

CONTRACT #8
RFS # 317.86-00131
Edison # 46760

**Department of Finance and
Administration
Benefits Administration**

VENDOR:
The JellyVision Lab, Inc.



STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
BENEFITS ADMINISTRATION

312 Rosa L. Parks Avenue
Suite 1900 William R. Snodgrass Tennessee Tower
Nashville, Tennessee 37243
Phone (615) 741-4517 or (866) 576-0029
FAX (615) 253-8556

Larry B. Martin
COMMISSIONER

Laurie Lee
EXECUTIVE DIRECTOR

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

FROM: Laurie Lee 

DATE: January 28, 2016

RE: JellyVision Lab, Inc. (Amendment #1, Edison # 46760)

Benefits Administration is submitting for consideration by the Fiscal Review Committee amendment #1 to JellyVision Lab, Inc. contract, providing a unique and comprehensive online decision support tool for members of the State Group Insurance Plan. The tool is a custom interactive experience for plan members offering information about medical plan options, dental insurance, vision insurance, and Employee Assistance Program benefits along with information about the new health savings account (HSA) and flexible savings account. The tool is located on the homepage of the Partners for Health website. Two customized versions are provided for members – one for State and Higher Education employees and one for local education and local government agencies.

- State and Higher Education: <https://www.alexfortnstate.com/2016>
- Local Education and Local Government: <https://www.alexfortnlocal.com/2016>

In November 2014 Benefits Administration sought, through a request for proposal (RFP), to procure communications services to help provide information about upcoming benefit changes to the public sector insurance plans to all eligible employees prior to the 2015 annual enrollment period. These services included plan-specific decision support tool(s) designed to help members make informed choices regarding their plan options. This was especially important for the 2015 open enrollment, as we added a new plan option for 2016, the Consumer Driven Health Plan with HSA.

Two potential vendors submitted proposals and one was deemed non-responsive. After Central Procurement Office negotiations with the remaining vendor failed and the Insurance Committee did not approve the contract in February 2015, Benefits Administration staff identified twelve companies with the desired communications services and tools and received four proposals. In addition, we met internally to see if a decision support tool could be built by our experts and were informed it is not something that could have been done internally. Based on discussions and evaluation of the four proposals, we determined that two companies could provide appropriate communications tools. Because of the unique nature of the JellyVision Lab, Inc. tool and cost comparison, JellyVision was chosen to provide the service. Unlike the other proposer, JellyVision

Lab, Inc.'s product provided a comprehensive, integrated solution in a platform that is easy for customers to use and understand.

Through contract negotiations with the vendor and Central Procurement Office, Benefits Administration submitted a special contract request in June 2015 and received approval. The original contract was a sole source contract due to the short timeframe in which to put a contract in place. This included a maximum liability of \$240,000 effective from July 1, 2015 to June 30, 2106. The contract also provides for the option of four one-year extensions.

Benefits Administration is requesting additional funding of \$13,000 to update eligibility information in the current decision support tool, \$2,000 of which was necessary to make before the annual enrollment period, and extending the contract for one year. The extension includes a one-year license renewal and web hosting (\$210,000 based on second year pricing), funds to update the program with 2016-2017 benefit plan revisions (\$40,000) as well as additional funds of \$20,000 for any updates that need to be made throughout the year. The new proposed contract end date is June 30, 2017 with a maximum liability of \$523,000.

The current software includes the following modules: medical, dental, tax savings, enrollment, vision and employee assistance program. In this amendment we are adding short-term and long-term disability modules. Benefits Administration did not offer short-term and long-term disability in 2015 but we are currently working on an RFP for those services.

The original contract is included for review. Benefits Administration submits the above referenced contract amendment for your consideration and approval.



STATE OF TENNESSEE
DEPARTMENT OF FINANCE AND ADMINISTRATION
BENEFITS ADMINISTRATION

312 Rosa L. Parks Avenue
Suite 1900 William R. Snodgrass Tennessee Tower
Nashville, Tennessee 37243
Phone (615) 741-4517 or (866) 576-0029
FAX (615) 253-8556

Larry B. Martin
COMMISSIONER

Laurie Lee
EXECUTIVE DIRECTOR

MEMORANDUM

TO: Krista Lee, Executive Director, Fiscal Review Committee
FROM: Laurie Lee 
DATE: January 21, 2016
RE: JellyVision Lab, Inc., Amendment #1, Edison # 46760

This request for amendment #1 comes to the Fiscal Review Committee with an April 29, 2016 effective date.

As detailed in the Amendment request accompanying this correspondence, the current contractor, The JellyVision Lab, Inc., was selected to provide a decision support tool, assisting our members with benefits selections during the 2016 annual enrollment period and throughout the year. The effective date of the contract was July 1, 2015 through a sole source contract.

This amendment will add funding for eligibility and enrollment updates to the current version of the decision support tool and we are requesting to execute one renewal option already in the contract by one year, ending June 30, 2016.

The original contract is included for review. Thank you for your consideration of this request.

