12AAX12	84.181	\$25,000.00
2014	3319500000	ED00000237	658000	70899000	25000	ED00000KA12AAX12	84.181	\$225,411.80
TOTAL								\$1,413,986.00

**AMENDMENT 1
OF CONTRACT FA1030879**

This Amendment is made and entered by and between the State of Tennessee, Department of Education, hereinafter referred to as the "State" and Yahasoft, 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 to contract section A.11.:
 - A.11. The Contractor shall make the following improvements to the data system:
 - a. Add automated notice to referral source function allowing the automated email acknowledgements to referral sources.
 - b. Add impersonation feature to allow state users to view TEIDS as district or service provider user.
 - c. Add unfinalized IFSP alerts to service coordinators and reports to district administrators of IFSPs yet to be finalized.
 - d. Add a validation procedure to the ECO screen to prevent finalizing initial IFSP until initial ECO survey is completed.
 - e. Add family survey function to provide automatic emailing of annual family surveys.
 - f. Add upcoming service alerts & reports to alert providers and to provide reports to the district office of planned services approaching "late" date.
 - g. Add planned services initiation date field.
 - h. Incorporate enhancements to Goal Screen to include: goal number, goal, origination date, target date, procedure, criteria, review date and status.
 - i. Add annual IFSP validation that will not allow saving of an annual IFSP unless an updated family assessment and five area assessment have been documented.
 - j. Add a checkbox on the IFSP screen indicating "This is the official Transition Plan".
2. Contract section C.1. is deleted in its entirety and replaced with the following:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed one million four hundred thirteen thousand nine hundred eighty-six dollars and no cents (\$1,413,986.00). 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.

3. Contract section C.5. is deleted in its entirety and replaced with the following:

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:

Ms. Barbara Bridges
 TN Department of Education
 7th Fl. Andrew Johnson Tower
 Nashville, TN 37243
 Telephone # (615) 253-2595
 Fax # (615) 532-3871
 Barbara.bridges@tn.gov

- a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).
- (1) Invoice Number (assigned by the Contractor)
 - (2) Invoice Date
 - (3) Contract Number (assigned by the State)
 - (4) Customer Account Name: TN Department of Education, Early Childhood IDEA Programs
 - (5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
 - (6) Contractor Name
 - (7) Contractor Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
 - (8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
 - (9) Contractor Remittance Address
 - (10) Description of Delivered Service
 - (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name & title as applicable) of each service invoiced
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced
 - iv. Amount Due by Service
 - v. Total Amount Due for the invoice period
- b. The Contractor understands and agrees that an invoice under this Contract shall:
- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
 - (2) only be submitted for completed service and shall not include any charge for future work;
 - (3) not include sales tax or shipping charges; and
 - (4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

4. Contract section E.2. is deleted in its entirety and replaced with the following:

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

The State:

Ms. Linda Hartbarger, Director
TN Department of Education
7th Fl. Andrew Johnson Tower
Nashville, TN 37243
Linda.hartbarger@tn.gov
Telephone # (615) 253-5032
FAX # (615) 253-2589

The Contractor:

Roy Su, President
Yahasoft, Inc.
9505 Knollcrest Blvd.
Alpharetta, GA 30022
roy.su@yahasoft.com
Telephone # (678) 549-9899
FAX # (317) 324-0013

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

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 1, 2013. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

YAHASOFT, INC.:

SIGNATURE

DATE

PRINTED NAME AND TITLE OF SIGNATORY (above)

TENNESSEE DEPARTMENT OF EDUCATION:

KEVIN HUFFMAN, COMMISSINOER

DATE

October 20, 2010

ATTESTATION RE: PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	33195-04510 Edison #17735
CONTRACTOR LEGAL ENTITY NAME:	Yahasoft, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	V-582585972-00

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.

Roy Su, President

PRINTED NAME AND TITLE OF SIGNATORY

10/19/2010

DATE OF ATTESTATION

April 2011

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	FA-10-30879-00
CONTRACTOR LEGAL ENTITY NAME:	Yahasoft, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	582585972

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.

Qingyi "Roy" Su, President

PRINTED NAME AND TITLE OF SIGNATORY

4/1/2011

DATE OF ATTESTATION

OCTOBER 2011

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	FA-10-30879-00
CONTRACTOR LEGAL ENTITY NAME:	Yahasoft, Inc.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	582585972

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.

Qingyi "Roy" Su, President

PRINTED NAME AND TITLE OF SIGNATORY

4/1/2011

DATE OF ATTESTATION

TENNESSEE DEPARTMENT OF EDUCATION
CONTRACT PROVISION REQUEST

Contract Provision(s) E Clauses to be Included:

- | | | |
|--|--|---|
| <input checked="" type="checkbox"/> State Ownership of Work Products | <input checked="" type="checkbox"/> Copyrights and Patents | <input type="checkbox"/> Partial Takeover |
| <input type="checkbox"/> Ownership of Software & Work Products | <input checked="" type="checkbox"/> Hold Harmless | <input type="checkbox"/> Unencumbered Personnel |
| <input type="checkbox"/> Performance Bond | <input type="checkbox"/> Breach (Liquidated Damages) | |
| <input type="checkbox"/> Other: _____ | | |

Contract Provision(s) E Clauses to be Excluded:

- State Interest in Equipment Other: _____

Requested By:	Claudia Weber	Request date:	11/19/09
Program Area:	TEIS	RFS Number:	33195-04510

Purpose of Contract:	Technical assistance and support of Tennessee's Early Intervention Data System (TEIDS) for state-wide Part C data collection for infants and toddlers, birth to three years		
Start Date:	March 15, 2010	End Date:	June 30, 2014
Contract Amount:	\$976,900.00	Vendor Name:	Yahasoft, Inc.

