CONTRACT #2
RFS # 332.05-01312
Edison # 29787

Tennessee Student Assistance Corporation (TSAC)

VENDOR:
Student Loan Counseling Services, Inc. (a subsidiary of the CBE Group, Inc.)

RICHARD G. RHODA
Executive Director

BILL HASLAM
Governor

STATE OF TENNESSEE
TENNESSEE STUDENT ASSISTANCE CORPORATION
Suite 1510, Parkway Towers
404 James Robertson Parkway
Nashville, Tennessee 37243-0820
(615)741-3000 • 1-866-291-2675 • FAX (615)741-6101
www.CollegePaysTN.com

MEMORANDUM

TO: Leni Chick, Contract and Audit Coordinator, Fiscal Review Committee

FROM: Peter Abernathy, Senior Associate Executive Director and Attorney

DATE: October 6, 2014

RE: Non-Competitive Contract Amendment Summary
Student Loan Counseling Services, Inc., a subsidiary of the CBE Group, Inc.

The Tennessee Student Assistance Corporation (TSAC) proposes to submit a non-competitive contract amendment request to its contract with the Student Loan Counseling Services (SCLS), Inc., a subsidiary of the CBE Group, Inc. This amendment to the contract, funded through federal program-generated revenues, is required to effectuate a one year extension to the contract as provided for in Contract Section B.2., effective January 1, 2015, and reflect a reduction to the contract maximum liability due to a reduction in rates.

Pursuant to *Tennessee Code Annotated* § 12-4-109, Procurement of Service, the following information is presented for the Fiscal Review Committee.

Summary of the Terms of the Original Contract

This contract for default aversion assistance services was competitively procured through the Request for Proposal (RFP) process complying with *Tenn. Comp. R. and Regs*. Chapter 0690-03-01-.05(2)(a). Default Aversion Assistance is a service provided by TSAC to lenders and servicers in assisting delinquent borrowers avoid defaulting on their student loans. Default Aversion Assistance is performance-based, directly tying revenue or financial reimbursement for the activities of Default Aversion to the successful curing of a loan delinquency and the aversion of a loan default. This includes the services of three Default Aversion Field Representatives to assist TSAC in performing these services.

Summary of Amendment One effective May 1, 2012

Amendment One was required to revise the contract maximum liability to accommodate the initial transfer of accounts January 1, 2012 that were not included in the expenditure calculations. It was not until the invoice was received that the omission was brought to TSAC's attention, alerting TSAC to the need of an amendment. Additionally, based on the number of reassignments reflected in the initial billing, it appeared that TSAC's estimate of reassignments used to calculate the projected monthly expenditures was incorrect, also requiring TSAC to adjust the contract maximum liability. Prior to the RFP, TSAC's servicer was subcontracting the default aversion services and billing TSAC only for new assignments, thus the number of reassignments was not apparent to TSAC when projecting the annual number of reassignments.

Contract Term

This Contract is effective January 1, 2012 through December 31, 2014, with an option for two one-year extensions pursuant to Contract Section B.2.

Amendment Two provides for a one year term extension through December 31, 2015.

Current Contract Maximum Liability

$11,298,125[1]

Maximum Contract Liability with Proposed Amendment

$7,900,200[2]

This reflects eliminating the "per loan" rates for a projected annual fee of $2,143,150 for FY15 to a monthly service rate of $32,375 for a total annual rate of $388,500, an annual savings of approximately $1,754,650.

Expenditures To-Date (through 08/15/2014)

$3,701,294

A detailed summary of the expenditures has been included with the FRC Supplemental Documentation

[1] With all options to extend exercised
[2] With all options to extend exercised

Description of the Proposed Amendment Effects and any Additional Services

This amendment is required to effectuate a one year extension to the competitively procured contract, funded through federal program-generated revenues, pursuant to Contract Section B.2., and revisions to contract provisions to remain compliant with current the current state model.

Additionally, this amendment provided TSAC with the opportunity to negotiate a reduction to the payment rates from a "per loan" cost to a monthly service fee to maintain sustainability of the contracted default aversion services and the TSAC loan division, due to recent changes to the Federal Family Loan (FFEL) Program in the 2014-15 federal budget, signed into law by President Obama December 26, 2013, effective July 1, 2014, which included an elimination of the compensation guaranty agencies receive for loan rehabilitation.

Justification for the Proposed Amendment:

As noted above, the amendment will provide for one year term extension and reduction to the current rates. As such, this amendment could not be procured competitively.

Documentation submitted for consideration:

Fiscal Review Summary
33205-01312 FY12-14 DAAS Student Loan Counseling Services Amendment Two
With Revised Contract Summary Sheet
33205-01312 SLCS Amendment Two FRC Supplemental Department Information
33205-01312 SLCS Non-Competitive Amendment Request
33205-01312 FY12-14 DAAS Student Loan Counseling Services Approved Amendment One
With Contract Summary Sheet
33205-01312 FY12-14 DAAS Student Loan Counseling Services Approved Contract (Original)
With Contract Summary Sheet
33205-01312 SCLS OIR Endorsement
33205-01312 Default Aversion Assistance Service RFP Release 1

The Tennessee Student Assistance Corporation would greatly appreciate the consideration and approval of the amendment by the Fiscal Review Committee.

Supplemental Documentation Required for Fiscal Review Committee

*Contact Name:	Peter Abernathy, Senior Associate Executive Director and Attorney Peter.Abernathy@tn.gov Marcie Mills, Contracts Administration Mgr Marcie.Mills@tn.gov	*Contact Phone:	615.532.6065 615.532.3500
*Presenter's name(s):	Peter Abernathy, Senior Associate Executive Director and Attorney, and Dr. Richard Rhoda, Executive Director		
Edison Contract Number: (*if applicable*)	ID 29787	RFS Number: (*if applicable*)	332015-01312
*Original or Proposed Contract Begin Date:	01/01/2012	*Current or Proposed End Date:	12/31/2015
Current Request Amendment Number: (*if applicable*)		TWO	
Proposed Amendment Effective Date: (*if applicable*)		01/01/2015	
*Department Submitting:		Tennessee Student Assistance Corporation	
*Division:		Higher Education	
*Date Submitted:		09/19/2014	
*Submitted Within Sixty (60) days:		Yes	
If not, explain:			
*Contract Vendor Name:		Student Loan Counseling Service, Inc., a subsidiary of the CBE Companies, Inc.	
*Current or Proposed Maximum Liability:		Current: $11,298,125 Proposed: $ 7,900,200	
*Estimated Total Spend for Commodities:		NA	

*Current or Proposed Contract Allocation by Fiscal Year:
(as Shown on Most Current Fully Executed Contract Summary Sheet)

FY: 12	FY: 13	FY: 14	FY: 15	FY 16	FY
$ 2,589,400	$2,266,900	$2,266,900	$ 2,143,150	$ 2,031,775	$

Supplemental Documentation Required for Fiscal Review Committee

*Current Total Expenditures by Fiscal Year of Contract: **(*attach backup documentation from Edison*) Attached as Attachment A**					
FY:12	FY:13	FY:14	FY:	FY	FY
$ 1,727,603	$1,308,928	$ 664,762	$	$	$

IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:	As this contract was procured through a competitive RFP, the evaluation factors used to determine contract allocations were based on historical and projected default aversion services "per loan" activity and not a flat monthly service rate or fee. As such, current expenditures reflect the actual "per loan" fees with no actual "surplus funds."
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:	NA
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:	NA

*Contract Funding Source/Amount:			
State:		Federal:	**$11,298,125**
Interdepartmental:		*Other*:	
If "*other*" please define:			
If "*interdepartmental*" please define:			

Dates of All Previous Amendments or Revisions: (*if applicable*)	Brief Description of Actions in Previous Amendments or Revisions: (*if applicable*)
05/01/2012	The original contract was competitively procured and, as such, the rates reflected the winning proposal rates providing TSAC with the best services at the most favorable, competitive prices. Amendment One to the contract, funded through federal program-generated revenues, was required to revise the contract maximum liability due to the initial transfer of existing default aversion assistance requests from the prior servicer to the new contractor. This was a one-time billing and was not accounted for when establishing the initial annual maximum liability. Additionally, the actual number of "reassignments" submitted monthly to the contractor was greater than

Supplemental Documentation Required for Fiscal Review Committee

	the RFP evaluation factors used for the calculation of those services. Although the amendment revised the contract maximum liability, neither the services nor rates were revised.
Method of Original Award: *(if applicable)*	Competitive RFP
*What were the projected costs of the service for the entire term of the contract prior to contract award? How was this cost determined?	The evaluation factors for the new loans and "reassignments" were based on past and projected performance. Additionally, the evaluation factors for the "cured" loans were derived by past and projected performance, with each factor then assigned a value as to preferred resolution. For example, the "cured due to current in-school enrollment" factor was multiplied by 25; with each less preferred method decreasing in value with the "cured due to forbearance, loan discharge (death, disability, *etc.*), and bankruptcy each multiplied by 5.
*List number of other potential vendors who could provide this good or service; efforts to identify other competitive procurement alternatives; and the reason(s) a sole-source contract is in the best interest of the State.	As previously noted, the original contract was procured competitively, with only the prior and current proposed amendment submitted as "non-competitive." As this amendment effectuates a one year term extension pursuant to Contract Section B.2., and reduces the current rates, there is no alternative to amending this competitively procured contract.

Supplemental Documentation Required for Fiscal Review Committee

ATTACHMENT A

33205-01312 FY12-14 ID 29787 SLCS CBE Companies
Default Aversion Services
Payments Against a Contract

CONTRACT ID	BUS UNIT	PO NO.	PO DATE	PO AMOUNT	CONTRACT BALANCE	ANNUAL TOTAL
					$ 11,298,125	
29787	33205	2981	5/23/2012	$ 642,597	$ 10,655,528	
29787	33205	3058	6/21/2012	$ 288,762	$ 10,366,766	
29787	33205	3093	6/28/2012	$ 128,795	$ 10,237,971	
29787	33205	3164	8/7/2012	$ 111,802	$ 10,126,169	
29787	33205	3239	9/12/2012	$ 126,488	$ 9,999,681	
29787	33205	3240	9/12/2012	$ 119,164	$ 9,880,516	
29787	33205	3325	10/11/2012	$ 124,073	$ 9,756,443	
29787	33205	3386	11/16/2012	$ 117,134	$ 9,639,309	01/01/12 - 12/31/12
29787	33205	3448	12/18/2012	$ 68,787	$ 9,570,522	**$1,727,603**
29787	33205	3539	1/24/2013	$ 113,863	$ 9,456,659	
29787	33205	3703	2/26/2013	$ 168,808	$ 9,287,851	
29787	33205	3748	3/19/2013	$ 126,554	$ 9,161,298	
29787	33205	3796	4/11/2013	$ 100,396	$ 9,060,902	
29787	33205	3885	5/20/2013	$ 98,190	$ 8,962,712	
29787	33205	3965	6/14/2013	$ 97,821	$ 8,864,891	
29787	33205	4078	7/24/2013	$ 97,124	$ 8,767,767	
29787	33205	4170	8/23/2013	$ 105,571	$ 8,662,197	
29787	33205	4252	9/19/2013	$ 118,110	$ 8,544,087	
29787	33205	4322	10/21/2013	$ 96,617	$ 8,447,470	
29787	33205	4389	11/19/2013	$ 94,811	$ 8,352,659	01/01/13 - 12/31/13
29787	33205	4434	12/17/2013	$ 91,066	$ 8,261,593	**$ 1,308,928**
29787	33205	4586	1/30/2014	$ 95,423	$ 8,166,170	
29787	33205	4637	2/13/2014	$ 96,900	$ 8,069,271	
29787	33205	4779	4/8/2014	$ 94,830	$ 7,974,441	
29787	33205	4793	4/25/2014	$ 78,036	$ 7,896,405	
29787	33205	4835	5/12/2014	$ 62,728	$ 7,833,677	
29787	33205	4933	6/16/2014	$ 88,368	$ 7,745,309	
29787	33205	4956	7/17/2014	$ 74,421	$ 7,670,888	01/01/14 - 08/15/14
29787	33205	5058	8/15/2014	$ 74,056	$ 7,596,831	**$ 664,762**
				$ 3,701,294	**$ 7,596,831**	

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 : Marcie Mills, Paralegal, Contracts Administration Manager for
Peter Abernathy Senior Associate Executive Director and Staff Attorney
E-mail : Marcie.Mills@tn.gov

DATE : September 10, 2014

RE : Request for OIR Pre-Approval Endorsement

Applicable RFS # 33205-01312
OIR Endorsement Signature & Date: Mark Bengel (JC) 10/8/14 **Chief Information Officer** *NOTE: Proposed contract/grant support is applicable to the subject IT service technical merit.*

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	**Tennessee Student Assistance Corporation**
Agency Contact (name, phone, e-mail)	**O.W. Higley, Chief Operating Officer and IT Director** **615.532.9846** **O.W.Higley@tn.gov**

Subject Procurement Document (mark one)

- ☐ RFP
- ☐ Competitive Negotiation Request
- ☐ Alternative Procurement Method Request
- ☐ Non-Competitive Contract Request
- ☒ Non-Competitive Amendment Request
- ☐ Contract
- ☒ Contract Amendment
- ☐ Grant
- ☐ Grant Amendment

Information Systems Plan (ISP) Project Applicability

Applicable RFS # 33205-01312

☒ Not Applicable to this Request

☐ Applicable– ISP Project#

Response Confirmed by IT Director/Staff (name): **O.W. Higley**

Required Attachments (as applicable – copies without signatures acceptable)

☐ RFP, Competitive Negotiation Request, Alternative Procurement Method Request, Non-Competitive Contract Request, Non-Competitive Amendment Request

☐ Original Contract/Grant or Amendment

☒ 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.)

On September 23, 2011, TSAC was granted Pre-Approval Endorsement for its RFP and subsequent contract for the default aversion assistance services. TSAC advised that the resulting contract from the subject RFP would not impact the state of Tennessee's network infrastructure as the Contractor will use its computer systems, web page, and purchasing authority to fulfill the scope of the contract to perform the services reflected in contract sections A.3., A.9, A.10., A.18., and A.28. The RFP was awarded to Student Loan Counseling Services, a subsidiary of CBE, Incorporated.

TSAC is currently proposing an amendment to its contract with CBE to effectuate the one year extension pursuant to Contract Section B.2. and the reduction of rates to maintain the sustainability of the contract and loan division due to changes to the Federal Family Education Loan Program (FFELP), including the elimination of commissions received by guaranty agencies for loan rehabilitation. The proposed Contract Amendment Two does not affect the services provided by the Contractor.

Please note that in lieu of the RFP and resulting Contract and Amendment One, the OIR Pre-endorsement Approvals are attached as Attachment A and B respectively. The proposed Contract Amendment is attached as Attachment C.

Non-Competitive Amendment Request

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

APPROVED
COMMISSIONER OF FINANCE & ADMINISTRATION

Request Tracking #	**33205-01312**
1. Procuring Agency	**Tennessee Student Assistance Corporation (TSAC)**
2. Contractor	**Student Loan Counseling Service, Inc., a subsidiary of the CBE Group, Inc.**
3. Contract #	**FA1237611-01**
4. Proposed Amendment #	**TWO**
5. Edison ID #	**29787**
6. Contract Begin Date	**01/01/2012**
7. Current Contract End Date *– with ALL options to extend exercised*	**12/31/2014**
8. Proposed Contract End Date *– with ALL options to extend exercised*	**12/31/2016**
9. Current Maximum Contract Cost *– with ALL options to extend exercised*	**$ 11,298,125**
10. Proposed Maximum Contract Cost *– with ALL options to extend exercised*	**$ 7,900,200**
11. Office for Information Resources Endorsement *– information technology service (N/A to THDA)*	☐ **Not Applicable** ☒ **Attached**
12. eHealth Initiative Support *– health-related professional, pharmaceutical, laboratory, or imaging*	☒ **Not Applicable** ☐ **Attached**
13. Human Resources Support *– state employee training service*	☒ **Not Applicable** ☐ **Attached**

14. Explanation Need for the Proposed Amendment

This amendment is required to effectuate a one year extension to the competitively procured contract, funded through federal program-generated revenues, pursuant to Contract Section B.2. Additionally, this amendment provided TSAC with the opportunity to negotiate a reduction to the payment rates from a "per loan" cost to a monthly service fee to maintain sustainability of the contracted default aversion services and the TSAC loan division, due to recent changes to the Federal Family Loan (FFEL) Program in the 2014-15 federal budget, signed into law by President

Request Tracking #	33205-01312

Obama December 26, 2013, effective July 1, 2014, which included an elimination of the compensation guaranty agencies receive for loan rehabilitation.