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Seannalyn Brandmeir	*Contact Phone:	615-532-4598
*Presenter's name(s):	Debby Koch, Communications Director, and Seannalyn Brandmeir, Procurement and Contracting Manager		
Edison Contract Number: <i>(if applicable)</i>	46760	RFS Number: <i>(if applicable)</i>	31786-00131
*Original or Proposed Contract Begin Date:	7/1/2015	*Current or Proposed End Date:	6/30/2016 – current 6/30/2017 - proposed
Current Request Amendment Number: <i>(if applicable)</i>	One (1)		
Proposed Amendment Effective Date: <i>(if applicable)</i>	April 29, 2016		
*Department Submitting:	Finance and Administration		
*Division:	Benefits Administration		
*Date Submitted:	January 21, 2016		
*Submitted Within Sixty (60) days:	Yes		
<i>If not, explain:</i>			
*Contract Vendor Name:	The JellyVision Lab, Inc.		
*Current or Proposed Maximum Liability:	\$240,000 – current \$523,000 - proposed		
*Estimated Total Spend for Commodities:	Not applicable		
*Current or Proposed Contract Allocation by Fiscal Year: (as Shown on Most Current Fully Executed Contract Summary Sheet)			
FY: 2016	FY:	FY:	FY:
\$240,000.00	\$	\$	\$
*Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from Edison)			
FY: 2016	FY:	FY:	FY:
\$232,000.00	\$	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:	N/A		
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:	N/A		
IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding	N/A		

Supplemental Documentation Required for
Fiscal Review Committee

was acquired to pay the overage:			
*Contract Funding Source/Amount:			
State:		Federal:	
<i>Interdepartmental:</i>	\$240,000	<i>Other:</i>	
If “ <i>other</i> ” please define:			
If “ <i>interdepartmental</i> ” please define:		Funding source is from the State, Local Education and Local Government Insurance funds.	
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>	
Not applicable.			
Method of Original Award: <i>(if applicable)</i>		Sole Source	
*What were the projected costs of the service for the entire term of the contract prior to contract award? How was this cost determined?		A request for bids was sent to potential vendors, and Jellyvision provided this cost estimate to accomplish the work contained in the Scope of the Pro Forma contract. This was a new product therefore we did not have a projected/estimated cost.	
*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.		The State received five separate written proposals to offer both an online decision support tool, and educational videos to help our members identify which health plan would best fit their needs beginning last fall during annual enrollment (starting September 15 th). Two of the vendors had never offered a decision support tool before to clients. After narrowing the field to the two finalists with direct experience who did not require a separate log-in or data transfer, only Jellyvision had one comprehensive tool (ALEX®) that included all of the services requested by the State. The price for licensure of ALEX® was lower than the combined estimates of the other finalists, and the tool itself was much more customer-friendly and easy to use than the other proposals. After checking Jellyvision’s references, which were impeccable, we felt their cost and proposed services were extremely fair and would meet the needs of the State.	

The Jellyvision Lab, Inc.

Edison Contract # 46760
Vendor Number 157401
Reports Pulled: 1/11/2016

Fiscal Year Expenditures

FY 2016 222,000.00

Total Expenditures 222,000.00

POs in Process:

Hosting Fee November 5,000.00
Hosting Fee January 5,000.00

Total 232,000.00

Vendor Name	Type	PO ID	Voucher ID	Invoice	Date	Fiscal Year
The Jellyvision Lab Inc	DFA	0000001259	00005608	101642	8/28/2015	2016
The Jellyvision Lab Inc	DFA	0000001257	00005567	101558	7/27/2015	2016
The Jellyvision Lab Inc	DFA	0000001263	00005622	101772	9/4/2015	2016
The Jellyvision Lab Inc	DFA	0000001256	00005566	101548	7/27/2015	2016

The Jellyvision Lab, Inc.

Edison Contract # 46760

Vendor Number 157401

Reports Pulled: 1/11/2016

TN_PU_CN028- POs by Contract ID

POs by Contract_ID	5								
Unit	PO No.	PO Status	Budget Stg	PO Line	Vendor	Name	Sum PO Amount		
31786	0000001298	Dispatched Valid		1	0000189379	The Jellyvis	5000.000		
31786	0000001263	Compl	Valid	1	0000189379	The Jellyvis	50000.000		
31786	0000001259	Compl	Valid	1	0000189379	The Jellyvis	2000.000		
31786	0000001257	Compl	Valid	1	0000189379	The Jellyvis	50000.000		
31786	0000001256	Compl	Valid	1	0000189379	The Jellyvis	120000.000		

The Jellyvision Lab, Inc.

Edison Contract # 46760
Vendor Number 157401
Reports Pulled: 1/11/2016

Total Contract Amount 240,000.00

Payments 222,000.00

Remaining Balance 18,000.00

Remaining Amt Edison 13,000.00 as of 1/11/2016

1st reconciliation step (if zero, don't go farther) 5,000.00

Blanket PO
PO 1298 5,000.00

Reconciled (should be zero) -

Reconciled 1/11/2016

The Jellyvision Lab, Inc.