Provide a complete justification for why the provision(s) requested are in the best interest of the State and the Department of Education. Identify the risk(s). **Attach Proposed Contract*

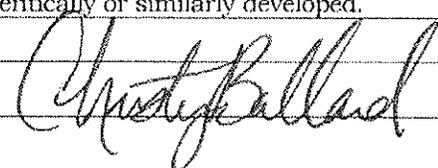
Re: Equipment: This contract does not provide for any purchase of a single item for more than \$4,999.00. This is a fee for service contract involving the hourly time and expertise of the Contractor.

Re: Hold Harmless: This contract involves upgraded software for the use of each TEIS District Office as well as TEIS vendors and early intervention agencies, requiring occasional personal technical assistance and contact by the vendor, usually by phone and email.

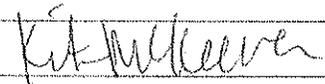
Re: State Ownership of Work Products: The State maintains ownership of the software created by Yahasoft, Inc. for TEIDS. This contract contains enhancements for this already owned software.

Re: Copyrights and Patents: The State benefits from the protection of this contract clause in case another entity claims that a software patent or copyright has been identically or similarly developed.

Legal Counsel Review and Approval:

<input checked="" type="checkbox"/> Concur with Request	<input type="checkbox"/> Do Not Concur	Signature: 
Comments:		

Contracts Office Review and Approval:

<input checked="" type="checkbox"/> Concur with Request	<input type="checkbox"/> Do Not Concur	Signature: 
Comments:		



GENERAL ASSEMBLY OF THE STATE OF TENNESSEE
FISCAL REVIEW COMMITTEE

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

Sen. Bill Ketron, Chairman
Senators
Douglas Henry Reginald Tate
Doug Jackson Ken Yager
Brian Kelsey
Randy McNally, *ex officio*
Lt. Governor Ron Ramsey, *ex officio*

Rep. Charles Curtiss, Vice-Chairman
Representatives
Harry Brooks Donna Rowland
Curtis Johnson Tony Shipley
Steve McManus Curry Todd
Mary Pruitt Eddie Yokley
Craig Fitzhugh, *ex officio*
Speaker Kent Williams, *ex officio*

MEMORANDUM

TO: The Honorable Dave Goetz, Commissioner
 Department of Finance and Administration

FROM: Bill Ketron, Chairman, Fiscal Review Committee
 Charles Curtiss, Vice-Chairman, Fiscal Review Committee

DATE: January 26, 2010

SUBJECT: Contract Comments
 (Fiscal Review Committee Meeting 1/25/10)

BK CC

RFS# 331.95-04510

Department: Education

Contractor: Yahasoftware, Inc.

Summary: The proposed contract is for the provision of programming additions and improvements, technical assistance, support, and maintenance of Tennessee's Early Intervention Data System (TEIDS). The proposed contract has a term beginning March 15, 2010, and ending June 30, 2014.

Maximum liability: \$976,900

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

cc: The Honorable Tim Webb, Commissioner
 Mr. Robert Barlow, Director, Office of Contracts Review



STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
Division of Special Education
6th FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0383

PHIL BREDESEN
GOVERNOR

TIMOTHY K. WEBB, Ed.D.
COMMISSIONER

TO: Mr. James White, Fiscal Review Committee
FROM: Timothy K. Webb, Commissioner *Timothy K Webb*
DATE: December 28, 2010
SUBJECT: Request to appear before Fiscal Review Committee regarding Request for Non-Competitive Contract RFS # 33195-04510

Please consider the enclosed information regarding a request for a Non-Competitive Contract between the Department of Education and Yahasoft, Inc.

The proposed contract will allow the vendor to provide on-going server maintenance for Tennessee's Early Intervention Data System (TEIDS) for FY 2010 through 2014.

Due to challenges with the state's data center and the unique technology needs of maintaining TEIDS, the Division of Special Education has determined that a multi-year contract with Yahasoft, Inc. would be most cost effective in meeting the data requirements of Tennessee's Early Intervention System (TEIS) as well as uninterrupted early intervention monitoring and tracking of the Individualized Family Service Plans (IFSP's).

The State retains full ownership of this software created for TEIDS.

The Department of Education currently has a contract with Yahasoft, Inc. which was awarded through the RFP process in 2005. This contract is due to expire on March 14, 2010. We are requesting that the new proposed non-competitive contract start of March 15, 2010 and end June 30, 2014.

The maximum liability for this new federally- funded contract will amount to \$976,900.00

Thank you for your consideration.

CC: Mr. Robert Greene
Mr. Jamie Kilpatrick
Ms. Kristen McKeever

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Claudia Weber		*Contact Phone:	(615) 532-3225	
*Original Contract Number:	To be assigned by OCR		*Original RFS Number:	33195-04510	
Edison Contract Number: <i>(if applicable)</i>	00000000000000000000 0017735		Edison RFS Number: <i>(if applicable)</i>	33195-04510	
*Original Contract Begin Date:	March 15, 2009		*Current End Date:	June 30, 2014	
Current Request Amendment Number: <i>(if applicable)</i>			N/A		
Proposed Amendment Effective Date: <i>(if applicable)</i>			N/A		
*Department Submitting:			Education		
*Division:			Special Education		
*Date Submitted:			December 29, 2009		
*Submitted Within Sixty (60) days:			Yes		
<i>If not, explain:</i>			N/A		
*Contract Vendor Name:			Yahasoft. Inc.		
*Current Maximum Liability:			\$976,900.00		
*Current Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i>					
FY: 2010	FY: 2011	FY: 2012	FY:2013	FY: 2014	FY:
\$344,970.00	\$180,551.40	\$180,551.40	\$180,551.40	\$90,275.80	\$
*Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from STARS or FDAS report)</i>					
FY: 2010	FY: 2011	FY:2012	FY: 2013	FY: 2014	FY
			\$	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:			N/A		
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:			N/A		
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:			N/A		
*Contract Funding	State:	\$0.00	Federal:	\$976,900.00	

Supplemental Documentation Required for
Fiscal Review Committee

Source/Amount:				
Interdepartmental:		\$0.00	<i>Other:</i>	\$0.00
If " <i>other</i> " please define:				
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>		
N/A				
Method of Original Award: <i>(if applicable)</i>		N/A		
*What were the projected costs of the service for the entire term of the contract prior to contract award?				