15. Name & Address of the Contractor's Principal Owner(s)
– NOT required for a TN state education institution

Home Office:
Student Loan Counseling Service
131 Tower Park Drive, Suite 100
Waterloo, IA 70701

16. Evidence Contractor's Experience & Length Of Experience Providing the Service

In 1933, the company was founded in Iowa as the Credit Bureau of Black Hawk County. In 1950, the business became known as the Credit Bureau of Waterloo, and in 1978 it acquired the credit bureau in Cedar Falls and became the Credit Bureau of Waterloo-Cedar Falls. Through the mid-80s, the company purchased or opened credit, collection and reporting agencies in various locations throughout Iowa, as well as in Illinois and Indiana. Thomas R. Penaluna purchased the company in 1986 and has served as President, CEO and sole owner since that time. Subsequent to the Credit Bureau's incorporation in 1987, the name was changed to Credit Bureau Enterprises (CBE), Inc. SLCS was established as a subsidiary of CBE in 1998.

SLCS has been performing default aversion assistance services for 15 years. SLCS is the student loan industry's recognized leader in early intervention, loan repayment, default aversion and cohort default rate reduction programs. Anchored by its commitment to helping borrowers repay their loans and avoid the unfortunate experience of default, SLCS provides customized default prevention/aversion and loan repayment programs for all segments of the student loan community.

17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives

The contract for default aversion assistance services was competitively procured through the Request for Proposal (RFP) process complying with *Tenn. Comp. R. and Regs*. Chapter 0690-03-01-.05(2)(a).

18. **Justification** –

As this amendment effectuates the one year term extensions pursuant to Contract Section B.2 and reduces the current rates, there is no alternative to amending this competitively procured contract.

Agency Head Signature and Date – *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*

RICHARD G. RHODA, EXECUTIVE DIRECTOR

CONTRACT AMENDMENT

Agency Tracking #	Edison ID	Contract #	Amendment #
33205-01312	29787	FA1237611	TWO

Contractor Legal Entity Name	Edison Vendor ID
Student Loan Counseling Service, Inc., a subsidiary of the CBE Companies, Inc.	0000147546

Amendment Purpose & Effect(s)

This amendment is required to effectuate a one-year term extension as provided for in the original contract and changes the payment methodology from a "per unit" cost to a monthly servicing fee to provide for the sustainability of the contract.

Amendment Changes Contract End Date: ☒ YES ☐ NO **End Date:** 12/31/2015

TOTAL Contract Amount DECREASE per this Amendment (zero if N/A)**:** **$ 3,397,925**

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
FY12		$ 2,589,400			$ 2,589,400
FY13		$ 2,266,900			$ 2,266,900
FY14		$ 2,266,900			$ 2,266,900
FY15		$ 388,500			$ 388,500
FY16		$ 388,500			$ 388,500
TOTAL:		**$ 7,900,200**			**$ 7,900,200**

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

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

Jason Cavender, TSAC Chief Financial Officer
615.532.8303

Department	Account Code (optional)
3320506006	

OCR USE

AMENDMENT TWO
OF CONTRACT FA1237611

This Amendment is made and entered by and between the State of Tennessee, Tennessee Student Assistance Corporation (TSAC), hereinafter referred to as the "State" and Student Loan Counseling Service, Inc., a subsidiary of the CBE Companies, Inc., hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract Section A.7.a. Inbound Calls is deleted in its entirety and replaced with the following:

   A.7.a. Inbound Calls. The Contractor shall ensure that eighty-five percent (85%) of inbound calls are answered within thirty (30) seconds. If the call is not answered within thirty seconds, the call will roll to voice mail and will be responded to within twenty-four hours of receipt, pursuant to Contract Section A.7.b. The Contractor shall ensure that "abandoned" or "lost" calls are less than three percent (3%) of total calls received. All inbound calls shall be documented on the Contractor's system.

2. Contract Section A.20. Training Workshops is deleted in its entirety.

3. Contract Section A.21. Audits is renumbered as A.20. as follows:

   A.20. Audits. The Contractor shall provide support to any audit team from TSAC, the Tennessee Comptroller of the Treasury, or any other entity designated by TSAC. The Contractor shall promptly comply with all reasonable requests for information and materials, including, without limitation, servicing records, policies and procedures, and prior audit reports. Any information provided by the Contractor shall be in an electronic format acceptable to TSAC.

   The Contractor shall immediately notify TSAC of any exceptions or findings identified by any audit team, and provide any and all information needed to allow TSAC to participate in the timely resolution of exceptions or findings.

   A.20.a. Internal Controls (Security) Audit Functions. The Contractor shall define the parameters of a comprehensive internal controls (security) audit. These reviews shall be sufficient to reflect an SAS70 or a SysTrust review. TSAC shall review and must approve the comprehensiveness of the proposed internal controls (security) audit. The Contractor shall ensure that the internal controls (security) audit is performed on an annual basis.

   The Contractor shall arrange to have this audit conducted by an unbiased third party at no additional cost to TSAC. The Contractor shall submit for approval, the name and background of the third party auditor. The Contractor must provide TSAC their plan for correcting or remedying any audit exceptions identified as a result of the security audit within sixty (60) business days of completion of the audit.

   The Contractor shall describe their plan for independent security audits and provide technical specifics relative to those audits. The Contractor shall assist TSAC in support of external security assessments and other externally performed internal controls (security) audits. The Contractor shall provide the physical and logical access reasonably required for authorized representatives to satisfy assessment and audit risks.

4. Contract Section A.22. Authorized Individuals is renumbered as A.21. as follows:

A.21. Authorized Individuals. The Contractor and TSAC shall provide the other with a list identifying the individuals from whom the other is authorized to accept any notices, requests, demands, or other advice which may be given. Said lists, which are attached as Attachment C, shall be valid until revoked or amended by further written notice. The Contractor and TSAC shall only be entitled to rely on notices, requests, demands, or other advice given by such individuals.

5. Contract Section A.23. Change Orders is renumbered as A.22. and is deleted in its entirety and replaced with the following:

A.22 Change Orders. TSAC may, at its sole discretion and with written notice to the Contractor, request changes in the scope of services to the functional requirements, processing procedures, or other modifications as required by the U.S. Department of Education, changes to federal regulations, or the State of Tennessee statutory or regulatory requirements, according to a priority schedule as provided by TSAC.

A.22.a. Memorandum of Understanding. No more than ten (10) business days after receiving a signed, finalized functional design document from TSAC, the Contractor shall respond with a written proposal for completing the service. Said proposal must specify:

(1) the effect, if any, of implementing the requested change(s) on all other services required under this Contract,
(2) the specific effort involved in completing the change(s),
(3) the expected date for User Acceptance Testing,
(4) the expected schedule for completing the change(s),

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

A.22.b. Change Order Performance. Subsequent to TSAC approval of an MOU, the Contractor shall complete the required change order services. TSAC shall perform User Acceptance Testing as applicable before providing written approval of the work performed. TSAC will be the sole judge of the acceptable completion of change order work and, upon such determination, shall provide the Contractor written approval of the work.

6. Contract Section A.24. Defects is renumbered as A.23. as follows

A.23. Defects. Any corrections of deficiencies relating to this Contract and any investigation necessary to determine the source of the deficiencies shall not be considered additional work and shall be made at no additional cost to TSAC. Critical deficiencies which are not corrected within seven (7) calendar days of the date that TSAC reports the deficiency shall, at the discretion of the Associate Executive Director of Loan Administration or Executive Director, result in an adjustment to the monthly service invoice as per C.3.d.

Any defect in software utilized by, but not created by the Contractor, to deliver services contained in this Contract, upon verification of the defect will be reported within forty-eight (48) hours to the appropriate software vendor. The Contractor shall utilize all appropriate and reasonable means to assist the vendor in resolving the defect in a timely manner and shall install any software updates to correct the defect within forty-eight (48) hours of receiving the appropriate software update.

A.23.a. Defects Defined. The following is a list of events that TSAC classifies as defects or deficiencies, including but not limited to:

(1) Total failure of the software or hardware;
(2) Unrecoverable data loss;
(3) Corrupt data files;
(4) Erroneous data preventing correct billing for services;
(5) System or files cannot be accessed by users,
(6) Loss of functionality; and
(7) Missing data files or program files after software or hardware updates.

7. Contract Section A.25. Compliance is renumbered as A.24. as follows:

A.24. Compliance. The Contractor shall be fully compliant with the Federal Fair Debt Collection Practices Act (FDCPA), the Gramm-Leach-Bliley Act, the requirements for third-party servicers as per the U.S. Department of Education's regulations on third-party servicing, the Family Educational Rights and Privacy Act (FERPA), the State of Tennessee, and the U.S. Department of Education statutory and regulatory requirements when providing services under this Contract. (Refer to Attachment A, Glossary)

8. Contract Section A.26. Disaster Recovery Plan is renumbered as A.25. as follows:

A.25. Disaster Recovery Plan. The Contractor shall provide a detailed and comprehensive Disaster Recovery Plan for the Contact Center that meets the requirements of TSAC, the U.S. Department of Education, and the State of Tennessee statutory and regulatory requirements. A disaster is defined as any outage, which affects more than twenty percent (20%) of the inbound traffic into a center for more than two (2) hours. The Disaster Recovery Plan shall ensure that all critical information systems can be recovered in the event of a disaster which disrupts any of the data processing capabilities of the Contractor.

These plans are to be presented to TSAC no later than sixty (60) days after the signing of the contract. The Disaster Recovery Plan shall be tested, at no additional cost to TSAC, no later than six (6) months following the effective date of the contract and annually thereafter. A report on the results of each testing shall be provided to TSAC at no additional cost to TSAC.

A.25.a. System Outages and Shutdowns. The Contractor shall report to TSAC within one (1) hour any system outages and/or shutdowns. Any planned outages and/or shutdowns must be communicated at least seven (7) business days in advance to TSAC.

9. Contract Section A.27. Information Technology is renumbered as A.26. as follows:

A.26. Information Technology (IT). The State IT protocols are as follows:

A.26a. Exchange of Information. The Contractor shall have the capability to exchange information electronically using the methods, medias, and communications protocols available to borrowers, postsecondary institutions, lenders, servicers, and TSAC. The protocols shall include, at a minimum:

- POP3,
- FTP,
- PDF,
- HTML,
- HTM,

- XML,
- HTTP,
- HTTPS,
- HDDP, and
- DHCP.

A.26.b. Data Networking Services. Data networking services for TSAC are centrally "hosted" from the State's Capitol Complex Service Center (CCSC – Data Center), delivered through the Downtown Metropolitan Area Network (MAN) Infrastructure.

A.26.c. File Services. Microsoft Window Active Directory Services, on VMWare, running Windows 2003 Enterprise Server Operating System.

A.26.d. E-mail Services. Microsoft Exchange.

10. Contract Section A.28. Source Code and Software in Escrow is deleted in its entirety.

11. Contract Section A.29. Transition and/or Conversion is renumbered as A.27. as follows:

A.27. Transition and/or Conversion. At the expiration of this Contract, or if at any time TSAC should terminate this Contract, the Contractor shall cooperate with any subsequent Contractor or staff from the TSAC offices who might assume the functions in this Contract. This cooperation shall be binding for a period not to exceed ninety (90) calendar days following the conclusion of the Contract.

The Contractor must provide a Conversion Plan that describes the tasks, milestones, and timeframes to convert existing processes from the current provider to the proposed solution. This plan must clearly define both TSAC's and the Contractor's responsibilities during the transition period. The Contractor shall begin testing immediately after the Contract has been awarded to enable TSAC to determine whether the Contractor's system is reliable and able to assume all of the responsibilities as stated in this Contract. The Contractor shall utilize Quality Management Processes for the conversion to ensure the quality of products and services delivered are reliable and dependable.

The Quality Management Process shall include, at a minimum:

A.27.a. Conversion components contained in the Project Management Plan, and

A.27.b. Data Conversion Test Plan.

12. Contract Section B.1. is deleted in its entirety and replaced with the following:

B.1. This Contract shall be effective for the period beginning January 1, 2012, and ending on December 31, 2015. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

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

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Seven Million Nine Hundred Thousand Two Hundred Dollars ($7,900,200.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all

applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

14. Contract section C.3.b Units, Milestones, or Increments of Service – Payment Rates is deleted in its entirety and replaced with the following:

C.3.b. Units, Milestones, or Increments of Service – Payment Rates. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description **Year 1** **01/01/2012 – 12/31/2012**	**Amount** (per compensable increment)
Transfer of Account (Reassignment) 1/1/2012 (Accounts not in Contractor's active inventory 12/31/11)	$ 9.90 / Per Loan
New Assignment A.4.	$ 17.95 / Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90 / Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50 / Per Loan
Cured – Grace Period A.2.	$ .50 / Per Loan
Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50 / Per Loan
Cured – Paid in Full A.2.	$ .50 / Per Loan
Cured – Deferment A.2.	$ .50 / Per Loan
Cured – Forbearance A.2.	$ .50 / Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50 / Per Loan
Cured – Bankruptcy A.2.	$ .50 / Per Loan
Change Orders A.23	$ 1.00 / Per Hour

Service Description **Year 2** **01/01/2013 – 12/31/2013**	**Amount** (per compensable increment)
New Assignment A.4.	$ 17.95 / Per Loan

Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90	/ Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50	/ Per Loan
Cured – Grace Period A.2.	$ .50	/ Per Loan
Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50	/ Per Loan
Cured – Paid in Full A.2.	$ .50	/ Per Loan
Cured – Deferment A.2.	$ .50	/ Per Loan
Cured – Forbearance A.2.	$ .50	/ Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50	/ Per Loan
Cured – Bankruptcy A.2.	$ .50	/ Per Loan
Change Orders A.23	$ 1.00	/ Per Hour

Service Description **Year 3** **01/01/2014 – 12/31/2014**	**Amount** (per compensable increment)	
New Assignment A.4.	$ 17.95	/ Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90	/ Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50	/ Per Loan
Cured – Grace Period A.2.	$ .50	/ Per Loan
Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50	/ Per Loan
Cured – Paid in Full A.2.	$ .50	/ Per Loan
Cured – Deferment A.2.	$ .50	/ Per Loan
Cured – Forbearance A.2.	$ .50	/ Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50	/ Per Loan
Cured – Bankruptcy A.2.	$ .50	/ Per Loan
Change Orders A.23	$ 1.00	/ Per Hour

Service Description **Year 4** **01/01/2015 – 12/31/2015**	**Amount** (per compensable increment)
Monthly Service Fee for Services as noted in Contract Section A. Scope of Services	$32,375 / Per Month

Service Description **Year 5** **01/01/2016 – 12/31/2016**	**Amount** (per compensable increment)
Monthly Service Fee for Services as noted in Contract Section A. Scope of Services	$32,375 / Per Month

15. Contract section C.3.c. Change Order Remuneration is deleted in its entirety and replaced with the following:

    C.3.c. Default Aversion Field Representative. Beginning January 2015 and continuing through the remaining term of this contract, for any thirty (30) consecutive day period a default aversion field representative position, as described in section A.19.b., is unfilled, the monthly service fee in C.3.b. shall be reduced by six thousand two hundred fifty dollars ($6,250) for the month following the thirty consecutive day period.

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

    C.3.d. Defects. Critical defects, as per Contract Section A.23., which are not corrected within seven (7) calendar days of the date that TSAC reports the defect shall, at the discretion of the Associate Executive Director of Loan Administration, Senior Associate Executive Director, or Executive Director, result in an adjustment to the monthly service invoice of Five Hundred Dollars ($500.00) per day for every day after seven calendar (7) days that the critical defect is not corrected.