Edison Contract #

Vendor Number

Reports Pulled:

46760

157401

1/11/2016

Remaining Amount on Contract

18,000.00

Additional Payments to be made:

Hosting Fees

\$20,000

Over/(under) funded

(2,000.00)

Amendment Request

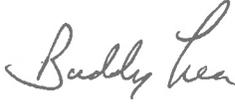
This request form is not required for amendments to grant contracts. Route a completed request, as one file in PDF format, via e-mail attachment sent to: Agsprs.Agsprs@tn.gov

APPROVED

CHIEF PROCUREMENT OFFICER

DATE

Agency request tracking #	31786-00131	
1. Procuring Agency	Benefits Administration	
2. Contractor	The Jellyvision Lab, Inc.	
3. Edison contract ID #	46760	
4. Proposed amendment #	One (1)	
5. Contract's Effective Date	7/1/2015	
6. Current end date	6/30/2016	
7. Proposed end date	6/30/2017	
8. Current Maximum Liability or Estimated Liability	\$240,000	
9. Proposed Maximum Liability or Estimated Liability	\$ 523,000	
10. Office for Information Resources Pre-Approval Endorsement Request – information technology service (N/A to THDA)	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
11. eHealth Pre-Approval Endorsement Request – health-related professional, pharmaceutical, laboratory, or imaging	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
12. Human Resources Pre-Approval Endorsement Request – state employee training service	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
13. Explain why the proposed amendment is needed	<p>This language was previously approved and we realized that in replacing the entire section C.3, we inadvertently deleted the May 1, 2016 payment under the current contract. Additional language has been added to put that payment back into the amendment. The vendor also asked for an update in the payment schedule amounts. Updated Amendment One language is included with this request.</p> <p>Original explanation of the proposed amendment: Additional funds to update current eligibility and enrollment information assisting our</p>	

Agency request tracking #	31786-00131
members in making a more accurate decision. In addition, we are exercising a one-year extension and adding two additional benefit modules to the tool.	
14. If the amendment involves a change in Scope, describe efforts to identify reasonable, competitive, procurement alternatives to amending the contract. N/A	
Signature of Agency head or authorized designee, title of signatory, and date (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)  	



CONTRACT AMENDMENT COVER SHEET

Agency Tracking # 31786-00131	Edison ID 46760	Contract # n/a	Amendment # 1		
Contractor Legal Entity Name The Jellyvision Lab, Inc.			Edison Vendor ID 189379		
Amendment Purpose & Effect(s) Additional funds to update current eligibility and enrollment information assisting our members in making a more accurate decision. In addition, we are exercising a one-year extension and adding two additional benefit modules to the tool.					
Amendment Changes Contract End Date: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		End Date: June 30, 2017			
TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A):			\$ 283,000.00		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2016			\$253,000.00		\$253,000.00
2017			\$270,000.00		\$270,000.00
TOTAL:			\$523,000.00		\$523,000.00
American Recovery and Reinvestment Act (ARRA) Funding: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.			<i>CPO USE</i>		
Speed Chart (optional)		Account Code (optional)			

**AMENDMENT ONE
OF CONTRACT EDISON # 189379**

This Contract, by and between the State of Tennessee, State Insurance Committee, Local Education Insurance Committee, and the Local Government Insurance Committee, ("State") and Contractor, The Jellyvision Lab, Inc. ("Contractor"), is for the licensure and customization of ALEX[®] software which will be available to all member participants and eligible member participants of the public sector plans. 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.3, the following are being added, applicable for the ALEX Benefits Counselor Software launch date for 2017 benefits:

- Short Term Disability Insurance
 Long Term Disability Insurance

2. Contract section B.1, is deleted and replaced with the following:

This Contract shall be effective on July 1, 2015 ("Effective Date") and extend for a period of twenty-four (24) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date. Contractor shall license ALEX to the State for distribution over the internet for a period of one year.

3. Contract section C.1 the maximum liability amount is deleted and replaced with the following:

C.1 Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed five hundred and twenty three thousand dollars (\$523,000) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

4. Contract section C.3.b., adding the following sentence before the payment and service table:

Applicable for the 2016 benefits version of ALEX Benefits Counselor Software:

5. Contract section C.3.b. the payment and service table is hereby appended with the following, applicable for the 2017 benefits version of ALEX Benefits Counselor Software:

Applicable for the 2017 benefits version of ALEX Benefits Counselor Software:

Service Description	Amount (per compensable increment)
Final State-approved implementation plan and timetable (see Contract Section A.6.a.(1))	\$125,000

Submission of draft version of ALEX [®] (see Contract Section A.6.a.(2).4)	\$50,000
Final State-approved version of ALEX [®] (see Contract Section A.6.a.(2).14)	\$75,000

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

Amendment Effective Date. The revisions set forth herein shall be effective April 29, 2016. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