Supplemental Documentation Required for
Fiscal Review Committee

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

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

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

Deliverable description:	FY: 2010	FY: 2011	FY: 2012	FY: 2013	FY: 2014
TEIDS 2.0 Programming /Development	\$300,000.00	N/A	N/A	N/A	N/A
TEIDS 2.0 Maintenance/Support	\$44,970.00	\$180,551.40	\$180,551.40	\$180,551.40	\$90,275.70
Total	\$344,970.00	\$180,551.40	\$180,551.40	\$180,551.40	\$90,275.70

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

Deliverable description:	FY: 2010	FY: 2011	FY: 2012	FY: 2013	FY: 2014
TEIDS 2.0 Programming/Development	\$100,000.00	\$0.00	\$0.00	\$0.00	\$0.00
TEIDS 2.0 Maintenance/Support	\$15,030.00	\$54,577.00	\$54,577.00	\$34,622.00	\$117,196.00
Total	\$115,030.00	\$54,577.00	\$54,577.00	\$34,622.00	\$117,196.00

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

Proposed Vendor Cost: Yahasoft, Inc.	FY:2010	FY: 2011	FY: 2012	FY:2013	FY: 2014
See Attachment A	\$344,970.00	\$180,551.40	\$180,551.50	\$180,551.40	\$90,275.70
Other Vendor Cost: State OIR Data Center	FY: 2010	FY: 2011	FY: 2012	FY: 2013	FY: 2014
See Attachment B	\$460,000.00	\$235,128.00	\$235,128.00	\$215,173.00	\$207,471.00

**ATTACHMENT A
PROPOSED VENDOR COST**

Service Description	Amount (per compensable increment)
TEIDS Programming and Development ¹	\$90.00 per hour
TEIDS Maintenance and Support	\$90.00 per hour
Grand Total	\$976,900.00

¹TEIDS programming and development shall not exceed 3,833 hours.

²TEIDS maintenance and support shall not exceed 7,022 hours.

**ATTACHMENT B
OIR DATA CENTER COST COMPARISON**

The estimated annual cost to the State for developing and keeping TEIDS in place from 3/15/10 through 9/30/14 via the State Data Center would total **\$1,352,900.00** as follows:

Personnel 4.40 Full Time Equivalents (FTE)	Total Cost
Department of Education (DOE) Programmer/Analyst-1.0 FTE salary w/ benefits @ \$74,500.00 a year	\$322,833.00
OIR Database Administrator-15 hours/wk (.40 FTE) no benefits @ \$90/hr ¹ = \$70,200.00 a year	\$337,050.00
DOE Database Administrator (1.0 FTE) salary w/ benefits @ \$79,074.00 a year	\$342,652.00
Grand Total	\$1,002,535.00

¹\$90.00 per hour rate is the state's current OIR approved rate for part time consultants

Non-Personnel Services	Total Cost
Four OIR servers @ \$545/mo ¹ x 53 months	\$28,885.00
Four database licenses ² , per processor, initial fee @ \$28,500.00 ³ each for year 1 only	\$114,000.00
Four RAC licenses ² , per processor, initial fee @ \$14,250.00 ³ each for year 1 only	\$57,000.00
Grand Total	\$199,885.00

¹This rate is from the State's OIR Intranet Catalogue of Services

²Licensing rates are from the 2009-10 Oracle Retail Catalogue

³includes a 40%discount

Support of Oracle Database Licensing	Total Cost
Support for four database licenses for years 1-4	\$25,080.00
Support for four RAC licenses for years 1-4	\$12,540.00
Grand Total	\$150,480.00

Data System Personnel/Support

Source: Lisa Howard, Director, Department of Education, Information Systems

Personnel/Salary/Benefits

Source: Randy Carroll, Director, Department of Education Human Resources

NON-COMPETITIVE CONTRACT REQUEST

This request is NOT required for a contract with a federal, Tennessee, or Tennessee local government entity or a grant. cy09-1030