17. Contract Section C.3.f. Reassignments within Six Months of Cure is deleted in its entirety.

18. Contract Section D.8. Prohibition of Illegal Immigrants is deleted in its entirety and replaced with the following:

    D.8. Prohibition of Illegal Immigrants. The requirements of Tenn. Code Ann. § 12-3-309 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 agrees 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 under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under 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 Tenn. Code Ann. § 12-3-309 for acts or omissions occurring after its effective date.

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.

19. Contract Section D.10. Prevailing Wage Rates is deleted in its entirety and replaced with the following:

D.10. Prevailing Wage Rates. All State contracts for highway construction projects, which are for the purpose of building, rebuilding, locating, relocating or repairing any streets, highways or bridges, require compliance with the prevailing wage laws as provided in Tenn. Code Ann. § 12-4-401 – 415.

20. Contract section E.5. Confidentiality of Records is renumbered as Contract Section E.7:

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.

21. Contract section E.6. Printing Authorization is renumbered as Contract Section E.8.:

E.8. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq*., shall be printed pursuant to this contract unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).

22. Contract section E.7. State Ownership of Work Products is renumbered as Contract Section E.9.:

E.9. 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.

E.9.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.

E.9.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.

E.9.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.

E.9.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.

23. Contract section E.8. State Furnished Property is renumbered as Contract Section E.10.:

E.10. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

24. Contract section E.9. Incorporation of Additional Documents is renumbered as Contract Section E.11.:

Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's

duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below.

E.11.a. this Contract document with any attachments or exhibits (excluding the items listed at subsections b. through e., below);

E.11.b. any clarifications of or addenda to the Contractor's proposal seeking this Contract;

E.11.c. the State solicitation, as may be amended, requesting proposals in competition for this Contract;

E.11.d. any technical specifications provided to proposers during the procurement process to award this Contract; and

E.11.e. the Contractor's proposal seeking this Contract.

25. Contract section E.10. Performance Bond is renumbered as Contract Section E.12. and deleted in its entirety and replaced with the following:

E.12. Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract and in the amount equal to One Million One Hundred Twenty-Nine Thousand Eight Hundred Thirteen Dollars ($1,129,813.00). The Contractor shall submit the bond no later than the day immediately preceding the Contract start date and in the manner and form prescribed by the State (at Attachment D hereto), and the bond shall be issued through a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations under this Contract for:

E.12a. the contract term and all extensions thereof; or

E.12b. the first, calendar year of the Contract (ending December 31st following the Contract start date) in the amount of One Million One Hundred Twenty-Nine Thousand Eight Hundred Thirteen Dollars ($1,129,813.00) and, thereafter, a new performance bond in the amount of One Million One Hundred Twenty-Nine Thousand Eight Hundred Thirteen Dollars ($1,129,813.00) covering each subsequent calendar year of the contract period through December 31, 2014, and for the calendar year January 1, 2015 through December 31, 2015, the amount of Seventy-Seven Thousand Seven Hundred Dollars ($77,700.00), and for the period January 1, 2016 through December 31, 2016, the amount of Thirty-Eight Thousand Eight Hundred Fifty Dollars ($38,850.00). In which case, the Contractor shall provide such performance bonds to the State no later than each December 10th preceding the calendar year period covered beginning on January 1st of each year.

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

26. Contract Section E.11. Hold Harmless is renumbered as E.13. as follows:

E.13. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all

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

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

27. Contract Section E.12. Partial Takeover is renumbered as E.14. as follows:

E.14. Partial Takeover. The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. The Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

28. Contract E.13. Unencumbered Personnel is renumbered as E.15. as follows:

E.15. Unencumbered Personnel. All persons assigned by the Contractor to perform services for the State under this Contract, whether they are employees, agents, subcontractors, or principals of the Contractor, shall not be subject to any employment contract or restrictive covenant provisions which would preclude those persons from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State. If the Contractor provides the State with the services of any person subject to a restrictive covenant or contractual provision in violation of this provision, any such restrictive covenant or contractual provision will be void and unenforceable, and the Contractor will pay the State and any person involved all of its expenses, including attorney's fees, caused by attempts to enforce such provisions.

29. Contract Section E.14. Disclosure of Personal Identity Information is renumbered as E.16. as follows:

E.16. Disclosure of Personal Identity Information. The Contractor shall report to the State any instances of unauthorized disclosure of confidential information that come to the attention of the Contractor. Any such report shall be made by the Contractor within twenty-four (24) hours after the instance has come to the attention of the Contractor. The Contractor, at the sole discretion of the State, shall provide no-cost credit monitoring services for

individuals that are deemed to be part of a potential disclosure. The Contractor shall bear the cost of notification to individuals having personal identity information involved in a potential disclosure event, including individual letters and/or public notice.

30. Contract E.15. Hold Harmless - Financial is renumbered as E.17. as follows:

E.17. Hold Harmless – Financial. The Contractor shall hold TSAC harmless for any loss of revenue, financial, or administrative penalty as determined by the State of Tennessee or the U.S. Department of Education which is attributable to any one of the following:

E.17.a. Contractor error or untimeliness in processing or servicing,

E.17.b. Contractor failure to timely and effectively resolve errors identified, and

E.17.c. Contractor processing or servicing errors identified during third-party servicer audit by the State of Tennessee or the U.S. Department of Education.

The language in this section does not limit the Contractor's obligation to indemnify and hold harmless TSAC and the State of Tennessee as per Section E.13.

31. Contract Attachment D is deleted in its entirety and replaced with the new attachment Attachment D attached hereto.

32. The following is added as Contract Section A.19.d. Training Workshops:

A.19.d. Training Workshops. The field representatives shall assist TSAC with the development of live and web-based training workshop materials. Training workshops shall be offered to groups of borrowers and postsecondary institution personnel as determined by TSAC.

33. The following is added as Contract Section D.21. HIPAA Compliance:

D.21. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Health Information Technology for Economic and Clinical Health (HITECH) Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules").

a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable 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 the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.

c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver such information without entering into a business associate agreement or signing another such document.

d. The Contractor will indemnify the State and hold it harmless for any violation by the Contractor or its subcontractors of the Privacy Rules. This includes the costs of responding to a breach of protected health information, the costs of responding to a government enforcement action related to the breach, and any fines, penalties, or damages paid by the State because of the violation.

34. The following is added as Contract Section E.5. Tennessee Department of Revenue Registration:

E.5 Tennessee Department of Revenue Registration. The Contractor shall be registered with the Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this Contract.

35. The following is added as Contract Section E.6. Debarment and Suspension:

E.6. 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 offence 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.

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 January 02, 2015. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

STUDENT LOAN COUNSELING SERVICE, INC., A SUBSIDIARY OF THE CBE COMPANIES, INC.:

NICK MICHAEL, SENIOR VICE PRESIDENT, CLIENT SERVICES **DATE**

TENNESSEE STUDENT ASSISTANCE CORPORATION:

RICHARD G. RHODA, EXECUTIVE DIRECTOR **DATE**

PERFORMANCE BOND

(Draft)

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

KNOW ALL BY THESE PRESENTS:

That we,

_____

(Name of Principal)

_____

(Address of Principal)

as Principal, hereinafter called the Principal, and

_____

(Name of Surety)

_____

(Address of Surety)

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

[WRITTEN DOLLAR AMOUNT] [($NUMBER)]

[Pursuant to Contract Section E.12.]

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

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

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

_____

(Contract Maximum Liability)

to complete Work detailed in the Scope of Services detailed in the State of Tennessee Request for Proposals bearing the RFP Number 33205-01312, a copy of which said Request for Proposals and the resulting Contract are by reference hereby made a part hereof, as fully and to the same extent as if copied at length herein.

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

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

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

_____ day of _____ , in the year_____ .

WITNESS:

_____	_____
(Name of Principal)	(Name of Surety)
_____	_____
(Authorized Signature of Principal)	(Signature of Attorney-in-Fact)
_____	_____
(Name of Signatory)	(Name of Attorney-in-Fact)
_____	_____
(Title of Signatory)	(Tennessee License Number of Surety)

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

Rep. Curtis Johnson, Vice-Chairman
Representatives
Tommie Brown, David Shepard
Jim Coley, Tony Shipley
Charles Curtiss, Curry Todd
Johnny Shaw, Mark White
Charles Sargent, *ex officio*
Speaker Beth Harwell, *ex officio*

MEMORANDUM

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

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

DATE: March 29, 2012

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

RFS# 332.05-01312 (Edison # 29787)
Department: Tennessee Student Assistance Corporation (TSAC)
Vendor: Student Loan Counseling Services, Inc.
Summary: The vendor is responsible for Default Aversion Assistance services for TSAC's loan portfolio, post-secondary institutions, lenders, and servicers. The proposed amendment revises payment methodology, increases the amount of the performance bond, and increases maximum liability by $5,913,525.
Current maximum liability: $5,384,600
Proposed maximum liability: $11,298,125

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

cc: Dr. Richard Rhoda, Executive Director, THEC
Ms. Jessica Robertson, Chief Procurement Officer

RICHARD G. RHODA
Executive Director

BILL HASLAM
Governor

STATE OF TENNESSEE
TENNESSEE STUDENT ASSISTANCE CORPORATION
Suite 1510, Parkway Towers
404 James Robertson Parkway
Nashville, Tennessee 37243-0820
(615)741-3000 • 1-866-291-2675 • FAX (615)741-6101
www.CollegePaysTN.com

MEMORANDUM

TO: Leni Chick, Contract and Audit Coordinator, Fiscal Review Committee

FROM: Peter Abernathy, Senior Associate Executive Director and Attorney

DATE: March 15, 2012

RE: Non-Competitive Contract Amendment Summary
Student Loan Counseling Services, Inc., a subsidiary of the CBE Group, Inc.

The Tennessee Student Assistance Corporation proposes to submit a non-competitive contract amendment request to its contract with the Student Loan Counseling Services (SCLS), Inc., a subsidiary of the CBE Group, Inc. This amendment to the contract, funded through federal program-generated revenues, is required to revise the contract maximum liability due to the initial transfer of existing default aversion assistance requests from the prior servicer to the new contractor. This is a one-time billing and was not accounted for when establishing the initial annual maximum liability. Additionally, the actual number of reassignments submitted monthly to the contractor is greater than estimated in the annual maximum liability. Current program revenues are sufficient to cover the increased costs. Pursuant to *Tennessee Code Annotated* § 12-4-109, Procurement of Service, the following information is presented for the Fiscal Review Committee.

Description of the service:

This contract for default aversion assistance services was competitively procured through the Request for Proposal (RFP) process complying with *Tenn. Comp. R. and Regs.* Chapter 0620-03-03-.03(2). Default Aversion Assistance is a service provided by TSAC to lenders and servicers in assisting delinquent borrowers avoid defaulting on their student loans. Default Aversion Assistance is performance-based, directly tying revenue or financial reimbursement for the activities of Default Aversion to the successful curing of a loan delinquency and the aversion of a loan default.

Explanation of the need for the amendment:

The amendment is required to revise the contract maximum liability to accommodate the initial transfer of accounts January 1, 2012 that were not included in the expenditure calculations. It was not until the invoice was received that the omission was brought to TSAC's attention, alerting TSAC to the need of an amendment. Additionally, based on the number of reassignments reflected in the initial billing, it appears that TSAC's estimate of reassignments used to calculate the projected monthly expenditures was incorrect, also requiring TSAC to adjust the contract maximum liability. Prior to the RFP, TSAC's servicer was subcontracting the default aversion services and billing TSAC only for new assignments, thus the number of reassignments was not apparent to TSAC when projecting the annual number of reassignments.

Documentation submitted for consideration:

Fiscal Review Summary
33205-01312 FY12-14 DAAS Student Loan Counseling Services Amendment One
With Revised Contract Summary Sheet
33205-01312 SLCS Amendment One FRC Supplemental Department Information
33205-01312 SLCS Non-Competitive Amendment Request
33205-01312 FY12-14 DAAS Student Loan Counseling Services Approved Contract (Original)
with Contract Summary Sheet
33205-01312 SCLS OIR Endorsement
33205-01312 Default Aversion Assistance Service RFP Release 1

The Tennessee Student Assistance Corporation would greatly appreciate the consideration and approval of the amendment by the Fiscal Review Committee.

Supplemental Documentation Required for Fiscal Review Committee

*Contact Name:	Peter Abernathy, Senior Associate Executive Director and Attorney Peter.Abernathy@tn.gov	*Contact Phone:	615.532.6065
*Original Contract Number:	FA1237611	*Original RFS Number:	3320501312
Edison Contract Number: (*if applicable*)	29787	Edison RFS Number: (*if applicable*)	3320501312
*Original Contract Begin Date:	01/01/2012	*Current End Date:	12/31/2014
Current Request Amendment Number: (*if applicable*)		ONE	
Proposed Amendment Effective Date: (*if applicable*)		05/01/2012	
*Department Submitting:		Tennessee Student Assistance Corporation (TSAC)	
*Division:		Loan Division	
*Date Submitted:		March 15, 2012	
*Submitted Within Sixty (60) days:		Yes, 75 Days Prior to Effective Date	
If not, explain:		NA	
*Contract Vendor Name:		Student Loan Counseling Service, Inc., a subsidiary of the CBE Group, Inc.	
*Current Maximum Liability:		$5,384,600.00 (With all options to extend exercised)	

*Current Contract Allocation by Fiscal Year:
(as Shown on Most Current Fully Executed Contract Summary Sheet)

FY: 2012	FY: 2013	FY: 2014	FY: 2015	FY 2016	FY
$ 1,076,920	$1,076,920	$ 1,076,920	$ 1,076,920	$ 1,076,920	$

*Current Total Expenditures by Fiscal Year of Contract:
(attach backup documentation from STARS or FDAS report)

No payments have been made pending amendment approval.

IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:	NA
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:	NA

Supplemental Documentation Required for Fiscal Review Committee

IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:		NA		
*Contract Funding Source/Amount:	State:		**Federal:**	$5,384,600.00
Interdepartmental:			*Other*:	
If "*other*" please define:				

Dates of All Previous Amendments or Revisions: *(if applicable)*	Brief Description of Actions in Previous Amendments or Revisions: *(if applicable)*
NA	

Method of Original Award: *(if applicable)*	RFP
*What were the projected costs of the service for the entire term of the contract prior to contract award?	The projected costs of the service were determined by the rates proposed by the Contractor in its RFP Proposal multiplied by the projected evaluation factors for each category of default aversion assistance services as noted by TSAC. The service rates calculated by the projected number of loans requiring default aversion assistance and subsequent cures was $ 1,076,920 annually, for a total contract value with all options to extend of $5,384,600.

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.