IN WITNESS WHEREOF,

The Jellyvision Lab, INC:

SIGNATURE

DATE

PRINTED NAME AND TITLE OF SIGNATORY (above)

**DEPARTMENT OF FINANCE AND ADMINISTRATION:
STATE INSURANCE COMMITTEE:**

LARRY B. MARTIN, COMMISSIONER

DATE

Revised Contract
Summary Sheet



CONTRACT

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

Begin Date July 1, 2015	End Date June 30, 2016	Agency Tracking # 31786-00131	Edison Record ID 46760
-----------------------------------	----------------------------------	---	----------------------------------

Contractor Legal Entity Name The JellyVision Lab, Inc	Edison Vendor ID 15189
---	----------------------------------

Goods or Services Caption (one line only)
Licensure and customization of ALEX® software

Subrecipient or Contractor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Contractor	CFDA #
---	---------------

Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2016					\$240,000.00
TOTAL:					\$240,000.00

Contractor Ownership Characteristics:

Minority Business Enterprise (MBE): African American, Asian American, Hispanic American, Native American

Woman Business Enterprise (WBE)

Tennessee Service Disabled Veteran Enterprise (SDVBE)

Tennessee Small Business Enterprise (SBE): \$10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees.

Other: Not Minority

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

Competitive Selection

Other Benefits Administration received bids from 4 different companies and CPO negotiated the terms of this contract with the Vendor chosen by BA.

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.

Felenceo M. Hill Digitally signed by Felenceo Hill
Date: 2016.01.26 12:44:24 -06'00'

Speed Chart (optional)	Account Code (optional) 78904000 <i>CM</i>
-------------------------------	--

CY15-5401

11-20-13 REQUEST-SPECIAL

Special Contract Request

This form should be utilized to facilitate contract and procurement requests that require the Chief Procurement Officer's prior approval and that of the Comptroller of the Treasury, as applicable.
 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@tn.gov.

<p>APPROVED</p> <p>Michael F. Perry -AK</p> <p><small>Digitally signed by Michael F. Perry -AK DN: cn=Michael F. Perry -AK, o=CPO, ou=CPO, email=andy.kidd@tn.gov, c=US Date: 2015.07.02 09:39:24 -0500</small></p> <p>CHIEF PROCUREMENT OFFICER</p>	<p>APPROVED</p> <p><i>Justin Wilson</i> 7/6/2015</p> <p>COMPTROLLER OF THE TREASURY</p>
DATE	DATE

Request Tracking #	31786--00131
1. Contracting Agency	Finance and Administration, Benefits Administration
2. Type of Contract or Procurement Method	<input type="checkbox"/> No Cost <input type="checkbox"/> Revenue <input checked="" type="checkbox"/> Sole Source <input type="checkbox"/> Proprietary <input type="checkbox"/> Competitive Negotiation <input type="checkbox"/> Other _____
3. Requestor Contact Information	Sylvia Chunn, 615-253-8358 Sylvia.chunn@tn.gov
4. Brief Goods or Services Caption	Communication and Decision Support Tool to aid members in benefits selection process
5. Description of the Goods or Services to be Acquired	Licensure of ALEX® software, an online benefits counselor
6. Proposed Contractor	The Jellyvision Lab, Inc.
7. Name & Address of the Contractor's principal owner(s) <i>- NOT required for a TN state education institution</i>	Helen Calvin The Jellyvision Lab, Inc. 848 W. Eastman, Suite 104 Chicago, Illinois 60642
8. Proposed Contract Period – with ALL options to extend exercised <i>The proposed contract start date shall follow the approval date of this request.</i>	60 months

Request Tracking #	31786-00131
9. Office for Information Resources Pre-Approval Endorsement Request – <i>Information technology (N/A to THDA)</i>	<input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/> Attached
10. eHealth Pre-Approval Endorsement Request – <i>health-related professional, pharmaceutical, laboratory, or imaging</i>	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
11. Human Resources Pre-Approval Endorsement Request – <i>state employee training</i>	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached
12. Are these goods or services currently available on a statewide contract? If YES, please explain why the current statewide contract is not being used for this procurement.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES,
13. Maximum Contract Cost – <i>with ALL options to extend exercised</i>	\$ 240,000.00
14. Was there an initial government estimate? If so, what amount?	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, \$
15. Cost Determination Used- How did agency arrive at the estimate of expected costs?	A request for bids was sent to potential vendors, and Jelly provided this cost estimate to accomplish the work contained in the Scope of the Pro Forma contract.
16. Explanation of Fair and Reasonable Price- Explain how agency determined that price is fair and reasonable	The State received five separate written proposals to offer both an online decision support tool, and educational videos to help our members identify which health plan would best fit their needs beginning this fall during annual enrollment (starting September 15 th). Two of the vendors had never offered a decision support tool before to clients. After narrowing the field to the two finalists with direct experience who did not require a separate log-in or data transfer, only Jellyvision had one comprehensive tool (ALEX®) that included all of the services requested by the State. The price for licensure of ALEX® was lower than the combined estimates of the other finalists, and the tool itself was much more customer-friendly and easy to use than the other proposals. After checking Jellyvision's references, which were impeccable, we felt their cost and proposed services were extremely fair and would meet the needs of the State.
17. Documentation of Discussions with Contractor- How did agency document discussions with Contractor? Attach documentation to this request as applicable.	