APPROVED per attached FRC recommendation



COMMISSIONER OF FINANCE & ADMINISTRATION

AGENCY REQUEST TRACKING # 33195-04510	
1 PROCURING AGENCY	Department of Education
2 SERVICE	Programming additions/improvements, technical assistance, support, and maintenance of Tennessee's Early Intervention Data System (TEIDS).
3 APPROVAL CRITERIA (select one)	<input checked="" type="checkbox"/> non-competitive negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service
4 PROPOSED CONTRACTOR	Yahasoft, Inc.
5 CONTRACT BEGIN DATE (attach explanation if < 60 days after F&A receipt)	March 15, 2010
6 CONTRACT END DATE (with ALL options to extend exercised)	June 30, 2014
7 MAXIMUM CONTRACT COST (with ALL options to extend exercised)	\$976,900.00
8 SERVICE DESCRIPTION	Maintaining/hosting the TEIDS server and providing technical support and programming upgrades to TEIDS resulting in an upgraded "TEIDS 2.0" version
9 EXPLANATION OF NEED FOR OR REQUIREMENT PLACED ON THE STATE TO ACQUIRE THE SERVICE	<p>In the use of American Recovery and Reinvestment Act (ARRA) funds, the Tennessee Early Intervention System (TEIS) has chosen to follow the guidance of The U.S. Department of Education (USDOE) Secretary Arne Duncan to:</p> <p>"Support development of high quality state and local data systems to collect valid and reliable data for use in improving the timely delivery of early intervention services, the transition of children receiving services under Part C to the Part B preschool program, the tracking of early childhood outcome data as children exit the program and enter preschool and school, and in meeting data reporting requirements on the state's and Early Intervention System programs' performance on early childhood priority areas."</p> <p>TEIDS provides daily data on each child's Individualized Family Service Plan (IFSP) according to the federal guidelines of Part C of the Individuals with Disabilities Education Act (IDEA) as well as state regulations for eligibility of children under the age of 3 years with developmental delays. In creating a web-based system, there is state-wide child data immediately available to the state in tracking children's progress as well as the allowable expenses and services associated with the child's IFSP. In the past several years, state audits and federal monitoring of TEIS have shown marked improvement with the access and reliability of TEIDS data. The previous manual system of data collection became inconsistent as TEIS expanded with new reporting requirements. Using Federal funds for this data system provides the state with the ability to be cost effective with fiscal controls that are featured in the Accounts Payable section of TEIDS. TEIDS has created savings to the state by eliminating nine (9) TEIS District accounting</p>

RECEIVED
By OCR at 3:14 pm, Dec 29, 2009

AGENCY REQUEST TRACKING # 33195-04510

personnel offices (replaced by only 3 staff in the TEIS Central Reimbursement Office).

10 HAS THE PROCURING AGENCY EVER BOUGHT THE SERVICE BEFORE? YES or NO

IF SO, WHAT PROCUREMENT METHOD WAS USED?

In 2004 the RFP process was used to procure this service.

11 NAME & ADDRESS OF THE CONTRACTOR'S PRINCIPAL OWNER(S) (NOT required for a TN state education institution)

Roy Su, President
Yahasoft, Inc.
9505 Knollcrest Blvd.
Alpharetta, GA 30022

12 EVIDENCE OF THE CONTRACTOR'S EXPERIENCE & LENGTH OF EXPERIENCE PROVIDING THE SERVICE

Yahasoft, Inc. with Roy Su's expertise and leadership, developed TEIDS as a child tracking system for TEIS and has provided all deliverables with uninterrupted service and support for this data system since April, 2005.

13 OFFICE FOR INFORMATION RESOURCES SUPPORT (required for information technology service)

ATTACHED or NOT APPLICABLE (N/A only to non-information technology service & THDA)

14 eHEALTH INITIATIVE SUPPORT (required for health-related professional, pharmaceutical, laboratory, or imaging service)

ATTACHED or NOT APPLICABLE

15 HUMAN RESOURCES SUPPORT (required for state employee training service)

ATTACHED or NOT APPLICABLE

16 DESCRIPTION OF EFFORTS TO IDENTIFY REASONABLE, COMPETITIVE, PROCUREMENT ALTERNATIVE

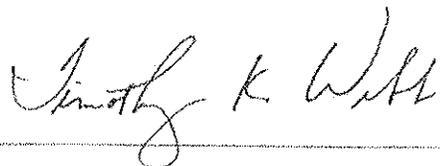
Other vendors have not been identified to compete for this contract since Yahasoft, Inc. was the initial lowest bidder in the 2004 RFP and continues to provide market priced hourly rates (the same hourly rate as the state's Office of Information Resources). Since the state owns this software, the technical support, maintenance and hosting of the server is more cost effective through a new contract with Yahasoft, Inc. vs. hiring additional state OIR and TEIS staff to manage the on-going data needs of TEIS.

17 JUSTIFICATION FOR NON-COMPETITIVE NEGOTIATION RATHER THAN A COMPETITIVE PROCESS

For the past five years, the Department of Education has benefitted by the expertise of Yahasoft, Inc. in creating a tailor-made web based product (TEIDS) which is owned by the state. Entering into a competitive bid process would be time consuming and possibly disruptive to a system which is running well and already cost effective.

AGENCY HEAD SIGNATURE & DATE

(MUST be signed & dated by the ACTUAL procuring agency head as detailed on the current Signature Certification on file with OCR— signature by an authorized signatory acceptable only if exigent circumstances documented)



12/18/09

091607



FAX/EMAIL TRANSMITTAL

to Request OIR Procurement Endorsement

TO : Jane Chittenden, Director
OIR Procurement & Contract Management FAX # 741-6164

FROM : Kristen McKeever, Contracts Director FAX # 253-5705

DATE : December 17, 2009

RFS # 33195-04510

RE : Procurement Endorsement — programming additions/improvements technical assistance, support & maintenance of Tennessee's Early Intervention Data Systems (TEIDS)

INFORMATION SYSTEMS PLAN PROJECT: CA36002

NUMBER OF FAX PAGES (including cover) : N/A FOR EMAIL

The nature and scope of service detailed in the attached service procurement document(s) appears to require Office for Information Resources (OIR) review and support, because the procurement involves information technology or information systems services.

This communication seeks to ensure that OIR is aware of the procurement and has an opportunity to review the matter. Please determine whether OIR is supportive of the procurement. If you have any questions or concerns about this matter, please call Claudia Weber at 532-3225.

Please indicate below your response to this proposed procurement, and return this communication at your earliest convenience (note the return FAX number above).

Thank you for your help.

Attachment(s)

Must include the entire contract or amendment document and where applicable, the non-competitive contract or amendment request form. The original contract and any prior amendments that were applied to the same section of the contract must be provided with an amendment. Electronic copies of the contract, amendments, and request form without signature are acceptable.