Year 1			
New Assignment	$ 17.95	48,000	$ 861,600
Reassignment	$ 9.90	125,000	$ 1,237,500
Cured – Grace Period Enrollment	$ 0.50	100,000	$ 50,000
Cured - Grace Period (After School)	$ 0.50	80,000	$ 40,000
Cured – Current Repayment	$ 0.50	150,000	$ 75,000
Cured – Paid in Full	$ 0.50	750	$ 375
Cured – Deferment	$ 0.50	1,500	$ 750
Cured – Forbearance	$ 0.50	500	$ 250
Cured – Loan Discharge (Death, Disability,	$ 0.50	600	$ 300
Cured – Bankruptcy	$ 0.50	1,250	$ 625
Change Orders	$ 1.00	500	$ 500
Total Year 1			**$ 2,266,900**
Transfer of accounts 1/1/2012			**$ 322,500**
			$ 2,589,400

Supplemental Documentation Required for Fiscal Review Committee

Year 2			
New Assignment	$ 17.95	48,000	$ 861,600
Reassignment	$ 9.90	125,000	$ 1,237,500
Cured – Grace Period Enrollment	$ 0.50	100,000	$ 50,000
Cured - Grace Period (After School)	$ 0.50	80,000	$ 40,000
Cured – Current Repayment	$ 0.50	150,000	$ 75,000
Cured – Paid in Full	$ 0.50	750	$ 375
Cured – Deferment	$ 0.50	1,500	$ 750
Cured – Forbearance	$ 0.50	500	$ 250
Cured – Loan Discharge (Death, Disability,	$ 0.50	600	$ 300
Cured – Bankruptcy	$ 0.50	1,250	$ 625
Change Orders	$ 1.00	500	$ 500
Total Year 2			**$ 2,266,900**
Year 3			
New Assignment	$ 17.95	48,000	$ 861,600
Reassignment	$ 9.90	125,000	$ 1,237,500
Cured – Grace Period Enrollment	$ 0.50	100,000	$ 50,000
Cured - Grace Period (After School)	$ 0.50	80,000	$ 40,000
Cured – Current Repayment	$ 0.50	150,000	$ 75,000
Cured – Paid in Full	$ 0.50	750	$ 375
Cured – Deferment	$ 0.50	1,500	$ 750
Cured – Forbearance	$ 0.50	500	$ 250
Cured – Loan Discharge (Death, Disability,	$ 0.50	600	$ 300
Cured – Bankruptcy	$ 0.50	1,250	$ 625
Change Orders	$ 1.00	500	$ 500
Total Year 3			**$ 2,266,900**

Supplemental Documentation Required for Fiscal Review Committee

Year 4			
New Assignment	$ 17.95	48,000	$ 861,600
Reassignment	$ 9.90	112,500	$ 1,113,750
Cured – Grace Period Enrollment	$ 0.50	100,000	$ 50,000
Cured - Grace Period (After School)	$ 0.50	80,000	$ 40,000
Cured – Current Repayment	$ 0.50	150,000	$ 75,000
Cured – Paid in Full	$ 0.50	750	$ 375
Cured – Deferment	$ 0.50	1,500	$ 750
Cured – Forbearance	$ 0.50	500	$ 250
Cured – Loan Discharge (Death, Disability,	$ 0.50	600	$ 300
Cured – Bankruptcy	$ 0.50	1,250	$ 625
Change Orders	$ 1.00	500	$ 500
Total Year 4			**$ 2,143,150**
Year 5			
New Assignment	$ 17.95	48,000	$ 861,600
Reassignment	$ 9.90	101,250	$ 1,002,375
Cured – Grace Period Enrollment	$ 0.50	100,000	$ 50,000
Cured - Grace Period (After School)	$ 0.50	80,000	$ 40,000
Cured – Current Repayment	$ 0.50	150,000	$ 75,000
Cured – Paid in Full	$ 0.50	750	$ 375
Cured – Deferment	$ 0.50	1,500	$ 750
Cured – Forbearance	$ 0.50	500	$ 250
Cured – Loan Discharge (Death, Disability,	$ 0.50	600	$ 300
Cured – Bankruptcy	$ 0.50	1,250	$ 625
Change Orders	$ 1.00	500	$ 500
Total Year 5			**$ 2,031,775**

Supplemental Documentation Required for Fiscal Review Committee

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

This contract was competitively procured and, as such, the rates reflect the winning proposal rates, providing TSAC with the best services at the most favorable, competitive prices. Although the amendment revises the contract maximum liability, neither the service nor rates are being revised. This amendment to the contract, funded through federal program-generated revenues, is required to revise the contract maximum liability due to the initial transfer of existing default aversion assistance requests from the prior servicer to the new contractor. This is a one-time billing and was not accounted for when establishing the initial annual maximum liability. Additionally, the actual number of reassignments submitted monthly to the contractor is greater than estimated in the annual maximum liability. Current program revenues are sufficient to cover the increased costs.

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. vendors), cost of other options, and source of information for comparison of other options (e.g. catalog, Web site).

This contract was competitively procured and, as such, the rates reflect the winning proposal rates, providing TSAC with the best services at the most favorable, competitive prices.

Non-Competitive Amendment Request

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

APPROVED
COMMISSIONER OF FINANCE & ADMINISTRATION

Request Tracking #	33205-01312
1. Procuring Agency	Tennessee Student Assistance Corporation (TSAC)
2. Contractor	Student Loan Counseling Service, Inc., a subsidiary of the CBE Group, Inc.
3. Contract #	FA1237611
4. Proposed Amendment #	ONE
5. Edison ID #	29787

6. Contract Begin Date	01/01/2012
7. Current Contract End Date *– with ALL options to extend exercised*	12/31/2016
8. Proposed Contract End Date *– with ALL options to extend exercised*	12/31/2016
9. Current Maximum Contract Cost *– with ALL options to extend exercised*	$ 5,384,600
10. Proposed Maximum Contract Cost *– with ALL options to extend exercised*	$ 11,298,125
11. Office for Information Resources Endorsement *– information technology service (N/A to THDA)*	☐ Not Applicable ☒ Attached
12. eHealth Initiative Support *– health-related professional, pharmaceutical, laboratory, or imaging*	☒ Not Applicable ☐ Attached
13. Human Resources Support *– state employee training service*	☒ Not Applicable ☐ Attached

14. Explanation Need for the Proposed Amendment

This amendment to the contract, funded through federal program-generated revenues, is required to revise the contract maximum liability due to the initial transfer of existing default aversion assistance requests from the prior servicer to the new contractor. This is a one-time billing and was not accounted for when establishing the initial annual maximum liability. Additionally, the actual number of reassignments submitted monthly to the contractor is greater than estimated in the annual maximum liability. Current program revenues are sufficient to cover the increased costs.

Request Tracking #	33205-01312

15. Name & Address of the Contractor's Principal Owner(s)
– NOT required for a TN state education institution

Home Office:
Student Loan Counseling Service
131 Tower Park Drive, Suite 100
Waterloo, IA 70701

16. Evidence Contractor's Experience & Length Of Experience Providing the Service

In 1933, the company was founded in Iowa as the Credit Bureau of Black Hawk County. In 1950, the business became known as the Credit Bureau of Waterloo, and in 1978 it acquired the credit bureau in Cedar Falls and became the Credit Bureau of Waterloo-Cedar Falls. Through the mid-80s, the company purchased or opened credit, collection and reporting agencies in various locations throughout Iowa, as well as in Illinois and Indiana. Thomas R. Penaluna purchased the company in 1986 and has served as President, CEO and sole owner since that time. Subsequent to the Credit Bureau's incorporation in 1987, the name was changed to Credit Bureau Enterprises (CBE), Inc. SLCS was established as a subsidiary of CBE in 1998.

SLCS has been performing default aversion assistance services for 13 years. SLCS is the student loan industry's recognized leader in early intervention, loan repayment, default aversion and cohort default rate reduction programs. Anchored by its commitment to helping borrowers repay their loans and avoid the unfortunate experience of default, SLCS provides customized default prevention/aversion and loan repayment programs for all segments of the student loan community.

17. Efforts to Identify Reasonable, Competitive, Procurement Alternatives

The contract for default aversion assistance services was competitively procured through the Request for Proposal (RFP) process complying with *Tenn. Comp. R. and Regs*. Chapter 0620-03-03-.03(2).

18. Justification *– specifically explain why non-competitive negotiation is in the best interest of the state*

As this amendment simply revises the contract maximum liabilities based on service rates and evaluation factors in the winning RFP and subsequent contract, there is not a procurement alternative, and is in the best interest of the state.

Agency Head Signature and Date *– 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*

Richard G Rhoda 3/15/12

RICHARD G. RHODA, EXECUTIVE DIRECTOR

CONTRACT AMENDMENT

Agency Tracking #	Edison ID	Contract #	Amendment #
33205-01312	29787	FA1237611	ONE

Contractor Legal Entity Name	Edison Vendor ID
Student Loan Counseling Service, Inc., a subsidiary of the CBE Group, Inc.	0000147546

Amendment Purpose & Effect(s)

Revises the contract maximum liability to include initial transfer of account assignments and greater volume of reassignments than projected.

Amendment Changes Contract End Date: ☐ YES ☒ NO **End Date:** 12/31/2014

TOTAL Contract Amount INCREASE per this Amendment (zero if N/A): **$ 5,913,525.00**

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
FY12		$ 2,589,400			$ 2,589,400
FY13		$ 2,266,900			$ 2,266,900
FY14		$ 2,266,900			$ 2,266,900
FY15		$ 2,143,150			$ 2,143,150
FY16		$ 2,031,775			$ 2,031,775
TOTAL:		**$ 11,298,125**			**$ 11,298,125**

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

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

Russ Deaton, Associate Executive Director of Fiscal Affairs
615.532.3860

Department	Account Code (optional)
3320506006	

OCR USE

FA1237611-01

AMENDMENT ONE
OF CONTRACT FA1237611

This Amendment is made and entered by and between the State of Tennessee, Tennessee Student Assistance Corporation (TSAC), hereinafter referred to as the "State" and Student Loan Counseling Service, Inc., a subsidiary of the CBE Group, Inc., hereinafter referred to as the "Contractor." It is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract section C.1 Maximum Liability 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 Eleven Million Two Hundred Ninety-Eight Thousand One Hundred Twenty-Five Dollars ($11,298,125.00). 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.

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

   C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

   C.3.a. Units, Milestones, or Increments of Service – Satisfactory Completion. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.

   C.3.b. Units, Milestones, or Increments of Service – Payment Rates. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description **Year 1** **01/01/12 – 12/31/12**	**Amount** (per compensable increment)
Transfer of Account (Reassignment) 1/1/2012 (Accounts not in Contractor's active inventory 12/31/11)	$ 9.90 / Per Loan
New Assignment A.4.	$ 17.95 / Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90 / Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50 / Per Loan
Cured – Grace Period A.2.	$ .50 / Per Loan

Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50	/ Per Loan
Cured – Paid in Full A.2.	$ .50	/ Per Loan
Cured – Deferment A.2.	$ .50	/ Per Loan
Cured – Forbearance A.2.	$ .50	/ Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50	/ Per Loan
Cured – Bankruptcy A.2.	$ .50	/ Per Loan
Change Orders A.23	$ 1.00	/ Per Hour

Service Description **Year 2** **01/01/13 – 12/31/13**	**Amount** (per compensable increment)	
New Assignment A.4.	$ 17.95	/ Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90	/ Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50	/ Per Loan
Cured – Grace Period A.2.	$ .50	/ Per Loan
Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50	/ Per Loan
Cured – Paid in Full A.2.	$ .50	/ Per Loan
Cured – Deferment A.2.	$ .50	/ Per Loan
Cured – Forbearance A.2.	$ .50	/ Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50	/ Per Loan
Cured – Bankruptcy A.2.	$ .50	/ Per Loan
Change Orders A.23	$ 1.00	/ Per Hour

Service Description **Year 3** **01/01/14 – 12/31/14**	**Amount** (per compensable increment)	
New Assignment A.4.	$ 17.95	/ Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90	/ Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50	/ Per Loan
Cured – Grace Period A.2.	$ .50	/ Per Loan

Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50	/ Per Loan
Cured – Paid in Full A.2.	$ .50	/ Per Loan
Cured – Deferment A.2.	$ .50	/ Per Loan
Cured – Forbearance A.2.	$ .50	/ Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50	/ Per Loan
Cured – Bankruptcy A.2.	$ .50	/ Per Loan
Change Orders A.23	$ 1.00	/ Per Hour

Service Description **Year 4** **01/01/15 – 12/31/15**	**Amount** (per compensable increment)	
New Assignment A.4.	$ 17.95	/ Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90	/ Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50	/ Per Loan
Cured – Grace Period A.2.	$ .50	/ Per Loan
Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50	/ Per Loan
Cured – Paid in Full A.2.	$ .50	/ Per Loan
Cured – Deferment A.2.	$ .50	/ Per Loan
Cured – Forbearance A.2.	$ .50	/ Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50	/ Per Loan
Cured – Bankruptcy A.2.	$ .50	/ Per Loan
Change Orders A.23	$ 1.00	/ Per Hour

Service Description **Year 5** **01/01/16 – 12/31/16**	**Amount** (per compensable increment)	
New Assignment A.4.	$ 17.95	/ Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90	/ Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50	/ Per Loan
Cured – Grace Period A.2.	$ .50	/ Per Loan
Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50	/ Per Loan

Cured – Paid in Full A.2.	$ .50	/ Per Loan
Cured – Deferment A.2.	$ .50	/ Per Loan
Cured – Forbearance A.2.	$ .50	/ Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50	/ Per Loan
Cured – Bankruptcy A.2.	$ .50	/ Per Loan
Change Orders A.23	$ 1.00	/ Per Hour

C.3.c. Change Order Remuneration. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.23, without a formal amendment of this contract based upon the payment rates detailed in the schedule above and as agreed pursuant to said Section A.23, PROVIDED THAT compensation to the Contractor for such "change order" work shall not exceed two percent (2%) of the original Contract Maximum Liability of Five Million Three Hundred Eighty-Four Thousand Six Hundred Dollars ($5,384,600.00). If, at any point during the Contract period, the State determines that the cost of necessary "change order" work would exceed said maximum amount, the State may amend this Contract to address the need.

C.3.d. Defects. Critical defects, as per Contract Section A.24., which are not corrected within seven (7) calendar days of the date that TSAC reports the defect shall, at the discretion of the Associate Executive Director of Loan Administration, Senior Associate Executive Director, or Executive Director, result in an adjustment to the monthly service invoice of Five Hundred Dollars ($500.00) per day for every day after seven calendar (7) days that the critical defect is not corrected.

C.3.e. Minimum Compensation and Services. TSAC shall not make any guarantees regarding the minimum compensation to be paid to the Contractor or minimum usage of the Contractor's services.

C.3.f. Reassignments within Six Months of Cure. TSAC shall not pay a fee on any reassignments that are submitted within six months of the "cure" date, except for those accounts recorded in the Contractor's active inventory 12/31/2011 (for which no transfer fee was paid), which shall be compensated at the rate for reassignments if presented within six months of the first cure recorded under this Contract.

3. Contract section E.10. Performance Bond is deleted in its entirety and replaced with the following:

E.10. Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract and in the amount equal to One Million One Hundred Twenty-Nine Thousand Eight Hundred Thirteen Dollars ($1,129,813.00). The Contractor shall submit the bond no later than the day immediately preceding the Contract start date and in the manner and form prescribed by the State (at Attachment D hereto), and the bond shall be issued through a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations under this Contract for:

E.a. the contract term and all extensions thereof; or

E.b. the first, calendar year of the Contract (ending December 31st following the Contract start date) in the amount of One Million One Hundred Twenty-Nine

Thousand Eight Hundred Thirteen Dollars ($1,129,813.00) and, thereafter, a new performance bond in the amount of One Million One Hundred Twenty-Nine Thousand Eight Hundred Thirteen Dollars ($1,129,813.00) covering each subsequent calendar year of the contract period. In which case, the Contractor shall provide such performance bonds to the State no later than each December 10th preceding the calendar year period covered beginning on January 1st of each year.

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

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 May 1, 2012. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

STUDENT LOAN COUNSELING SERVICE, INC., A SUBSIDIARY OF THE CBE GROUP, INC.:

4/5/12

SCOTT J. BLANCHARD, EXECUTIVE VICE PRESIDENT **DATE**

TENNESSEE STUDENT ASSISTANCE CORPORATION:

4/9/12

RICHARD G. RHODA, EXECUTIVE DIRECTOR **DATE**

CONTRACT

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

Begin Date	End Date	Agency Tracking #	Edison Record ID
01/01/2012	12/31/2014	33205-01312	29787

Contractor Legal Entity Name	Edison Vendor ID
Student Loan Counseling Service, Inc., a subsidiary of the CBE Group, Inc.	0000147546

Service Caption (one line only)

Performing default aversion assistance services for TSAC's loan portfolio, postsecondary institutions, lenders, and servicers.

Subrecipient or Vendor	CFDA #
☐ Subrecipient ☒ Vendor	NA

Funding —

FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
FY12		$1,076,920.00			$1,076,920.00
FY13		$1,076,920.00			$1,076,920.00
FY14		$1,076,920.00			$1,076,920.00
FY15		$1,076,920.00			$1,076,920.00
FY16		$1,076,920.00			$1,076,920.00
TOTAL:		**$5,384,600.00**			**$5,384,600.00**

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

Ownership/Control

☐ African American ☐ Asian ☐ Hispanic ☐ Native American ☐ Female

☐ Person w/Disability ☐ Small Business ☐ Government ☒ NOT Minority/Disadvantaged

☐ Other:

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

☒ RFP 33205-01312	The procurement process was completed in accordance with the approved RFP document and associated regulations.
☐ Competitive Negotiation	The predefined, competitive, impartial, negotiation process was completed in accordance with the associated, approved procedures and evaluation criteria.
☐ Alternative Competitive Method	The predefined, competitive, impartial, procurement process was completed in accordance with the associated, approved procedures and evaluation criteria.
☐ Non-Competitive Negotiation	The non-competitive contractor selection was completed as approved, and the procurement process included a negotiation of best possible terms & price.
☐ Other	The contractor selection was directed by law, court order, settlement agreement, or resulted from the state making the same agreement with all interested parties or all parties in a predetermined "class."