Request Tracking #	31786-00131
18. Explanation of Need for or requirement placed on the State to acquire the goods or services	<p>The State will be offering a new benefit option this fall which is very different from anything our members have seen. The new option – a Consumer Driven Health Product combined with a Health Savings Account – will operate very differently than existing plans. The State had attempted to procure a separate call center to answer questions on the new health benefit, and a vendor to provide online decision support tools and videos to educate members about their plan options, but such procurement did not result in a winning bid (RFP #31786-00124). The State will need the assistance of the vendor to provide members a place to go to learn about their benefits options 24 hours a day, 7 days a week. Without this contract, the State would be unable to answer calls or provide similar one-on-one services to all 170,000+ members (and eligible members).</p>
19. Proposed contract impact on current State operations	<p>The contract will improve the work of our call center and the Agency Benefits Coordinators (ABCs) by giving them a place to refer members where they may learn about all of the health benefits options available to them. The tool (ALEX®) will also provide recommendations to members based upon their specific health care needs which they will enter online. This contract will save valuable time and resources for our current staff, and provide much needed education services to members who will be choosing their health benefit option this fall beginning in September, and for all new hires throughout the year.</p>

Request Tracking #	31786-00131
<p>20. Justification – Specifically explain why the goods or services should be acquired through the procurement method or contract type selected.</p>	<p>Benefits Administration conducted an RFP procurement for these services that was released in November of 2014. After CPO negotiations with the remaining Vendor failed and the Insurance Committee did not approve the contract, we had to use an alternative method to find a Vendor that could provide the services the State requires.</p> <p>Benefits Administration (BA) staff conducted research to identify potential vendors and compiled a list of 12 potential companies. We reached out to each of these vendors and discussed our needs and in return received four written proposals from Aon, Castlight, Jellyvision and Segal. Of these four companies, only Jellyvision and Aon had experience providing an online decision support tool.</p> <p>BA participated in presentations and conferences calls with each vendor and narrowed the field down to Aon and Jellyvision due to their experience with the online tools. We checked references for each vendor and ultimately decided that Jellyvision was the best vendor for the State. In addition to receiving the highest references possible, Jellyvision offered a unique comprehensive tool that would educate members and provide them with recommendations on which health plan would meet their specific needs. The tool will also highlight how a member could use the new benefit option for dental, vision and EAP needs which was something no other vendor proposed.</p>
For No Cost and Revenue Contracts Only	
21. What costs will the State incur as a result of this contract? If any, please explain.	
22. What is the total estimated revenue that the State would receive as a result of this contract?	
23. Could the State also contract with other parties interested in entering substantially the same agreement? Please explain.	<input type="checkbox"/> NO <input type="checkbox"/> YES
24. Summary of State responsibilities under proposed contract	
For Sole Source and Proprietary Procurements Only	

Request Tracking #	31786-00131
25. Explanation of Need for or requirement placed on the State to acquire the goods or services	The State will be offering a new health benefit this fall: a Consumer Driven Health Product that includes a Health Savings Account (HSA). This new benefit option will be unfamiliar to our members and therefore we wanted to procure services to help explain the new benefit option and coverage, to explain how a HSA works, and to allow members to compare all of our existing benefits options to see which plan may be best for their specific needs.
26. Evidence of Contractor's experience & length of experience providing the goods or services to be procured.	We reviewed references from clients of the vendor including the Commonwealth of Virginia; Nissan; and Bridgestone. All clients gave the vendor the highest rating possible and were very satisfied with the cost of implementation, the timing, and the product their members were using. Jellyvision has been providing ALEX® as a benefits counselor since 2009.
27. Has the contracting agency procured the subject goods or services before? If yes, provide the method used to purchase the goods or services and the name and address of the contractor.	<input checked="" type="checkbox"/> NO <input type="checkbox"/> YES, Method: Name/Address:
28. Contractor selection process and efforts to identify reasonable, competitive, procurement alternatives	After the previous procurement (RFP #31786-00124) did not result in a winning bid, we were authorized by the Insurance Committee to procure services for an online decision support tool and educational videos with a budget of \$500,000 to meet the State's urgent needs to educate our members about the new CDHP/HSA plan option that will be available this fall. Staff conducted research to identify potential vendors and compiled a list of 12 potential companies. We reached out to each of these vendors and discussed our needs and in return received four written proposals. Of these four companies, only two had experience providing an online decision support tool; BA staff participated in presentations and conferences calls with each vendor to determine who could best meet the needs of the State.