RFP documents must be provided in electronic form.

OIR Endorsement :

Mark Bengel

OIR Chief Information Officer

12/23/09

Date



CONTRACT

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

Agency Tracking # 33195-04510	Edison ID 0000000000000000000017735
Contractor Yahasoft, Inc	Contractor Federal Employer Identification or Social Security # <input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 582585972-00

Service
Programming additions/improvements, technical assistance, support, and maintenance of Tennessee's Early Intervention Data System (TEIDS).

Contract Begin Date March 15, 2010	Contract End Date June 30, 2014	Subrecipient or Vendor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Vendor	CFDA #(s) 84.173
---------------------------------------	------------------------------------	--	---------------------

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2010	\$0.00	\$344,970.00	\$0.00	\$0.00	\$344,970.00
2011	\$0.00	\$180,551.40	\$0.00	\$0.00	\$180,551.40
2012	\$0.00	\$180,551.40	\$0.00	\$0.00	\$180,551.40
2013	\$0.00	\$180,551.40	\$0.00	\$0.00	\$180,551.40
2014	\$0.00	\$90,275.80	\$0.00	\$0.00	\$90,275.80
TOTAL:	\$0.00	\$976,900.00	\$0.00	\$0.00	\$976,900.00

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

OCR USE FA	Agency Contact & Telephone # Jamie Kilpatrick 615.741.3537
 F&A Secured Document # FA1030879	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) 2-1-10
	Speed Code ED00000237 ED00000561

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

The vendor was selected due to his ability to provide uninterrupted Individualized Family Service Plans (IFSP) data tracking services for a state-wide data system that the vendor created specifically for Tennessee's Early Intervention System (TEIS). This vendor's continued housing of the data server and on-going technical support is the most cost effective strategy for the state in obtaining required federal and state data for over 5000 annually enrolled children.

SUPPLEMENTAL SUMMARY SHEET								
RFS Number		33195-04510						
Edison ID		0000000000000000000017735						
Fiscal Year	Department ID	Speedchart Number	Program Code	Account Code	Fund	Project/ Grant Code	CFDA #	Amount
2010	33195	ED00000561	658000	70899000	25000	ARRA0KR9AAX09	84.393	\$344,970.00
2011	33195	ED00000561	658000	70899000	25000	ARRA0KR9AAX09	84.393	\$180,551.40
2012	33195	ED00000237	658000	70899000	25000	ARRA0KR9AAX09	84.393	\$90,275.50
2012	33195	ED00000237	658000	70899000	25000	ED00000KA9AAX09	84.181	\$90,276.00
2013	33195	ED00000237	658000	70899000	25000	ED00000KA9AAX09	84.181	\$180,551.40
2014	33195	ED00000237	658000	70899000	25000	ED00000KA9AAX09	84.181	\$90,275.70
TOTAL								\$976,900.00

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF EDUCATION
AND
YAHASOFT, INC.**

This Contract, by and between the State of Tennessee, Department of Education, hereinafter referred to as the "State" and Yahasoft, Inc., hereinafter referred to as the "Contractor," is for the provision of programming additions/improvements, technical assistance, support, and maintenance of Tennessee's Early Intervention Data System (TEIDS), as further defined in the "SCOPE OF SERVICES."

The Contractor is a For-Profit Corporation.

Contractor Federal Employer Identification or Social Security Number: V582585972-00

Contractor Place of Incorporation or Organization: Alpharetta, Georgia

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 following terms apply to acronyms used within this Scope of Services:
- a. Department of Mental Retardation Services (DMRS)
 - b. Department of Health (DOH)
 - c. Diagnostic Quotient (DQ)
 - d. Early Childhood Outcomes (ECO)
 - e. Frequently Asked Questions (FAQ)
 - f. Individualized Education Plan (IEP)
 - g. Individualized Family Service Plan (IFSP)
 - h. Local Education Agency (LEA)
 - i. Office of Early Childhood (OEC)
 - j. Office of Special Education Programs (OSEP)
 - k. Point of Entry (POE)
 - l. Service Coordinator (SC)
 - m. State Education Agency (SEA)
 - n. Targeted Case Management (TCM)
 - o. Transition Conference Plan (TCP)
 - p. Tennessee Early Intervention Data System (TEIDS)
 - q. Tennessee Early Intervention System (TEIS)
 - r. Tennessee Infant Parent Services (TIPS)
- A.3. The Contractor shall provide modifications and additions to the programming functions of TEIDS, as listed in A.3 through A.7.k.(3)iv., to create an upgraded version to be known as TEIDS 2.0. The upgrade to TEIDS 2.0 shall be completed by July 1, 2010.
- A.4. The Contractor shall add or modify functions to the advanced search feature as follows:
- a. Add a function for SEA administrative users.

- b. Add a function for LEA transition planning conferences with a date range.
- c. Add the ability to search on the diagnosis code list. This will be on the drop down list on the evaluation screen.
- d. Add a date range on the child's birth date where a search can be performed for children born during a specific date range.
- e. Add the ability to pull from only current IFSP information and not information from previous IFSP's (i.e, to see what children a therapist is serving).
- f. Add the ability to search on all children by primary or secondary insurance or TennCare.
- g. Add the ability to search on how a parent first heard about TEIS. This will be a dropdown list on the notification/referral page.