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

Russ Deaton

Russ Deaton, Associate Executive Director of Fiscal Affairs
615.532.3860

Department	Program
3320506006	

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CONTRACT
BETWEEN THE STATE OF TENNESSEE,
TENNESSEE STUDENT ASSISTANCE CORPORATION
AND
STUDENT LOAN COUNSELING SERVICE, INC.

This Contract, by and between the State of Tennessee, Tennessee Student Assistance Corporation (TSAC), hereinafter referred to as the 'State" and Student Loan Counseling Service (SCLS), Inc., a subsidiary of the CBE Group, Inc., hereinafter referred to as the "Contractor," is for the provision of default aversion assistance services for TSAC's loan portfolio, postsecondary institutions, lenders, and servicers, as further defined in the "SCOPE OF SERVICES."

The Contractor is a For-Profit Corporation
Contractor Place of Incorporation or Organization: Iowa
Contractor Edison Registration ID: 0000147546

A. SCOPE OF SERVICES:

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

A.2. Default Aversion Assistance. Default Aversion Assistance is a service provided by TSAC to lenders and servicers by assisting delinquent borrowers avoid defaulting on their student loans. Default Aversion Assistance is performance-based, directly tying revenue or financial reimbursement for the activities of Default Aversion for the successful curing of a loan delinquency and the aversion of a loan default. (Refer to Attachment A, Glossary)

Default Aversion Assistance begins when a lender or servicer requests assistance from TSAC after the loan becomes sixty (60) days delinquent. Default Aversion Assistance ends when the delinquency has been resolved by a cure: identifying that a borrower is in a grace period, either in-school enrollment or ceases to be enrolled at least half time; has a current repayment status (*e.g.*, zero (0) days delinquent); has a paid-in-full status; has a deferment status by having met certain conditions, and is not required to make payments of the loan principal for a period of time; has a forbearance and is permitted to temporarily make reduced payments or ceases to make payments, either through an entitlement or discretion of the lender; the loan is discharged due to death, disability, *etc.*; has filed bankruptcy; or a default claim has been paid. (Refer to Attachment A, Glossary)

TSAC's primary goals are to protect the borrowers' best interests by providing information regarding the repayment of their student loans to reduce defaults, assist postsecondary institutions in reducing their cohort default rate, and maintain compliance with all applicable laws and regulations for Default Aversion Assistance. (Refer to Attachment A, Glossary)

TSAC will partner with postsecondary institutions, lenders, and servicers in the prevention of defaults on Title IV loans.

The Tennessee Student Assistance Corporation is the State of Tennessee's designated guaranty agency by the U. S. Department of Education, responsible for the administration of the Federal Family Education Loan Program (FFELP), authorized by Title IV of the Higher Education Act of 1965, as amended, and further authorized by *Tennessee Code Annotated* Title 49, Chapter 4. With more than thirty-five years of proven, results-oriented, corporate experience, TSAC has provided outreach, training, and assistance to students and their families to help them understand the complicated requirements for both state and federal student aid. (Refer to Attachment A, Glossary)

A.3. Internet-based System State Standards. The Contractor shall provide TSAC with an interactive web-based system that is accessible through TSAC's website by borrowers, postsecondary institutions, lenders, servicers, and TSAC for processing data from default aversion assistance requests on Title IV loans.

A.3.a. The system shall provide, at a minimum:

(1) Distinctive counseling service features based on industry standards and initiatives for default aversion assistance,
(2) Accuracy and predictability,
(3) Ease of use,
(4) Prompt access to information,
(5) Multiple search fields, *e.g.*, by borrower name, SSN, and unique ID,
(6) Functionality and flexibility to accommodate the preferences of TSAC, and
(7) Relational databases for use in data entry, analysis, reporting, tracking, warehousing, and refinement of data.

A.3.b. The system shall have the capability to communicate and coordinate transmissions of data between TSAC's contracted servicer and the Contractor.

A.3.c. The system shall provide TSAC with view access, inquiry capability, update capability, print capability, and retrieval of stored images on all borrower accounts for selected TSAC personnel, as designated by the Associate Executive Director of Loan Administration.

A.3.d. All demographic and loan information on each Default Aversion Assistance Request (DAAR) shall be recorded on the system by individual borrower and loan type, including at a minimum (Refer to Attachment A, Glossary):

(1) Borrower name,
(2) SSN,
(3) Unique ID,
(4) Birth date,
(5) Address,
(6) City, State, Zip,
(7) Telephone number,
(8) Email address,
(9) Date DAAR was received,
(10) Lender name,
(11) Servicer name,
(12) Postsecondary institution(s) name,
(13) Loan type,
(14) Outstanding balance,
(15) Guarantee Date, and
(16) Monthly payment amount.

The system shall meet TSAC, the State of Tennessee, and the U.S. Department of Education statutory and regulatory requirements, and comply with all applicable statutes, regulations, and directives on default aversion assistance.

A.4. Assignments and Reassignments. The Contractor shall accept all default aversion assistance requests, including new and reassignments, referred by TSAC through its contracted servicer. The Contractor shall enter default aversion assistance request information on their system within twenty-four (24) hours of receipt.

A.4.a. Servicing. The Contractor shall begin providing default aversion assistance activities on a borrower's Title IV loans within forty-eight (48) hours of receipt of the DAAR.

The Contractor shall perform the following default aversion assistance activities, which shall include, at a minimum:

(1) Telephone calls,
(2) Written Correspondence,
(3) Emails,
(4) Text messaging,
(5) Internet resources, and
(6) Review of NSLDS to contact postsecondary institutions to determine current borrower status. (Refer to Attachment A, Glossary)

A.4.b. Skip Tracing. The Contractor shall begin skip tracing activities within twenty-four (24) hours of the receipt of returned mail, notification of an invalid or disconnected telephone number, or upon request from a lender or servicer. (Refer to Attachment A, Glossary)

The Contractor's skip tracing activities shall be fully compliant with all applicable federal statutes, regulations, directives, and initiatives for skip tracing activities.

A.4.c. Conference Calls. The Contractor shall have the capability to conference the borrower, lender or servicer, and postsecondary institution together, if applicable, to discuss current enrollment status, repayment options, deferment and forbearance options, or loan discharge eligibility.

A.4.d. Reports. The Contractor shall send communications to TSAC's contracted servicer, postsecondary institutions, lenders, and servicers, as applicable, which shall include, at a minimum:

(1) Acknowledgment of the receipt of default aversion assistance request,
(2) Communication to a lender or servicer requesting a borrower's current loan status and/or new borrower information, and/or
(3) Communication to a postsecondary institution requesting borrower information.

All communications shall be made available to TSAC on-line.

A.4.e. Once the delinquency has been resolved on a borrower's loan(s) through a paid-in-full status, current enrollment status, current repayment status (*e.g.*, zero (0) days delinquent), bankruptcy, loan discharge, deferment, forbearance, or when a default claim has been paid, the Contractor shall cease all default aversion assistance activities on that borrower's loan(s).

A.4.f. Tracking. The Contractor shall track all default aversion assistance activities for each borrower from receipt of the request until the delinquency is resolved, and shall be documented in chronological order on the Contractor's system. The activities shall include, at a minimum:

(1) Telephone calls made to the borrower,
(2) Telephone calls received from the borrower,
(3) Written correspondence sent to the borrower, and
(4) Written correspondence received from the borrower.

The Contractor shall utilize commonly accepted default aversion assistance activities to contact borrowers that are fully compliant with all applicable statutes, regulations, directives, and initiatives for default aversion assistance as developed by any work group, committee, or group for the standardization of default aversion assistance services.

The default aversion assistance activities shall meet TSAC, the State of Tennessee, and the U.S. Department of Education statutory and regulatory requirements.

A.5. Branding. The Contractor shall provide the capability to brand specific forms, publications, and web-based products with a postsecondary institution's information or logo to accommodate the preferences of the postsecondary institution and TSAC.

A.6. Contact Center and Counseling Support Services. The Contractor shall provide borrowers, postsecondary institutions, lenders, and servicers with the ability to contact TSAC and the Contractor for information by telephone, fax, web, email, and other media. The Contractor shall respond to all inquiries or questions from borrowers, postsecondary institutions, lenders, and servicers regarding default aversion assistance services, including, but not limited to loan forgiveness, bankruptcy, loan discharge, deferments, forbearances, and payments.

The contact center functions shall be performed in one facility located in the United States, with English as the primary language of the contact center representatives.

A.6.a. Functionality. The Contractor shall provide and be responsible for all technology and support services required to operate and maintain the contact center functions. The technology supplied by the Contractor shall include, but not be limited to automatic call distribution systems, local area networks, and desktop computer systems.

The Contractor shall provide a toll-free telephone number for borrowers, postsecondary institutions, lenders, servicers, and TSAC to make inquiries.

The Contractor shall have the capability to record calls pertaining to the contracted services. The Contractor shall provide TSAC access to recorded audio files for calls received pertaining to contracted services.

A.6.b. Limited English Proficiency Policy. The Contractor shall provide TSAC with a Limited English Proficiency (LEP) Policy to ensure that persons with limited English proficiency have meaningful access and an equal opportunity to receive the contact center support services.

A.6.c. Operations. The Contractor shall provide, at a minimum, the following contact center support services:

(1) Inbound support for all activities listed in this Contract,
(2) Outbound campaigns as requested by TSAC and participating postsecondary institutions,
(3) Scalable capacity for nights and weekends,
(4) Timely resolution to all inbound incident reports. Response and resolution should not exceed sixty (60) minutes for most issues. Should the Contractor be unable to resolve the incident, TSAC shall be notified in a timely manner, or no later than 12 noon CST the next business day, and
(5) A ninety-five percent (95%) customer service satisfaction rating as determined by borrower and postsecondary institution surveys, approved by TSAC.

A.6.d. Outbound Campaigns. The Contractor shall provide, at a minimum, the following outbound communication campaigns targeted at borrowers: live, virtual (*e.g.*, email blasts and text messaging), or mailings. TSAC and the postsecondary institutions shall be responsible for providing the message and identifying the groups of borrowers to be contacted for any outbound campaigns.

A.7. Communication Standards. These performance standards shall be tracked daily.

A.7.a. Inbound Calls. The Contractor shall ensure that eighty-five percent (85%) of inbound calls are answered within thirty (30) seconds, and no caller's "on hold" time exceeds two (2) minutes. The Contractor shall ensure that "abandoned" or "lost" calls are less than three

percent (3%) of total calls received. All inbound calls shall be documented on the Contractor's system.

A.7.b. Voice Messages. Any calls received through a voice message system shall be returned within twenty-four (24) hours of its receipt. All voice messages received shall be documented on the Contractor's system.

A.7.c. Written Inquires. The Contractor shall respond to all written inquiries received from the borrower within three (3) business days of receipt. The Contractor shall provide TSAC access to its response. The Contractor shall identify themselves as a TSAC servicer on their response to all inquiries. All inquiries received shall be scanned and documented on the Contractor's system.

A.7.d. Other Inquiries. When an inquiry is received at the Contractor's facility from other individuals or entities, *e.g.*, State or U.S. representatives, or the U.S. Department of Education representatives, the Contractor shall notify TSAC within twenty-four (24) hours of receipt. The Contractor shall prepare a response for TSAC to answer the inquiry within three (3) days of receipt. All inquiries received shall be scanned and documented on the Contractor's system.

A.7.e. Complaints. When a complaint is received at the Contractor's facility, the Contractor shall notify TSAC within twenty-four (24) hours of receipt. Upon receipt of a complaint, all default aversion assistance activities shall be suspended for that borrower until the complaint has been resolved. The Contractor shall prepare a response for TSAC to answer the inquiry within three (3) days of receipt. All complaints received shall be scanned and documented on the Contractor's system.

A.7.f. Documentation. All correspondence shall be scanned and documented on the Contractor's system.

The Contractor shall ensure that adequate telephone system capacity is available to answer the number of calls received each day.

All written responses by the Contractor shall meet TSAC, the State of Tennessee, and the U.S. Department of Education statutory and regulatory requirements.

A.8. Correspondence. All correspondence sent to borrowers shall be on official TSAC letterhead. The letterhead shall show the Contractor's address, telephone number, toll-free number(s), and email address. Envelopes shall be similarly labeled. The letterhead shall identify the Contractor as a TSAC servicer for those uses where such identification is necessary to comply with federal and state debt collection laws.

A.8.a. System Generated Letter. System generated letters must have the prior written approval of TSAC before any letter is produced and distributed to borrowers, postsecondary institutions, lenders or servicers.

A.9. Data Warehousing. The Contractor shall maintain a data warehouse of borrower information which shall provide TSAC with the functionality of performing queries and exporting borrower data into an Excel format.

A.10. Document Management. The Contractor shall use a document management system for scanning, storing, and retrieving all documentation received and processed by the Contractor and shall allow TSAC to retrieve imaged documentation.

The Contractor shall not manage or process any original documentation received, including but not limited to, deferment forms, forbearance forms, and loan discharge requests. The Contractor shall direct borrowers to send all original documentation to the appropriate lender or servicer.

Any documentation inadvertently sent to the Contractor's facility by the borrower shall be scanned and documented on the Contractor's system and forwarded to the appropriate lender or servicer within twenty-four (24) hours of receipt.

A.11. Management Reports. The Contractor shall provide TSAC with comprehensive management and statistical analysis reports in summary and detailed formats. These reports shall provide TSAC with information of services performed to gauge past performance and to project future opportunities. All reports shall be made available to TSAC on-line in daily, weekly, monthly, quarterly, State fiscal year, Federal fiscal year, and calendar year formats either by postsecondary institution, lender, or servicer to accommodate the preferences of TSAC and shall include, at a minimum:

A.11.a. Incoming Call Volume. A report detailing incoming call volume including, but not limited to:

(1) Number of calls answered per day,
(2) Average length of calls per day,
(3) Number of calls answered within thirty (30) seconds,
(4) Number of calls answered after thirty (30) seconds,
(5) Number of calls placed "on hold" per day,
(6) Average time a call remained "on hold" per day,
(7) Average time a call remained "on hold" that exceeded two (2) minutes per day,
(8) Number of "abandoned" or "lost" calls per day,
(9) Number of calls returned per day,
(9) Number of calls pending a response per day,
(11) Number of voice messages received per day,
(12) Number of voice messages responded to per day, and
(13) Number of voice messages pending a response per day,

A.11.b. Live Campaigns. A report detailing the number of live campaigns including, but not limited to:

(1) Type of campaign,
(2) Number of borrowers contacted; listed by borrower name, SSN, unique ID, and postsecondary institution, and
(3) Borrower contact results by type; *e.g.*, hang-up, left voice message, received a promise to pay, or request for deferment, for each campaign.

A.11.c. Virtual Campaigns. A report detailing the number of virtual campaigns including, but not limited to:

(1) Type of campaign,
(2) Number of borrowers contacted; listed by borrower name, SSN, unique ID, and postsecondary institution, and
(3) Borrower contact results by type (*e.g.*, received a promise to pay or request for deferment), for each campaign.

A.11.d. Payments. A report detailing the number and amount of payments inadvertently received at the Contractor's facility from borrowers including, but not limited to:

(1) Borrower name,
(2) SSN,
(3) Unique ID,
(4) Payment amount, and
(5) Date payment received.

A.11.e. Documents. A report detailing the number and type of original documentation, including deferment forms, forbearance forms, and loan discharge requests, inadvertently received at the Contractor's facility from borrowers including, but not limited to:

(1) Borrower name,
(2) SSN,
(3) Unique ID, and
(4) Date documentation received.