Request Tracking #	31786-00131
Signature Required for all Special Contract Requests	
Agency Head Signature and Date – <i>MUST be signed by the ACTUAL agency head as detailed on the current Signature Certification. Signature by an authorized signatory is acceptable only in documented circumstances</i>	
Signature:	
Date:	6-17-15



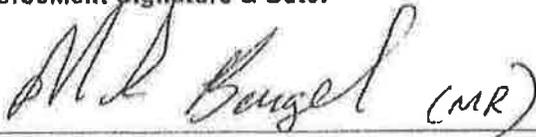
OIR Pre-Approval Endorsement Request E-Mail Transmittal

TO : Mark Rampey, OIR Contracts
Department of Finance & Administration
E-mail :

FROM : Sylvia Chunn
E-mail :

DATE : 6/16/2015

RE : Request for OIR Pre-Approval Endorsement

Applicable RFS # 31786-00131
OIR Endorsement Signature & Date:  (MR) 6/29/15 Chief Information Officer <small>NOTE: Proposed contract/grant support is applicable to the subject IT service technical merit.</small>

Office for Information Resources (OIR) pre-approval endorsement is required pursuant to procurement regulations pertaining to contracts 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 document(s). This requirement applies to any procurement method regardless of dollar amount.

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

Contracting Agency	Finance and Administration, Benefits Administration
Agency Contact (name, phone, e-mail)	Sylvia Chunn, 615-253-8358,
Attachments Supporting Request (mark all applicable)	
<p>Note: The complete draft procurement document and the applicable documents listed below must accompany this request when submitted to OIR. Special Contract Requests and Amendment Requests without Agency Head signature are acceptable. OIR is aware that these documents will not have CPO signature when submitted with this request.</p> <p> <input type="checkbox"/> Solicitation Document <input checked="" type="checkbox"/> Special Contract Request <input type="checkbox"/> Amendment Request <input type="checkbox"/> Proposed Contract/Grant or Amendment <input type="checkbox"/> Original Contract/Grant and Previous Amendments (if any) </p>	

Applicable RFS # 31786-00131

Information Systems Plan (ISP) Project Applicability

To avoid delay of OIR pre-approval, the applicability of an ISP project to the procurement must be confirmed with agency IT staff prior to submitting this request to OIR. If necessary, agency IT staff should contact OIR Planning with questions concerning the need for an ISP project.

IT Director/Staff Name Confirming (required):

- Applicable – Approved ISP Project#
 Not Applicable

Subject Information Technology Service Description

Provide a brief summary of the Information technology services involved. Clearly identify included technologies such as system development/maintenance, security, networking, etc. As applicable, identify the contract or solicitation sections related to the IT services.

Jellyvision Labs LLC ALEX online benefits counselor software

A.7 Information Technology Requirements



STATE OF TENNESSEE
DEPARTMENT OF GENERAL SERVICES

BILL HASLAM
GOVERNOR

ROBERT E. OGLESBY, AIA
COMMISSIONER

MEMORANDUM

TO: Director of Sourcing
Staff Attorney – Sourcing

FROM: Sharon Pope, Sourcing Account Specialist *SP*

DATE: June 30, 2015

SUBJECT: Recommendation of Special Contract Request 31786-00131 / cy15-5401

The Department of Finance & Administration, Benefits Administration is requesting sole source approval to establish a contract for Communication and Decision Support tool to aid members in their benefits selection process.

The State will be offering a new benefit option this fall which is very different from anything our members have seen. The new option – a Consumer Driven Health Product combined with a Health Savings Account – will operate very differently than existing plans. The State had attempted to procure a separate call center to answer questions on the new health benefit, and a vendor to provide online decision support tools and videos to educate members about their plan options, but such procurement did not result in a winning bid (RFP #31786-00124). The State will need the assistance of the vendor to provide members a place to go to learn about their benefits options 24 hours a day, 7 days a week. Without this contract, the State would be unable to answer calls or provide similar one-on-one services to all 170,000+ members (and eligible members).

The contract will improve the work of our call center and the Agency Benefits Coordinators (ABCs) by giving them a place to refer members where they may learn about all of the health benefits options available to them. The tool (ALEX®) will also provide recommendations to members based upon their specific health care needs which they will enter online. Delays in purchasing these upgrades increase the possibility that data entrusted to the State to safeguard might be comprised.

CENTRAL PROCUREMENT OFFICE

312 ROSA L. PARKS AVENUE, 3RD FLOOR • NASHVILLE, TENNESSEE 37243
(615) 741-1035 • FAX: (615) 741-0684 • WWW.TN.GOV/GENERALSERV/

Sourcing Specialist recommends the approval of this sole source request.