A.5. The Contractor shall add or modify screen functions as follows:

- a. Demographic Screen
 - (1) Modify race/ethnicity functions to comply with new OSEP federal requirements. These improvements must be in place by June 30, 2010.
 - (2) Delete incoming coordinator field.
 - (3) Change "Designated Coordinator" field to "Service Coordinator".
 - (4) Delete LEA field.
 - (5) Delete the service coordinator from the selection of service coordinator list, when the service coordinator is inactive.
- b. Notification Referral Screen
 - (1) Remove text box field that captures information from referrals for how a parent first heard about TEIS.
 - (2) Add a drop down list (to replace the text box field) for how a parent first heard about TEIS (ex. physician, friend, family).
 - (3) Add a field for the fax number of the referral source.
 - (4) Add a breakdown of the name/agency field into two (2) fields, one for agency and one for name.
 - (5) Delete TCM Parental Consent Date field.
- c. Evaluation Screen
 - (1) Add a diagnostic code selection on the health section as a drop down list.
 - (2) Add a list of diagnostic codes to the advanced search.
- d. Parent Screen
 - (1) Add print envelope function where envelope can be printed with parent 1 address on it.
- e. IFSP Screen
 - (1) Delete TIPS and DMRS from Participant list.
 - (2) Change TDH field to DOH in participant list.
 - (3) Add a function with a drop down list to track IFSP's delay reasons (i.e, when IFSP is late due to family illness, moved and gave no forwarding address, etc.)
 - (4) Add validation so that the IFSP date must be after the evaluation date or eligibility date.
 - (5) Update IFSP print function as follows:
 - i. Change "Transition Dates" to "Upcoming Meeting Dates".

- ii. Delete "Notification of Local Education Agency (LEA) by age two".
 - iii. Change "Planning Conference with Parent/s, Lead Agency, LEA and other Service Providers as appropriate. "At least 90 days, or up to 6 months prior to child's third birthday" to "At least 90 days, or up to 9 months prior to child's third birthday".
 - iv. Change date on "Transition to LEA, as appropriate" to be the day before the child's 3rd birthday.
 - v. Add "6 month IFSP Due Date" and "Annual IFSP Due Date" to the Transition Due Dates field.
- f. Transition Screen
 - (1) Modify to include only children with entrance and exit data.
 - (3) Add a dropdown list for selection of reason that a transition conference is late.
- g. Eligibility Screen
 - (1) Add a function to allow the projected diagnostic code to pre populate from the health section.
 - (2) Delete the "Informed Clinical Opinion" field. This term no longer allows for automatic eligibility into TEIS.
 - (3) Delete ICO justification column under history at bottom of screen.
- h. Child's Record
 - (1) Add a field on each screen to show the service coordinator's name.
- i. Financial Support Screen
 - (1) Delete the fields TIPS and DMRS from Current Financial Support.
 - (2) Delete the "Private Insurance Detail" box.
 - (3) Add a field for primary insurance and secondary insurance.
 - (4) Modify "TennCare Detail" to a text box to enter TennCare number.
 - (5) Add field for TennCare Verification Date.
 - (6) Add field for the Verification number.
 - (7) Add field for Effective Date.
 - (8) Add field for End Date.
 - (9) Add Blue Care to list of TennCare providers.
 - (10) Add a box displaying history of primary and secondary insurance and TennCare information.
 - (11) Add a drop down list to select TennCare provider
- j. Planned Services Screen
 - (1) Modify payor source dropdown list to add new payor sources and delete obsolete payor sources.
 - (2) Modify service list to change the names of existing services for clarification purposes.
 - (3) Add a function that if the service name is selected the provider list will be automatically populated with the corresponding providers that provide that discipline.
 - (4) Add the function to select frequency as Weekly, Monthly or Annually instead of only Weekly.
 - (5) Add validation so that the new planned services start date is after the IFSP date.

- (6) Add validation to only allow for the planned period (start date to end date) to be less than or equal to 365 days.
 - (7) Add function that will differentiate between approved and not approved vendors on the current drop down list.
 - k. Accounts Payable Screen
 - (1) Add a function for the setting rate to be reflected for the specific setting.
 - (2) Add a column on the service log information that shows the setting that was selected when the service log was entered.
 - l. Transition Planning Conference Screen
 - (1) Add a validation so the LEA must be entered before a transition conference date can be entered.
 - m. Contact Log Screen
 - (1) Add a date entered column at far right for when the contact log is entered.
 - (2) Add a validation that will automatically select "in person" when the TCM box is checked in the contact logs.
 - n. Agency Screen
 - (1) Update to include a drop down list for the services agency provides, counties served, and in network insurance companies.
 - (2) Add field to display years in which the agency is an authorized vendor.
 - (3) Add search function on agency name, services provided, and counties served and in network insurance company's fields.
 - (4) Add search function on accounts payable information by vendor.
- A.6 The Contractor shall add or modify report functions as follows:
- a. Primary Setting Report (618 Data) for SEA and POE
 - (1) Modify the report to include settings data (i.e. in the home versus clinic) by race/ethnicity and age groups.
 - b. Child Count Report (618 Data) for SEA and POE
 - (1) Modify report to include a list of children that compile the number of the child count report with detail information.
 - c. Transition Report - Monitoring Indicator 8C.
 - (1) Modify the report to display children that have untimely transition planning conferences.
 - d. Timely Service Delivery Report
 - (1) Add a summary by provider box that lists untimely services by a provider.
 - (2) Add a column to the child list for untimely delivery of services displaying the name of the agency.
 - e. Caseload Summary
 - (1) Modify the report to include the total number of children within all phases for each SC. Match homepage with all phases, then total in the top box.
 - (2) Add a column to the report at bottom that shows the "start date" for the planned service.
 - f. Active Child Report