A.11.f. Resolved assignments. A report detailing the number of resolved assignments including, but not limited to:

(1) Borrower name,
(2) SSN,
(3) Unique ID,
(4) Account age (*i.e.*, number of days held by the Contractor before resolution),
(5) Resolution type,
(6) Postsecondary Institution(s) Attended, and
(7) Lender or Servicer.

A.11.g. Number of Assignments Closed through Claim Filing. A report detailing the number of assignments closed through claim filing including, but not limited to:

(1) Borrower name,
(2) SSN,
(3) Unique ID,
(4) Account age (*i.e.*, number of days held by the Contractor before claim filed),
(5) Type of claim filed,
(6) Postsecondary Institution(s) Attended, and
(7) Lender or Servicer.

A.11.h. Skip Tracing. A report detailing skip tracing activities including, but not limited to:

(1) Borrower name,
(2) SSN,
(3) Unique ID,
(4) Skip tracing activities employed, and
(5) Reason for skip tracing activities, *e.g.*, invalid or disconnected telephone number, returned mail, or requested by a lender or servicer.

A.11.i. Annual Performance Report. An annual performance report detailing a summary of achievements made throughout the State fiscal year, July 1 – June 30. This report shall include details of the services provided to borrowers, postsecondary institutions, lenders and servicers, and TSAC, and the efforts the Contractor made to improve these services; a discussion of the difficulties encountered with any phase of servicing and how they were resolved; and recommendations and rationales for changes and/or improvements, due by September 1 of each year. The Contractor shall produce up to twenty-five (25) copies of the report and submit them to the Associate Executive Director for Loan Administration.

A.11.j. Outages. A report detailing the date, reason, and impact of all system outages and shutdowns.

Management Reports shall be sortable by individual postsecondary institution or by groups of postsecondary institutions, *e.g.*, community colleges, public, and private.

A.12. Media. The Contractor shall assist TSAC with the development of media formats for use by borrowers, postsecondary institutions, and TSAC. The media shall include, at a minimum:

A.12.a. Calculators,

A.12.b. DVDs,

A.12.c. Emails,

A.12.d. Interactive quizzes,

A.12.e. Informational publications,

A.12.f. Newsletters, and

A.12.g. Text messaging.

The topics shall include, at a minimum:

(1) How to communicate with delinquent borrowers,
(2) Understanding the language of loans,
(3) Understanding repayment options,
(4) Understanding deferment and forbearance options, and
(5) Understanding the risks and consequences of default.

A.13. Payments. The Contractor shall not process any payments received from borrowers. The Contractor shall direct borrowers to send all payments to the appropriate lender or servicer. Any payments inadvertently sent to the Contractor's facility by the borrower shall be scanned and documented on the Contractor's system and forwarded to the appropriate lender or servicer within twenty-four (24) hours of receipt.

A.14. Performance Reviews. TSAC staff shall conduct quarterly, semi-annual, or annual on-site meetings to review whether the Contractor is meeting the standards of this Contract. The reviews shall include, but not be limited to, a discussion on the quality of the services being delivered and provided to borrowers, postsecondary institutions, lenders, servicers, and TSAC.

TSAC shall also hold a monthly conference call with the Contractor to discuss, at a minimum, performance, issues, and the status of current or new campaigns.

The Contractor shall visit TSAC's facility for administrative meetings as required.

A.15. Policy and Procedures Guide. Upon effective date of this Contract, the Contractor shall provide TSAC with a Policy and Procedures Guide which explains, in detail, the procedures used by the Contractor for the services provided in this Contract.

The Policy and Procedures Guide shall meet TSAC, the State of Tennessee, and the U.S. Department of Education statutory and regulatory requirements, and shall be approved by TSAC in writing prior to implementation.

A.16. Profiles. The Contractor shall create a system profile for each lender, servicer, and postsecondary institution whose loans are being serviced under this Contract. These profiles shall reside on the web-based system and be sent to the Associate Executive Director of Loan Administration for distribution.

A.16.a. Lender Profile. The lender profile shall include, at a minimum:

(1) Lender OPEID,
(2) Lender name,
(3) Lender mailing address,
(4) Contact name,

(5) Contact's phone number,
(6) Contact's fax number,
(7) Contact's email address, and
(8) Secondary contact information.

A.16.b. Servicer Profile. The servicer profile shall include, at a minimum:

(1) Servicer OPEID,
(2) Servicer name,
(3) Servicer mailing address,
(4) Contact name,
(5) Contact's phone number,
(6) Contact's fax number,
(7) Contact's email address, and
(8) Secondary contact information.

A.16.c. Postsecondary Institution Profile. The postsecondary institution profile shall include, at a minimum:

(1) Postsecondary OPEID,
(2) Postsecondary institution name,
(3) Postsecondary institution mailing address,
(4) Contact name,
(5) Contact's phone number,
(6) Contact's fax number,
(7) Contact's email address, and
(8) Secondary contact information.

These profiles shall be reviewed and updated on an annual basis.

A.17. Quality Management Process. The Contractor shall utilize a Quality Management Process in the delivery of services to ensure the quality of products and services delivered are reliable and consistent. The Contractor must describe the Quality Management Process they use in the development, maintenance, and support of information systems and include examples of their Quality Management Process deliverables. This process shall be handled jointly by TSAC and the Contractor.

A Quality Management Process shall include, at a minimum:

A.17.a. A Project Management Plan,

A.17.b. A Change Control Plan,

A.17.c. A Test Management Plan, and

A.17.d. Test Plans:

(1) Unit Test Plan,
(2) Integration Test Plan,
(3) System Test Plan,
(4) User Acceptance Test Plan,
(5) Load Test/Stress Plan,
(6) Regression Test Plan,
(7) Interface Test Plan,
(8) Interface Test,
(9) Communication Management Plan,
(10) Backup and Recovery Plan,

(11) Work Plan, and
(12) Risk Management Plan.

A.18. Security. The Contractor is responsible for ensuring that proprietary software systems are secure and protected from unauthorized access. Standard security measures must be taken to control access to the systems and information contained within. The Contractor must provide a secure data environment. The Contractor shall have a process for all systems, which includes:

A.18.a. Assigning passwords,

A.18.b. Screening personnel,

A.18.c. Assigning password security levels,

A.18.d. Assigning remote access,

A.18.e. Server and hardware room security, and

A.18.f. System Back-up and Recovery.

A.19. Support of TSAC Personnel.

A.19.a. Liaison. The Contractor shall assign a professional level member of their staff the duties as a single point of contact liaison between TSAC and the Contractor. This individual shall be responsible for, at a minimum:

(1) Managing the duties and activities of the Field Representatives,
(2) Assisting with responding to complaints received at the Contractor's facility or at the TSAC office, and
(3) Compiling the detailed activity reports from each Field Representative.

A.19.b. Field Representatives. The Contractor shall provide TSAC with three professional level management personnel to serve as field representatives. The field representatives shall perform this function either from their home or at the TSAC offices.

The field representative's responsibilities shall include, but not be limited to:

(1) Handling of incoming inquiries from postsecondary institutions requesting assistance with their default aversion assistance activities,
(2) Conducting training workshops for borrowers and postsecondary institutions,
(3) Meeting with borrowers regarding their delinquent Title IV loans,
(4) Providing pre-printed postage paid envelopes to borrowers to send a payment, deferment, forbearance, or loan discharge form to the lender or servicer, and
(5) Other duties as assigned.

The field representatives will be required to utilize TSAC's software and other IT related products and be capable of providing support to postsecondary institutions and TSAC.

The field representatives shall coordinate their activities through the Contractor's liaison under TSAC's guidance and approval. The field representatives shall submit a detailed report for each activity they complete in a format specified by TSAC. The Contractor shall provide the field representatives with a laptop, cell phone, and other equipment as needed to perform their duties.

In the event TSAC becomes dissatisfied with a field representative's performance, TSAC shall submit to the Contractor written notice thereof, showing reasonable cause why a substitution should be made. If the Contractor is unable to correct the conditions cited by TSAC within thirty (30) business days from the receipt of such notice, the Contractor shall make a substitution. All personnel substitutions must be approved by TSAC.

A.19.c. System Training. The field representative shall provide training on the interactive web-based system to TSAC personnel as designated by the Associate Executive Director of Loan Administration.

A.20. Training Workshops. The Contractor shall assist TSAC with the development of live and web-based training workshop materials. Training workshops shall be offered to groups of borrowers and postsecondary institution personnel as determined by TSAC.

A.21. Audits. The Contractor shall provide support to any audit team from TSAC, the Tennessee Comptroller of the Treasury, or any other entity designated by TSAC. The Contractor shall promptly comply with all reasonable requests for information and materials, including, without limitation, servicing records, policies and procedures, and prior audit reports. Any information provided by the Contractor shall be in an electronic format acceptable to TSAC.

The Contractor shall immediately notify TSAC of any exceptions or findings identified by any audit team, and provide any and all information needed to allow TSAC to participate in the timely resolution of exceptions or findings.

A.21.a. Internal Controls (Security) Audit Functions. The Contractor shall define the parameters of a comprehensive internal controls (security) audit. These reviews shall be sufficient to reflect an SAS70 or a SysTrust review. TSAC shall review and must approve the comprehensiveness of the proposed internal controls (security) audit. The Contractor shall ensure that the internal controls (security) audit is performed on an annual basis.

The Contractor shall arrange to have this audit conducted by an unbiased third party at no additional cost to TSAC. The Contractor shall submit for approval, the name and background of the third party auditor. The Contractor must provide TSAC their plan for correcting or remedying any audit exceptions identified as a result of the security audit within sixty (60) business days of completion of the audit.

The Contractor shall describe their plan for independent security audits and provide technical specifics relative to those audits. The Contractor shall assist TSAC in support of external security assessments and other externally performed internal controls (security) audits. The Contractor shall provide the physical and logical access reasonably required for authorized representatives to satisfy assessment and audit risks.

A.22. Authorized Individuals. The Contractor and TSAC shall provide the other with a list identifying the individuals from whom the other is authorized to accept any notices, requests, demands, or other advice which may be given. Said lists, which are attached as Attachment C, shall be valid until revoked or amended by further written notice. The Contractor and TSAC shall only be entitled to rely on notices, requests, demands, or other advice given by such individuals.

A.23. Change Orders. TSAC may, at its sole discretion and with written notice to the Contractor, request changes in the scope of services to the functional requirements, processing procedures, or other modifications as required by the U.S. Department of Education, changes to federal regulations, or the State of Tennessee statutory or regulatory requirements, according to a priority schedule as provided by TSAC.

A.23.a. Memorandum of Understanding. No more than ten (10) business days after receiving a signed, finalized functional design document from TSAC, the Contractor shall respond with a written proposal for completing the service. Said proposal must specify:

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

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

A.23.b. Change Order Performance. Subsequent to TSAC approval of an MOU, the Contractor shall complete the required change order services. TSAC shall perform User Acceptance Testing as applicable before providing written approval of the work performed. TSAC will be the sole judge of the acceptable completion of change order work and, upon such determination, shall provide the Contractor written approval of the work.

A.23.c. Change Order Remuneration. TSAC will remunerate the Contractor only for acceptable work. All acceptable work performed pursuant to an approved MOU, without a formal amendment of this Contract, shall be remunerated in accordance with and further limited by contract section C.3.c., PROVIDED THAT, the State shall be liable to the Contractor only for the cost of the actual person hours worked to complete the change order work, not to exceed the maximum cost for the change detailed in the MOU. In no instance shall TSAC be liable to the Contractor for the cost of any person hours worked in excess of the maximum person hours indicated in or of any amount exceeding the maximum cost specified by the approved MOU authorizing the service. Upon TSAC's approval of the change order work, the Contractor shall invoice TSAC in accordance with the relevant provisions of this Contract.

A.24. Defects. Any corrections of deficiencies relating to this Contract and any investigation necessary to determine the source of the deficiencies shall not be considered additional work and shall be made at no additional cost to TSAC. Critical deficiencies which are not corrected within seven (7) calendar days of the date that TSAC reports the deficiency shall, at the discretion of the Associate Executive Director of Loan Administration or Executive Director, result in an adjustment to the monthly service invoice as per C.3.d.

Any defect in software utilized by, but not created by the Contractor, to deliver services contained in this Contract, upon verification of the defect will be reported within forty-eight (48) hours to the appropriate software vendor. The Contractor shall utilize all appropriate and reasonable means to assist the vendor in resolving the defect in a timely manner and shall install any software updates to correct the defect within forty-eight (48) hours of receiving the appropriate software update.

A.24.a. Defects Defined. The following is a list of events that TSAC classifies as defects or deficiencies, including but not limited to:

(1) Total failure of the software or hardware;
(2) Unrecoverable data loss;
(3) Corrupt data files;
(4) Erroneous data preventing correct billing for services;
(5) System or files cannot be accessed by users,
(6) Loss of functionality; and
(7) Missing data files or program files after software or hardware updates.

A.25. Compliance. The Contractor shall be fully compliant with the Federal Fair Debt Collection Practices Act (FDCPA), the Gramm-Leach-Bliley Act, the requirements for third-party servicers as per the U.S. Department of Education's regulations on third-party servicing, the Family Educational Rights and Privacy Act (FERPA), the State of Tennessee, and the U.S. Department of Education statutory and regulatory requirements when providing services under this Contract. (Refer to Attachment A, Glossary)

A.26. Disaster Recovery Plan. The Contractor shall provide a detailed and comprehensive Disaster Recovery Plan for the Contact Center that meets the requirements of TSAC, the U.S. Department of Education, and the State of Tennessee statutory and regulatory requirements. A disaster is defined as any outage, which affects more than twenty percent (20%) of the inbound traffic into a center for more than two (2) hours. The Disaster Recovery Plan shall ensure that all critical information systems can be recovered in the event of a disaster which disrupts any of the data processing capabilities of the Contractor.

These plans are to be presented to TSAC no later than sixty (60) days after the signing of the contract. The Disaster Recovery Plan shall be tested, at no additional cost to TSAC, no later than six (6) months following the effective date of the contract and annually thereafter. A report on the results of each testing shall be provided to TSAC at no additional cost to TSAC.

A.26.a. System Outages and Shutdowns. The Contractor shall report to TSAC within one (1) hour any system outages and/or shutdowns. Any planned outages and/or shutdowns must be communicated at least seven (7) business days in advance to TSAC.

A.27. Information Technology (IT). The State IT protocols are as follows:

A.27.a. Exchange of Information. The Contractor shall have the capability to exchange information electronically using the methods, medias, and communications protocols available to borrowers, postsecondary institutions, lenders, servicers, and TSAC. The protocols shall include, at a minimum:

- POP3,
- FTP,
- PDF,
- HTML,
- HTM,
- XML,
- HTTP,
- HTTPS,
- HDDP, and
- DHCP.

A.27.b. Data Networking Services. Data networking services for TSAC are centrally "hosted" from the State's Capitol Complex Service Center (CCSC – Data Center), delivered through the Downtown Metropolitan Area Network (MAN) Infrastructure.

A.27.c. File Services. Microsoft Window Active Directory Services, on VMWare, running Windows 2003 Enterprise Server Operating System.

A.27.d. E-mail Services. Novell GroupWise Ver. 8[1], on "stand-alone" and/or "cluster" environment, running Novell NetWare Ver. 6 and Novell OES2 (Linux) Operating Systems.

[1] The State's email system, GroupWise, will be replaced with Microsoft Exchange, with the migration to be completed by the end of 2011.

A.28. Source Code and Software in Escrow. The Contractor shall deposit the system source code and all software programs needed to operate the source code in escrow with an escrow company pre-approved by TSAC. Upon any update made to the system source code or related software, the Contractor shall deposit in a timely manner such updated system source code and related software into the escrow account. The Contractor shall pay all fees associated with placing and maintaining the latest source code and all related software in escrow.

The Contractor shall submit to TSAC a letter naming the escrow company that the Contractor intends to use, with the understanding that TSAC may approve or disapprove the named company. This letter must include the name, address, and full contact information for the recommended escrow company. TSAC shall indicate its approval or disapproval in writing.