Andy T. Kidd

Digitally signed by Andy T. Kidd
DN: cn=Andy T. Kidd, o=CPO, ou=CFO -
Sourcing, email=andy.kidd@in.gov,
c=US
Date: 2015.07.02 09:39:07 -0500

Director of Sourcing

Date

Kevin C. Bartels

Digitally signed by Kevin C. Bartels
DN: cn=Kevin C. Bartels, o, ou=CPO Legal,
email=Kevin.C.Bartels@in.gov, c=US
Date: 2015.06.30 15:31:59 -0500

Staff Attorney – Sourcing

Date



CONTRACT

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

Begin Date July 1, 2015	End Date 2016 June 30, 2016	Agency Tracking # 31786-00131	Edison Record ID 46760
-----------------------------------	--	---	----------------------------------

Contractor Legal Entity Name The JellyVision Lab, Inc	Edison Vendor ID 189379 45189
---	---

Goods or Services Caption (one line only)
Licensure and customization of ALEX® software

Subrecipient or Contractor <input type="checkbox"/> Subrecipient <input checked="" type="checkbox"/> Contractor	CFDA #
---	---------------

Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2015			\$240,000.00		\$240,000.00
2016					
TOTAL:					\$240,000.00

Contractor Ownership Characteristics:

Minority Business Enterprise (MBE): African American, Asian American, Hispanic American, Native American

Woman Business Enterprise (WBE)

Tennessee Service Disabled Veteran Enterprise (SDVBE)

Tennessee Small Business Enterprise (SBE): \$10,000,000.00 averaged over a three (3) year period or employs no more than ninety-nine (99) employees.

Other: Not Minority

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

Competitive Selection

Other Benefits Administration received bids from 4 different companies and CPO negotiated the terms of this contract with the Vendor chosen by BA.

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.

Felenceo M. Hill

Digitally signed by Felenceo Hill
Date: 2015.07.09 16:33:14 -05'00'

Speed Chart (optional)	Account Code (optional) 78904000 <i>ma</i>
-------------------------------	--



**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
STATE INSURANCE COMMITTEE,
LOCAL EDUCATION INSURANCE COMMITTEE,
AND LOCAL GOVERNMENT INSURANCE COMMITTEE
AND
THE JELLYVISION LAB, INC.**

This Contract, by and between the State of Tennessee, State Insurance Committee, Local Education Insurance Committee, and the Local Government Insurance Committee, ("State") and Contractor, The Jellyvision Lab, Inc. ("Contractor"), is for the licensure and customization of ALEX® software which will be available to all member participants and eligible member participants of the public sector plans, as further defined in the "SCOPE." State and Contractor may be referred to individually as a "Party" or collectively as the "Parties" to this Contract.

The Contractor is a For-Profit Corporation. .
Contractor Place of Incorporation or Organization: Delaware
Contractor Edison Registration ID # 0000015189 189379

A. SCOPE:

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

A.2. Staffing

a. General Requirements.

As part of its Project Implementation Plan and by the date specified below in section A.6.a., the Contractor shall provide a designated Account Team to the State, as specified below:

b. Account Team

- (1) The Contractor shall provide an ongoing designated Account Team as specified below that can provide daily operational support as well as strategic planning and analysis. All members of the Account Team shall competently and professionally provide services related to the implementation of ALEX®.
- (2) The Implementation Expert and/or Account Manager shall have the responsibility and authority to manage the entire range of services discussed in this Contract and shall timely respond to changes in benefits design or general administrative problems identified by the State. Further, this Implementation Expert and/or Account Manager shall be someone who is readily available via telephone and email throughout the workday to answer calls and emails from the Communications team at the State and also from other State staff.
- (3) At a minimum, the Implementation Expert and/or Account Manager, and members of the Account Team and necessary and appropriate staff shall meet via teleconference with the State at an appropriate frequency to keep implementation on schedule and more often if reasonably requested by the State.
- (4) The State may approve or disapprove the Contractor's Subcontractors or its staff assigned to this Contract prior to the proposed staff assignment. All new Subcontractors must be approved by the State in writing prior to the performance of any work required under this Contract. The State hereby provides Contractor approval to use the following Subcontractors: (a) Amazon Web Services for hosting, and (b) Brandon Eels for voice talent. In addition, the State hereby provides Contractor approval to subcontract quality assurance testing and analytics to individuals or entities as to whom Contractor has run customary



background checks to confirm (a) they have not been convicted of a crime involving dishonesty in the preceding seven (7) years, and (b) they are not on the exclusion list referenced at Section A.2.b.7 below.

- (5) In the event that the State notifies Contractor in writing that any of its staff members or subcontractors performing services hereunder are reasonably found to be unacceptable to the State, Contractor shall promptly take reasonable mutually agreed upon appropriate corrective actions as it deems necessary and appropriate.
- (6) If the State reports or Contractor detects any problem regarding end user ability to use ALEX, Contractor shall provide Support to the State according to the terms of the Support Agreement, attached hereto as Attachment B.
- (7) For its work under this Contract, the Contractor shall employ no employees or contract with subcontractors that are on the U.S. Department of Health and Human Services' Office of Inspector General (OIG) exclusions list unless the Contractor receives prior, written approval from the State.

A.3. The Contractor shall provide the following materials and services to member participants and eligible member participants of the public sector plans.

a. ALEX® software.