- (1) Add next IFSP due date and next IFSP type columns to this report.
 - g. Contact Report POE
 - (1) Expand to include "Parent 1 Address" column
 - h. Child's Record
 - (1) Add an activity screen for ECO data.
 - i. Reports
 - (1) Group and/or alphabetize TEIDS report buttons.
 - j. Agency Invoice Report: Make the following modifications:
 - (1) Change "Invoice Report" to "TEIS Invoice Report".
 - (2) Delete Grant Code and Contract Number.
 - (3) When agency information changes are made, the Edison ID is automatically pulled in to the report from the agency screen.
 - (4) Beside "Account Code" remove the number.
 - (5) Add "Signature" under Signature line.
 - (6) Change "Program Center VAR" to "Program followed by a text box for entering specific information.
 - (7) Add a column that includes the note section from accounts payable.
 - k. SEA Homepage
 - (1) Create a report which shows open accounts payable by vendor.
 - (2) Display services that accounts payable has not approved.
 - l. Vendor Homepage
 - (1) Add a report which displays disapproved/open items, such as services that service logs have been entered but no accounts payable have been entered or accounts payable have been disapproved.
 - m. Trend Reports
 - (1) Trend Data: System must allow all users to access reports with multiple years of data. Trend data provided in canned reports shall be analyzed and displayed so that report readers can distinguish the changes across years. Such reports shall provide a standard feature of showing percentage change over time as follows:
 - i. Referral by county, referral source, and POE in last 5 years (by state, district, and county).
 - ii. Expenditure report by year, service, county, POE, and state.
 - iii. Diagnosis codes trend report by state, district and county.
 - iv. Where parent learned about TEIS trend report by state, district and county.
- A.7. The Contractor shall make the following additional improvements to the data system:
- a. Add child exit outcome data to the file that is imported into the Part B (preschool) data system.
 - b. Design reports and other functions for parents, so information can be shared by family through SCs.
 - c. Design one report where POE can print out service logs to give to families.
 - d. Modify account payable function, for ease of users to select a group of services instead of one by one under the agency and CRO logins

- e. Add function for children that are re-referred to TEIS. Currently user has to replace the original referral data with the new referral data (such as referral date, referral reason, referral source, etc) and put all the original referral data into the single comment text box on the referral page. The new function shall enable the user to click a button and all the original referral information will be saved as individual data fields (like that on the contact log), then the re-referral will become the current referral.
 - f. Add spell check function.
 - g. Add function for OEC state data manager to extract file with state ID's for Easy IEP match on transition conference meeting dates.
 - h. Add the ability for POE staff with district administrator user status to view all agencies in TEIDS.
 - i. Add Help, User Guide and FAQ functions on the TEIDS home page and make more visible (i.e, Kentucky's system).
 - j. Add HELP function on each specific screen regarding that screen.
 - k. Modify Forms under Doc/Forms in Child record function.
 - (1) Delete the following four (4) forms that are no longer used:
 - i. consent for evaluation form/letter
 - ii. diagnosis verification letter
 - iii. eligibility letter
 - iv. IFSP/Transition Meeting Invitation
 - (2) Replace three (3) existing forms/letters with updated form/letter:
 - i. unable to contact family
 - ii. medical record request form/letter
 - iii. acknowledgement of referral form/letter
 - (3) Add four (4) new forms:
 - i. closing letter eligible child
 - ii. first letter to family
 - iii. newborn hearing screening letter
 - iv. third birthday letter
- A.8. Daily Support and Maintenance of TEIDS.
- a. The Contractor shall provide off-site hourly based support for the State technical staff to include data transfer, loading of data to database, and correcting software-related data issues.
 - b. Support must be available Monday through Friday, from 7:00 a.m. to 5:00 p.m. Central Standard Time with a two hour response time. This support shall continue to be available for the TEIDS 2.0 software implementation through the course of this contract period.
 - c. The Contractor shall host and provide the network and servers to host TEIDS which will be available 24 hours per day, 7 days a week.
- A.9. The Contractor shall insure TEIDS data quality by troubleshooting data errors and resolving any "down time" within 24 hours, barring outside natural disasters or black outs.
- A.10. The Contractor shall provide monthly data files, shared electronically, from Part C (early intervention) to Part B (preschool) for the purpose of tracking transition data (children exiting

TEIS and entering the school system) to continue accurate information between these two state education agencies.

B. CONTRACT TERM:

This Contract shall be effective for the period commencing on March 15, 2010 and ending on June 30, 2014. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Nine Hundred Seventy-Six Thousand Nine Hundred Dollars and No Cents (\$976,900.00). 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 defined in Section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description	Amount (per compensable increment)
TEIDS Programming and Development	\$90.00 per hour
TEIDS Maintenance and Support	\$90.00 per hour

- c. The Contractor shall not be compensated for travel time to the primary location of service provision
- d. TEIDS programming and development shall not exceed 3,833 hours.
- e. TEIDS maintenance and support shall not exceed 7,022 hours.

- 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:

Mr. Jamie T. Kilpatrick
 TN Department of Education
 7th Fl. Andrew Johnson Tower
 Nashville, TN 37243
 Telephone # (615) 532-741-3537
 Fax # (615)532-9412
 Jamie.kilpatrick@tn.gov
 - 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 & Division of Special Education;
 - (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:

Mr. Jamie T. Kilpatrick
 TN Department of Education
 7th Fl. Andrew Johnson Tower
 Nashville, TN 37243
 jamie.kilpatrick@tn.gov
 Telephone # (615) 532-741-3537
 Fax # (615) 532-9412

The Contractor:

Roy Su, President
 Yahasoft, Inc
 9505 Knollcrest Blvd.
 Alpharetta, GA 30022
 roy.su@yahasoft.com
 Telephone # (678) 549-9899
 FAX # (317) 324-0013

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. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.
- a. The Contractor shall maintain, at minimum, the following insurance coverage:
 - (1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater.
 - (2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
 - (3) Automobile Coverage (including owned, leased, hired, and non-owned vehicles) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence.
 - (4) Professional Malpractice Liability with a limit of not less than one million dollars (\$1,000,000) per claim and two million dollars (\$2,000,000) aggregate.
 - b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and

Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

- E.7. 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.8. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.
- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this Contract.
 - b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.
- E.9. 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.10. State Ownership of Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all work products, including computer source code, created, designed, developed, derived, documented, installed, or delivered under this Contract subject to the next subsection and full and final payment for each "Work Product." The State shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute,

modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.