A.28.a. Placement. Within fifteen (15) business days after TSAC has provided to the Contractor written approval of a recommended escrow company, the Contractor shall place the system source code and all software programs needed to operate the source code in escrow with the approved escrow company. The Contractor shall provide TSAC with a signed letter from the approved escrow company stating that the source code and all related software needed to operate the source code have been placed in escrow and confirming TSAC's right to obtain the source code and all related software held in escrow in the event of Contractor default or termination as described below.

A.28.b. Default or Termination. In the event of default by the Contractor or termination for any reason of this Contract or any part of this Contract, the Contractor agrees to deliver to TSAC in a timely manner, not to exceed ninety (90) days from the date of termination, and at no additional cost to TSAC, the following:

(1) Complete historical and current data files in a medium acceptable to TSAC and a subsequent Contractor,
(2) Complete documentation of file layouts including data elements, descriptions, and usage,
(3) All source codes held in escrow,
(4) All software needed to operate the source code held in escrow,
(5) Complete record of the entire portfolio in a medium acceptable to TSAC,
(6) Complete documentation listing all items in process, and
(7) Any other documentation, information, or software necessary for complete and functional conversion of the data base system to the subsequent Contractor.

A.28.c. Test Tape. The Contractor shall provide a test tape, within ninety (90) business days prior to termination, which shall be used to determine if any editing or other errors may exist. If there is an error in the data as a result of the Contractor's conversion data, the Contractor shall assist in the resolution of any errors which may arise relative to the content of the data.

In the event the Contractor fails to deliver the system source code and all related software in a timely manner to TSAC, TSAC shall have the right to obtain the system source code and all related software directly from the escrow company.

A.29. Transition and/or Conversion. At the expiration of this Contract, or if at any time TSAC should terminate this Contract, the Contractor shall cooperate with any subsequent Contractor or staff from the TSAC offices who might assume the functions in this Contract. This cooperation shall be binding for a period not to exceed ninety (90) calendar days following the conclusion of the Contract.

The Contractor must provide a Conversion Plan that describes the tasks, milestones, and timeframes to convert existing processes from the current provider to the proposed solution. This plan must clearly define both TSAC's and the Contractor's responsibilities during the transition period. The Contractor shall begin testing immediately after the Contract has been awarded to

enable TSAC to determine whether the Contractor's system is reliable and able to assume all of the responsibilities as stated in this Contract. The Contractor shall utilize Quality Management Processes for the conversion to ensure the quality of products and services delivered are reliable and dependable.

The Quality Management Process shall include, at a minimum:

A.29.a. Conversion components contained in the Project Management Plan, and

A.29.b. Data Conversion Test Plan.

B. CONTRACT PERIOD:

B.1. This Contract shall be effective for the period beginning January 1, 2012, and ending on December 31, 2014. The Contractor hereby acknowledges and affirms that the State shall have no obligation for services rendered by the Contractor which were not performed within this specified contract period.

B.2. Term Extension. The State reserves the right to extend this Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that such an extension of the contract term is effected prior to the current contract expiration date by means of a contract amendment. If a term extension necessitates additional funding beyond that which was included in the original Contract, an increase of the State's maximum liability will also be effected through contract amendment, and shall be based upon payment rates provided in the original Contract.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed Five Million Three Hundred Eighty-Four Thousand Six Hundred Dollars ($5,384,600.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for all service and Contractor obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

C.2. Compensation Firm. The payment rates and the maximum liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. The Contractor shall be compensated based on the payment rates herein for units of service authorized by the State in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

C.3.a. Units, Milestones, or Increments of Service – Satisfactory Completion. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.

C.3.b. Units, Milestones, or Increments of Service – Payment Rates. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description **Year 1** **01/01/12 – 12/31/12**	**Amount** (per compensable increment)
New Assignment A.4.	$ 17.95 / Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90 / Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50 / Per Loan
Cured – Grace Period A.2.	$ .50 / Per Loan
Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50 / Per Loan
Cured – Paid in Full A.2.	$ .50 / Per Loan
Cured – Deferment A.2.	$ .50 / Per Loan
Cured – Forbearance A.2.	$ .50 / Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50 / Per Loan
Cured – Bankruptcy A.2.	$ .50 / Per Loan
Change Orders A.23	$ 1.00 / Per Hour

Service Description **Year 2** **01/01/13 – 12/31/13**	**Amount** (per compensable increment)
New Assignment A.4.	$ 17.95 / Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90 / Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50 / Per Loan
Cured – Grace Period A.2.	$ .50 / Per Loan
Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50 / Per Loan
Cured – Paid in Full A.2.	$ .50 / Per Loan
Cured – Deferment A.2.	$ .50 / Per Loan
Cured – Forbearance A.2.	$ .50 / Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50 / Per Loan
Cured – Bankruptcy A.2.	$ .50 / Per Loan
Change Orders A.23	$ 1.00 / Per Hour

Service Description **Year 3** **01/01/14 – 12/31/14**	**Amount** (per compensable increment)
New Assignment A.4.	$ 17.95 / Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90 / Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50 / Per Loan
Cured – Grace Period A.2.	$ .50 / Per Loan
Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50 / Per Loan
Cured – Paid in Full A.2.	$ .50 / Per Loan
Cured – Deferment A.2.	$ .50 / Per Loan
Cured – Forbearance A.2.	$ .50 / Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50 / Per Loan
Cured – Bankruptcy A.2.	$ .50 / Per Loan
Change Orders A.23	$ 1.00 / Per Hour

Service Description **Year 4** **01/01/15 – 12/31/15**	**Amount** (per compensable increment)
New Assignment A.4.	$ 17.95 / Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90 / Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50 / Per Loan
Cured – Grace Period A.2.	$ .50 / Per Loan
Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50 / Per Loan
Cured – Paid in Full A.2.	$ .50 / Per Loan
Cured – Deferment A.2.	$ .50 / Per Loan
Cured – Forbearance A.2.	$ .50 / Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50 / Per Loan
Cured – Bankruptcy A.2.	$ .50 / Per Loan
Change Orders A.23	$ 1.00 / Per Hour

Service Description Year 5 01/01/16 – 12/31/16	Amount (per compensable increment)
New Assignment A.4.	$ 17.95 / Per Loan
Reassignment > 6 Months of Cure A.4., C.3.f.	$ 9.90 / Per Loan
Cured – Grace Period - Current In-School Enrollment A.2.	$ .50 / Per Loan
Cured – Grace Period A.2.	$ .50 / Per Loan
Cured – Current Repayment (-0- Days Delinquent) A.2.	$ .50 / Per Loan
Cured – Paid in Full A.2.	$ .50 / Per Loan
Cured – Deferment A.2.	$ .50 / Per Loan
Cured – Forbearance A.2.	$ .50 / Per Loan
Cured – Loan Discharge (Death, Disability, *etc.*) A.2.	$ .50 / Per Loan
Cured – Bankruptcy A.2.	$ .50 / Per Loan
Change Orders A.23	$ 1.00 / Per Hour

C.3.c. Change Order Remuneration. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.23, without a formal amendment of this contract based upon the payment rates detailed in the schedule above and as agreed pursuant to said Section A.23, PROVIDED THAT compensation to the Contractor for such "change order" work shall not exceed two percent (2%) of the original Contract Maximum Liability of Five Million Three Hundred Eighty-Four Thousand Six Hundred Dollars ($5,384,600.00). If, at any point during the Contract period, the State determines that the cost of necessary "change order" work would exceed said maximum amount, the State may amend this Contract to address the need.

C.3.d. Defects. Critical defects, as per Contract Section A.24., which are not corrected within seven (7) calendar days of the date that TSAC reports the defect shall, at the discretion of the Associate Executive Director of Loan Administration, Senior Associate Executive Director, or Executive Director, result in an adjustment to the monthly service invoice of Five Hundred Dollars ($500.00) per day for every day after seven calendar (7) days that the critical defect is not corrected.

C.3.e. Minimum Compensation and Services. TSAC shall not make any guarantees regarding the minimum compensation to be paid to the Contractor or minimum usage of the Contractor's services.

C.3.f. Reassignments within Six Months of Cure. TSAC shall not pay a fee on any reassignments that are submitted within six months of the "cure" date.

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in Section C.3, above, and present said invoices no more often than monthly, with all necessary supporting documentation, to:
Jane Pennington
Tennessee Student Assistance Corporation
Suite 1510, Parkway Towers
404 James Robertson Parkway
Nashville, TN 37243

C.5.a. Each invoice shall clearly and accurately detail all of the following required information (calculations must be extended and totaled correctly).

(1) Invoice Number (assigned by the Contractor)
(2) Invoice Date
(3) Contract Number (assigned by the State)
(4) Customer Account Name: Tennessee Student Assistance Corporation, Default Aversion Assistance Services
(5) Customer Account Number (assigned by the Contractor to the above-referenced Customer)
(6) Contractor Name
(7) Contractor Federal Employer Identification, Social Security, or Tennessee Edison Registration ID Number Referenced in Preamble of this Contract
(8) Contractor Contact for Invoice Questions (name, phone, and/or fax)
(9) Contractor Remittance Address
(10) Description of Delivered Service
(11) Complete Itemization of Charges by postsecondary institution, 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

C.5.b. The Contractor understands and agrees that an invoice under this Contract shall:
(1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
(2) only be submitted for completed service and shall not include any charge for future work;
(3) not include sales tax or shipping charges; and
(4) initiate the timeframe for payment (and any discounts) only when the State is in receipt of the invoice, and the invoice meets the minimum requirements of this section C.5.

C.6. Payment of Invoice. A payment by the State shall not prejudice the State's right to object to or question any payment, invoice, or matter in relation thereto. A payment by the State shall not be construed as acceptance of any part of the work or service provided or as approval of any amount invoiced.

C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

C.8. Deductions. The State reserves the right to deduct from amounts, which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts, which are or shall become due and payable to the State of Tennessee by the Contractor.

C.9. Prerequisite Documentation. The Contractor shall not invoice the State under this Contract until the State has received the following documentation properly completed.

C.9.a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit (ACH Credits) Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once said form is received by the State, all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH).

C.9.b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number detailed by said form must agree with the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID referenced in this Contract.

D. STANDARD TERMS AND CONDITIONS:

D.1. Required Approvals. The State is not bound by this Contract until it is signed by the contract parties and approved by appropriate officials in accordance with applicable Tennessee laws and regulations (depending upon the specifics of this contract, said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

D.2. Modification and Amendment. This Contract may be modified only by a written amendment signed by all parties hereto and approved by both the officials who approved the base contract and, depending upon the specifics of the contract as amended, any additional officials required by Tennessee laws and regulations (said officials may include, but are not limited to, the Commissioner of Finance and Administration, the Commissioner of Human Resources, and the Comptroller of the Treasury).

D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a breach of contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.

D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.

D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.

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

D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

D.8. Prohibition of Illegal Immigrants. The requirements of *Tennessee Code Annotated*, Section 12-4-124, *et seq.*, addressing the use of illegal immigrants in the performance of any Contract to supply goods or services to the state of Tennessee, shall be a material provision of this Contract, a breach of which shall be grounds for monetary and other penalties, up to and including termination of this Contract.

D.8.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 B, 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.

D.8.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.

D.8.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.8.d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of *Tennessee Code Annotated*, Section 12-4-124, *et seq.* for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.

D.8.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:

Peter Abernathy, Senior Associate Executive Director and Staff Attorney
Tennessee Student Assistance Corporation
Suite 1510 Parkway Towers
404 James Robertson Parkway
Nashville, TN 37243-0820
Email: Peter.Abernathy@tn.gov
Telephone Number: 615.532.6065
Fax Number: 615.741.5555

The Contractor:

For Billing Issues:

Robert S. Kahler, Senior Vice President and CFO
Student Loan Counseling Services
1309 Technology Parkway
Cedar Falls, IA 50613
Email: rskahler@cbegroup.com
Telephone Number: 319.226.5162
FAX Number: 319.235.1996

For Contractual and/or Legal Issues:

Nick Michael, Senior Vice President, Client Services
Student Loan Counseling Services
1309 Technology Parkway
Cedar Falls, IA 50613
Email nmichael@cbegroup.com
Telephone Number: 319.226.5163
FAX Number: 319.833.1063

Michael Frost, Senior Vice President and General Counsel
Student Loan Counseling Services
1309 Technology Parkway
Cedar Falls, IA 50613
Email: mlfrost@cbegroup.com
Telephone Number: 319.833.1228
FAX Number: 319.833.1229

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

E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.

E.5. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards. Such confidential information shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with applicable state and federal law, state and federal rules and regulations, departmental policy, and ethical standards.
The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the

Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure. Nothing in this paragraph shall permit Contractor to disclose any information that is confidential under federal or state law or regulations, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties.
It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

E.6. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed pursuant to this contract unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).

E.7. State Ownership of Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all work products, including computer source code, created, designed, developed, derived, documented, installed, or delivered under this Contract subject to the next subsection and full and final payment for each "Work Product." The State shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.

E.7.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.

E.7.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.

E.7.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.

E.7.d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.

E.8. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for the Contractor's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, the Contractor shall be responsible to the State for the residual value of the property at the time of loss.

E.9. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below.

E.9.a. this Contract document with any attachments or exhibits (excluding the items listed at subsections b. through e., below);

E.9.b. any clarifications of or addenda to the Contractor's proposal seeking this Contract;

E.9.c. the State solicitation, as may be amended, requesting proposals in competition for this Contract;

E.9.d. any technical specifications provided to proposers during the procurement process to award this Contract; and

E.9.e. the Contractor's proposal seeking this Contract.

E.10. Performance Bond. The Contractor shall provide to the State a performance bond guaranteeing full and faithful performance of all undertakings and obligations under this Contract and in the amount equal to Five Hundred Thirty Eight Thousand Four Hundred Sixty Dollars ($538,460.00). The Contractor shall submit the bond no later than the day immediately preceding the Contract start date and in the manner and form prescribed by the State (at Attachment D hereto), and the bond shall be issued through a company licensed to issue such a bond in the state of Tennessee. The performance bond shall guarantee full and faithful performance of all undertakings and obligations under this Contract for:

a. the Contract term and all extensions thereof; or

b. the first, calendar year of the Contract (ending December 31st following the Contract start date) in the amount of Five Hundred Thirty-Eight Thousand Four Hundred Sixty Dollars ($538,460.00) and, thereafter, a new performance bond in the amount of Five Hundred Thirty-Eight Thousand Four Hundred Sixty Dollars ($538,460.00) covering each subsequent calendar year of the contract period. In which case, the Contractor shall provide such performance bonds to the State no later than each December 10th preceding the calendar year period covered beginning on January 1st of each year.

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

E.11. 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.12. Partial Takeover. The State may, at its convenience and without cause, exercise a partial takeover of any service which the Contractor is obligated to perform under this Contract, including

but not limited to any service which is the subject of a subcontract between Contractor and a third party, although the Contractor is not in breach (hereinafter referred to as "Partial Takeover"). Said Partial Takeover shall not be deemed a Breach of Contract by the State. The Contractor shall be given at least 30 days prior written notice of said Partial Takeover with said notice to specify the area(s) of service the State will assume and the date of said assumption. Any Partial Takeover by the State shall not alter in any way Contractor's other obligations under this Contract. The State may withhold from amounts due the Contractor the amount the Contractor would have been paid to deliver the service as determined by the State. The amounts shall be withheld effective as of the date the State assumes the service. Upon Partial Takeover, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.13. Unencumbered Personnel. All persons assigned by the Contractor to perform services for the State under this Contract, whether they are employees, agents, subcontractors, or principals of the Contractor, shall not be subject to any employment contract or restrictive covenant provisions which would preclude those persons from performing the same or similar services for the State after the termination of this Contract, either as a State employee, an independent contractor, or an employee, agent, subcontractor or principal of another contractor with the State. If the Contractor provides the State with the services of any person subject to a restrictive covenant or contractual provision in violation of this provision, any such restrictive covenant or contractual provision will be void and unenforceable, and the Contractor will pay the State and any person involved all of its expenses, including attorney's fees, caused by attempts to enforce such provisions.

E.14. Disclosure of Personal Identity Information. The Contractor shall report to the State any instances of unauthorized disclosure of confidential information that come to the attention of the Contractor. Any such report shall be made by the Contractor within twenty-four (24) hours after the instance has come to the attention of the Contractor. The Contractor, at the sole discretion of the State, shall provide no-cost credit monitoring services for individuals that are deemed to be part of a potential disclosure. The Contractor shall bear the cost of notification to individuals having personal identity information involved in a potential disclosure event, including individual letters and/or public notice.

E.15. Hold Harmless – Financial. The Contractor shall hold TSAC harmless for any loss of revenue, financial, or administrative penalty as determined by the State of Tennessee or the U.S. Department of Education which is attributable to any one of the following:

E.15.a. Contractor error or untimeliness in processing or servicing,

E.15.b. Contractor failure to timely and effectively resolve errors identified, and

E.15.c. Contractor processing or servicing errors identified during third-party servicer audit by the State of Tennessee or the U.S. Department of Education.

The language in this section does not limit the Contractor's obligation to indemnify and hold harmless TSAC and the State of Tennessee as per Section E.11.

IN WITNESS WHEREOF,

STUDENT LOAN COUNSELING SERVICE, INC., A SUBSIDIARY OF THE CBE GROUP, INC.:

Nick Michael 12/9/11

NICK MICHAEL, SENIOR VICE PRESIDENT, CLIENT SERVICES **DATE**

TENNESSEE STUDENT ASSISTANCE CORPORATION:

12/20/11

RICHARD G. RHODA, EXECUTIVE DIRECTOR DATE

ATTACHMENT A

GLOSSARY

Act, The: The Higher Education Act of 1965, as amended. Title IV, Part B of the Act addresses FFELP loans.

Bankruptcy: Judicial action to stay the normal collection of debts against the petitioner, and cause those debts to be satisfied at the direction of the court. Bankruptcies are classified under the U.S. Code by "chapters," which refer to parts of a larger volume—the U.S. Bankruptcy Act. Types of bankruptcies include:

- **Chapter 7.** This is the most common form of bankruptcy, often referred to as "liquidation." In a Chapter 7 bankruptcy, the eligible assets of the borrower are liquidated and distributed among the creditors by a trustee, with preference given to secured creditors. This type of bankruptcy is frequently used by borrowers who are unemployed or have few or no assets.

- **Chapter 11.** A bankruptcy in which the borrower's debts are reorganized. This type of bankruptcy is seldom used by a student borrower and is most often used by a financially troubled business.

- **Chapter 12.** Chapter 12 bankruptcy, which is similar to a Chapter 13 bankruptcy, applies only to certain farms and family farm operations with specific debt ceilings.

- **Chapter 13.** This is commonly referred to as the "wage earner" plan. A Chapter 13 bankruptcy allows an individual with regular incomes to satisfy his or her debts through a court-directed payment plan. Usually, the Chapter 13 debtor(s) has significant debts, but sufficient income to eventually pay the debts.

Claim: The process by which the lender (or lender's servicer) request reimbursement from the guarantor for its losses on a Federal Stafford, SLS, PLUS, or Consolidation loan due to the borrower's default or eligibility for loan discharge or forgiveness.

Cohort Default Rate: The percentage of Stafford and SLS loan borrowers who default before the end of the fiscal year following the fiscal year in which they entered repayment on their loans. This includes borrowers whose underlying Stafford and SLS loans have been included in a Consolidation loan. The Department calculates this rate annually to determine the default experience of students who attended a particular school during a particular period of time. Unless otherwise noted, the cohort default rate pertains to the FFELP cohort default rate or the dual-program cohort default rate.

Cure: A "cure" as it relates to a default aversion assistance request is when through a resolution, (i.e., grace period due to in-school enrollment, current repayment (-0- days delinquent), deferment, forbearance, loan discharge due to death, disability, etc., bankruptcy, or paid in full), a loan is no longer in default status.

Default: The failure of a borrower (or endorser or comaker, if any) to make installment payments when due, provided that this failure persists for the most recent period of 270 day (for a loan repayable in monthly installments) or the most recent 330-day period (for a loan repayable in less frequent installments). A loan also may be considered in default if the borrower fails to meet other terms of the promissory note or other written agreements with the lender under circumstances where the Department or guarantor of the loan reasonably concludes that the borrower no longer intends to honor the borrower's obligation to repay the loan.

Default Aversion Assistance (DAA): The help provided to a lender by the guarantor in order to prevent a delinquent loan from defaulting.

Default Aversion Assistance Request (DAAR): A standardized form developed under the Common Claim Initiative to support the lenders' requirement to submit a complete and accurate request for default aversion assistance no earlier than the 60th day and no later than the 120th day of the borrower's delinquency.

Default Aversion Assistance Request Period: The period during which a lender must submit a request for default aversion assistance from a guarantor. This period begins no earlier than the 60th day and ends no later than the 120th day of the borrower's delinquency.

Deferment: A period of time during repayment in which the borrower, upon meeting certain conditions, is not required to make payments of loan principal.

Delinquency: A period that begins on the day after the due date of a payment when the borrower fails to make the equivalent of one full payment.

Department, The: The U.S. Department of Education or an official or employee of the Department acting for the Department under a delegation of authority.

Discharge: The release of a borrower from all or a portion of his or her loan obligation, as applicable, due to bankruptcy, school closure, death, spouses and parents of victims of September 11, 2001, total and permanent disability, an unpaid refund by the school, the school's false certification of a FFELP loan, or the crime of identity theft.

Due Diligence: The procedures required for attempting to satisfactorily resolve a delinquency and prevent a default in accordance with federal regulations. The lender must document the performance of these attempts, and the attempts must be at least as forceful as those generally used for consumer loans.

Family Education Rights and Privacy Act (FERPA): Codified at 20 U.S.C. § 1232, with implementing regulations in title 34, part 99 of the Code of Federal Regulations. The regulations provide that educational agencies and institutions that receive funding under a program administered by the U.S. Department of Education must provide students with access to their education records, and opportunity to seek to have the records amended, and some control over the disclosure of information from the records.

Fair Debt Collection Practices Act (FDCPA): 15 U.S.C. § 1692 et seq., added in 1978 as Title VIII of the Consumer Credit Protection Act. Its purposes are to eliminate abusive practices in the collection of consumer debts, to promote fair debt collection, and to provide consumers with an avenue for disputing and obtaining validation of debt information in order to ensure the information's accuracy. The ACT creates guidelines under which debt collectors may conduct business, defines rights of consumers involved with debt collectors, and prescribes penalties and remedies for violations of the Act.

Federal Default Fee: A fee collected by the guarantor either by deduction from the proceeds of the loan or from other nonfederal sources. The Higher Education Act requires that this fee equal 1% of the loan principal.

Forbearance: A period of time during which the borrower is permitted to temporarily cease making payments or reduce the amount of the payments. The borrower is liable for the interest that accrues on the loan during the forbearance period. Some forbearances are entitlements for eligible borrowers; others are granted at the discretion of the lender.

Grace Period: The period that begins the day after a borrower ceases to be enrolled at least half time at an eligible school, during which payments of principal are not required, and ends the day before the repayment period begins.

Gramm Leach Bliley Act: This Act requires organization to disclose privacy policies and practices to their customers.

Guarantee: A conditional legal obligation, as defined in an agreement by and between a guarantor and a lender, for the guarantor to reimburse the lender for some portion of a loan that is not repaid by the borrower due to default, death, disability, bankruptcy, borrower ineligibility, false certification of borrower eligibility, or school closure.

Guarantor (or Guaranty Agency): A state or private nonprofit organization that has an agreement with the Department to administer a loan guarantee program under the Higher Education Act.

In-School Grace: The time during which a student is enrolled on at least a part-time basis at a participating school.

National Student Loan Data System (NSLDS): A database comprised of information from guarantors, schools, lenders, and the Department of Education which contains information on Title IV aid received by students.

Repayment Schedule: The legal addendum to the Promissory Note stating the terms of loan repayment and fulfilling disclosure requirements. The Repayment Schedule is a plan that indicates the total principal and interest de, an installment amount, and the number of installments required to pay the loan in full. The Repayment Schedule also contains the interest rate for the loan(s) included on the schedule, the due date of the first and subsequent installments, and the frequency of installments.

Servicer (or Third-Party Servicer): An entity that enters into a contract with a program participant to administer any aspect of its participation in a Title IV program.

Skip Tracing: Diligent efforts to locate a borrower's telephone number or address when such information is unknown. Examples of these techniques may include contacting a relative, a reference, individuals, entity identified in a borrower's loan file, Directory Assistance or a comparable service; attempting to contact the person by calling the last known telephone number; performing a Social Security number search via a credit report; reviewing city directories; processing information contained on the current credit report; or checking with a state licensing agency, a trade association, or a motor vehicle bureau.

ATTACHMENT B

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	33205-01312
CONTRACTOR LEGAL ENTITY NAME:	STUDENT LOAN COUNSELING SERVICE
EDISON REGISTRATION ID	

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.

Nick Michael

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.

NICK MICHAEL SR VP CLIENT RELATIONS

PRINTED NAME AND TITLE OF SIGNATORY

12/9/11

DATE OF ATTESTATION

ATTACHMENT C

AUTHORIZED INDIVIDUALS

As per Section A.22., the following individuals are authorized to provide the other notices, requests, demands, or other advice. This list shall be valid until revoked or amended by written notice. The Contractor and TSAC shall only be entitled to rely on notices, requests, demands, or other advice given by these individuals.

TSAC

Richard G. Rhoda, Executive Director
Peter Abernathy, Senior Associate Executive Director and Attorney
Jane Pennington, Associate Executive Director for Loan Administration
Stephanie Aylor, Student Loan Program Administrator
Marcie Mills, Paralegal, Contracts Administration Manager

CONTRACTOR

Jon Primus, Director, Operations
Shelli Alstat, Manager, SLCS

Surety Bond

Bond No. 7626845

KNOW ALL MEN BY THESE PRESENTS, That we Student Counseling Service Inc.a subsidiary ofCBE Group, Inc. , as Principal, and Fidelity and Deposit Company of Maryland of Owings Mills , Maryland , authorized to do business in the State of Tennessee , as Surety, are held and firmly bound unto the State of Tennessee, Tennessee Student Assistance Corporation as Obligee, in the maximum penal sum of Five Hundred Thirty Eight Thousand Four Hundred Sixty and no/100---------- Dollars and NO/100 ($ 538,460.00), lawful money of the United States of America, for which payment well and truly to be made we bind ourselves, our heirs, executors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a written agreement dated 12/9/11 , with the Obligee to perform services in accordance with the terms and conditions of the scope of services detailed in State of TN RFP #33205-01312, Default Aversion Assistance (hereinafter referred to as the Contract), said Contract is hereby referred to and made a part hereof;

NOW, THEREFORE, the condition of this obligation is such that if the above named Principal, its successors and assigns, shall well and truly perform its obligations as set forth in the above mentioned Contract, then this Bond shall be void; otherwise to remain in full force and effect.

Notwithstanding anything to the contrary in the Contract, the Bond is subject to the following express conditions:

1. Whereas, the Obligee has agreed to accept a renewable bond, this Bond shall be effective for the period of 1/1/2012 , to 12/31/2012 , and may be extended for additional one (1) year periods from the expiration date hereof, or any future expiration date, unless the Surety provides to the Obligee not less than thirty (30) days advance written notice of its intent not to renew this Bond.

2. Neither nonrenewal by the Surety, nor the failure or inability of the Principal to file a replacement bond in the event the Surety exercises its right to not renew this Bond, shall itself constitute a loss to the Obligee recoverable under this bond or any extension thereof.

3. This bond shall have final and definite expiration date of 12/31/12 .

4. No claim, action, suit or proceeding, except as hereinafter set forth, shall be had or maintained against the Surety on this instrument unless same be brought or instituted upon the Surety within one year from termination or expiration of the bond term.

5. Regardless of the number of years this Bond is in force, the liability of the Surety shall not be cumulative and shall in no event exceed the amount set forth above, or as amended by rider.

6. Any notice, demand, certification or request for payment, made under this Bond shall be made in writing and addressed to the parties at the addresses specified below. Any demand or request for payment must be made prior to the effective date of nonrenewal.

   If to Surety: Fidelity and Deposit Company of Maryland
   600 Red Brook Blvd.
   Owings Mills MD 21117

7. This Bond shall be void unless signed and acknowledged by the Obligee below.

SIGNED, SEALED AND DATED this 5th day of January , 2012 .

Student Counseling Service Inc.a subsidiary ofCBE Group, Inc
Principal
By: [signature]

Fidelity and Deposit Company of Maryland
By: [signature]
Katherine D. Morin , Attorney-in-Fact

Signed and acknowledged as to the Obligee, this 5th day of January , 2012 .

By:

S-5025c
PRF76011ZZ0404f

Power of Attorney
FIDELITY AND DEPOSIT COMPANY OF MARYLAND

KNOW ALL MEN BY THESE PRESENTS: That the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation of the State of Maryland, by FRANK E. MARTIN JR., Vice President, and ERIC D. BARNES, Assistant Secretary, in pursuance of authority granted by Article VI, Section 2, of the By-Laws of said Company, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, does hereby nominate, constitute and appoint **Katherine D. MORIN, of Fort Scott, Kansas,** its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings,** and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Company, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the Company at its office in Baltimore, Md., in their own proper persons. This power of attorney revokes that issued on behalf of Katherine D. MORIN, John C. GROSS III, dated July 14, 2006.

The said Assistant Secretary does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article VI, Section 2, of the By-Laws of said Company, and is now in force.

IN WITNESS WHEREOF, the said Vice-President and Assistant Secretary have hereunto subscribed their names and affixed the Corporate Seal of the said FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 1st day of December, A.D. 2011.

ATTEST: **FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

FIDELITY AND DEPOSIT COMPANY OF MARYLAND INCORPORATED 1896

By:

Eric D. Barnes *Assistant Secretary* *Frank E. Martin Jr.* *Vice President*

State of Maryland }
City of Baltimore } ss:

On this 1st day of December, A.D. 2011, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, came FRANK E. MARTIN JR., Vice President, and ERIC D. BARNES, Assistant Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and they each acknowledged the execution of the same, and being by me duly sworn, severally and each for himself deposeth and saith, that they are the said officers of the Company aforesaid, and that the seal affixed to the preceding instrument is the Corporate Seal of said Company, and that the said Corporate Seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Constance A. Dunn *Notary Public*
My Commission Expires: July 14, 2015

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 : Marcie Mills, Paralegal, Contracts Administration Manager for
Peter Abernathy Senior Associate Executive Director and Staff Attorney
E-mail : Marcie.Mills@tn.gov

DATE : 12/01/2010

RE : Request for OIR Pre-Approval Endorsement

Applicable RFS # 33205-01312

OIR Endorsement Signature & Date:

Mark Bengel (jc) 9/23/11

Chief Information Officer

NOTE: Proposed contract/grant support is applicable to the subject IT service technical merit.

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	**Tennessee Student Assistance Corporation**
Agency Contact (name, phone, e-mail)	**O.W. Higley, Assistant Executive Director of Fiscal Affairs and IT Director** **615.532.9846** **O.W.Higley@tn.gov**

Subject Procurement Document (mark one)

- ☒ RFP
- ☐ Competitive Negotiation Request
- ☐ Alternative Procurement Method Request
- ☐ Non-Competitive Contract Request
- ☐ Non-Competitive Amendment Request
- ☐ Contract
- ☐ Contract Amendment
- ☐ Grant
- ☐ Grant Amendment

Applicable RFS # 33205-01312

Information Systems Plan (ISP) Project Applicability

☒ Not Applicable to this Request

☐ Applicable– ISP Project#

Response Confirmed by IT Director/Staff (name): **O.W. Higley**

Required Attachments (as applicable – copies without signatures acceptable)

☒ RFP, Competitive Negotiation Request, Alternative Procurement Method Request, Non-Competitive Contract Request, Non-Competitive Amendment Request

☐ Original Contract/Grant or Amendment

☐ 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.)

This resulting contract from the subject RFP will not impact the state of Tennessee's network infrastructure. The Contractor will use its own computer systems, web page, and purchasing authority to fulfill the scope of the contract.

The contract outcomes proposed in RFP relevant to this review are contained in the *pro forma contract* Scope of Services, A.3., A.9, A.10., A.18., and A.28