- a. To the extent that the Contractor uses any of its pre-existing, proprietary or independently developed tools, materials or information ("Contractor Materials"), the Contractor shall retain all right, title and interest in and to such Contractor Materials, and the State shall acquire no right, title or interest in or to such Contractor Materials EXCEPT the Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials reasonably associated with any Work Product provided under the Contract.
- b. The Contractor shall furnish such information and data as the State may request, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor Materials reasonably associated with any Work Product, in accordance with this Contract and applicable state law.
- c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.
- d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.

E.11. 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.12. Workpapers Subject to Review. The Contractor shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.
- E.13. 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.14. Public Accountability. If the Contractor is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor shall display in a prominent place, located near the passageway through which the public enters in order to receive services pursuant to this Contract, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:
- NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454
- E.15. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.
- E.16. 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.17. 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.18. 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.19. 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.20. Federal Economic Stimulus Funding. This Contract requires the Contractor to provide products and/or services that are funded in whole or in part under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, (Recovery Act). The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of the Recovery Act are met and that the Contractor provides information to the State as required.

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

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

evidence of one or more of the following related to the implementation or use of covered funds:

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

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

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

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

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

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

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

f. If the Contractor enters into one or more subcontracts for any of the services performed under this Contract, each subcontract shall contain provisions specifically imposing on the subcontractor all requirements set forth in this Contract Section E.20., "Federal Economic Stimulus Funding."

E.21. FERPA Compliance. The State and Contractor shall comply with the Family Education Rights and Privacy Act of 1974 (20 U.S.C. § 1232g) (FERPA) and its accompanying regulations (34 C.F.R. 99). Contractor warrants that it is familiar with requirements of FERPA and its accompanying regulations and that it will comply with all applicable FERPA requirements in the performance of its duties in this contract. Contractor agrees to cooperate with the State as required by FERPA and its regulations in the performance of its duties in this contract. Contractor agrees to maintain the confidentiality of all education records and student information and use such records and information for the exclusive purpose of performing its duties in this contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the Authorization and Acknowledgement of Compliance document at Attachment B.

IN WITNESS WHEREOF,

YAHASOFT, INC.:



2/25/10

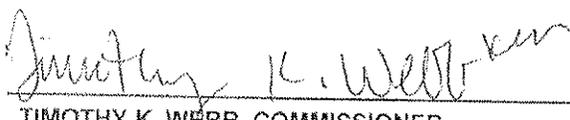
CONTRACTOR SIGNATURE

DATE

Roy Su, president

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF EDUCATION:



2/26/10

TIMOTHY K. WEBB, COMMISSIONER

DATE

ATTACHMENT A

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	YAHASOFT, INC.
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	V582585972-00

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

Roy Su, president.

PRINTED NAME AND TITLE OF SIGNATORY

2/24/2010

DATE OF ATTESTATION

**ATTACHMENT B
AUTHORIZATION AND ACKNOWLEDGEMENT OF COMPLIANCE**

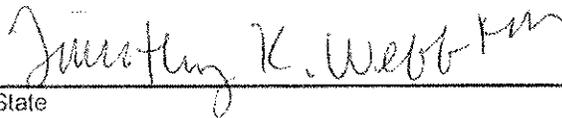
Whereas, State has contracted with Yahasoft, Inc. on March 15, 2010 through June 30, 2014 (RFS # 33195-04510), for a comprehensive reporting system for the school nutrition program, and

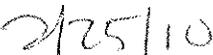
Whereas, The above referenced contract may require the disclosure by the State to Yahasoft, Inc. of certain personally identifiable student information that is confidential under the Family Educational Rights and Privacy Act (FERPA), and

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

Therefore, the State and Yahasoft, Inc. hereby agree as follows:

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


State


Date


Yahasoft, Inc.


Date

FA CONTRACT INFORMATION SUPPLEMENT	
FOR ALL FA-TYPE CONTRACTS — COMPLETE <u>EITHER</u> SECTION A <u>OR</u> SECTION B	
Contract RFS #	33195-04510
Contractor:	Yahasoft, Inc.
SECTION A— CONTRACTOR IS AN INDIVIDUAL	SECTION B— CONTRACTOR IS A COMPANY <i>(e.g., sole proprietorship, partnership, or corporation)</i>
Is or has the contractor been a state employee? <input type="checkbox"/> NO <i>(no additional information required)</i> <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 <i>(no additional information required)</i> <input type="checkbox"/> YES
Was such employment within the past six months? <input type="checkbox"/> NO <input type="checkbox"/> YES <i>(an approved rule exception permitting a contract within six months of employment is also required)</i>	Was such employment within the past six months? <input type="checkbox"/> NO <input type="checkbox"/> YES <i>(an approved rule exception permitting a contract within six months of employment is also required)</i>
Does the contractor receive Tennessee Consolidated Retirement System (TCRS) retirement benefits? <input type="checkbox"/> NO <input type="checkbox"/> YES <i>(the procuring agency general counsel MUST sign an analysis of this procurement using the TCRS analysis guidelines)</i>	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 <i>(the procuring agency general counsel MUST sign an analysis of this procurement using the TCRS analysis guidelines)</i>
CONTRACTOR SIGNATURE	
	
CONTRACTOR	DATE
Rey Su	2/24/2010