The State agrees to license ALEX® software ("ALEX") from Contractor pursuant to the terms in this Contract. The Contractor shall customize ALEX® as specified herein. The final version of ALEX® shall be approved by the State and launched by the go-live dates specified in Contract Section A.6.a.(2). The Contractor shall include the following modules in the final State-approved version of ALEX®:

SOFTWARE:

- | | |
|---|---|
| <input checked="" type="checkbox"/> ALEX Benefits Counselor | <input type="checkbox"/> Life Insurance |
| <input checked="" type="checkbox"/> Medical | <input type="checkbox"/> AD&D Insurance |
| <input checked="" type="checkbox"/> Dental | <input checked="" type="checkbox"/> Vision |
| <input checked="" type="checkbox"/> Tax Savings | <input type="checkbox"/> Accident |
| <input type="checkbox"/> Critical Illness | <input checked="" type="checkbox"/> Employee Assistance Program (EAP) |
| <input checked="" type="checkbox"/> Pharmacy Savings | <input type="checkbox"/> Long Term Disability Insurance |
| <input type="checkbox"/> Short Term Disability Insurance | |
| <input checked="" type="checkbox"/> Enrollment | |
| <input type="checkbox"/> More Benefits | |
| <input type="checkbox"/> ALEX Benefits Counselor Spanish | |
| <input type="checkbox"/> Retirement / 401(k) | |
| <input type="checkbox"/> ALEX on Making the Most of Your Plan | |
| <input type="checkbox"/> ALEX Does Health Care Reform | |

- HOSTING
- ANALYTICS
- MARKETING KIT

b. ALEX Benefits Counselor Website/Microsite.

The Contractor shall submit the URL address, build, and run a live demonstration of the website to the State for review and approval prior to the go-live date specified in Contract Section A.6.a.(2). Additionally, the Contractor shall obtain prior, written approval from the State for any links from the site to a non-governmental website or webpage.

Desktop/Laptop Content

1. Interactive Conversations: These are Flash-based rich media experiences that simulate a live conversation with a virtual host, ALEX.



2. Plan Details Pages: These are HTML-based web pages that contain summaries of each benefit (including, at times, key decisions made by the employee).

Phone and Tablet Content

A mobile user visits the same URL as a desktop user, and is provided the same menu of benefits (mobile version referred to herein as a "microsite"). However, the content available on mobile devices is limited, as described below:

- Eligibility
 - On mobile devices, a non-audio HTML-based experience allows the user to indicate responses to all eligibility questions before accessing other content.
- Medical
 - Help me pick a plan: Non-audio HTML-based experience available to employees with multiple medical plans.
 - Medical interview (who you're covering and anticipated medical usage)
 - Medical plan highlight (plan with best fit based on user input)
 - Plan Details Page: The same content as the desktop summary page, optimized for display on smaller screens.
- All other benefits
 - Plan Details Page: All other benefits have a summary page with the same content as viewed from a desktop, but optimized for display on smaller screens.

The microsite shall be launched by the go-live date specified in Contract Section A.6.a.(2).

- c. No later than thirty (30) days following contract termination, the Contractor shall cease use of the website domain name utilized for the State and permit such registration to lapse no earlier than the five (5) year anniversary of the Effective Date.
- d. The State shall submit its Summary Plan Data and other program information requested by Contractor for the modules specified in Contract Section A.6.a.(2).
- e. The Contractor may post its Terms of Service in conjunction with the ALEX software, specifying the relationship between end users and Contractor. As between Contractor and the State, the Terms of Service do not modify or supersede the terms of this Contract. Notwithstanding any other provision in this Contract to the contrary, the Terms of Service shall not apply to the State nor shall any the acts or omissions of any State employee bind the State to the Terms of Service through the doctrines of actual or apparent authority.

A.4. Operating Standards and Program Requirements

This section details the over-arching program requirements and operational standards to which the Contractor shall adhere in the course of the performance of its duties under this Contract. Contractor's performance of its duties under this Contract and timely submission of deliverables are subject to cooperation by the State. The State shall fully cooperate with Contractor and provide access and materials as set forth in the Contract to enable Contractor to perform its duties.

- a. The final State-approved version of ALEX® shall be mobile device/smart phone compatible as specified in Section A.3.b.
- b. Materials Development

(1) Rights of Use and Legal Clearances

The Contractor shall have the exclusive responsibility to write, edit, and arrange for clearance of materials (such as securing full time use of a stock photograph



used in brochures) for any and all materials contemplated under this Contract (excluding those materials provided by the State for inclusion in ALEX). As described in section A.7.f. and E.4., all information, documents and reports involving or arising out of this Contract become the property of the State and may not be used by Contractor without prior written approval; however, all right, title and interest in and to the Contractor-Owned Software ALEX® and any modifications and/or improvements thereto, remain with Contractor.

(2) State Review and Approval

Consistent with Section A.4.b.(2), all deliverables produced by (or at the direction of) the Contractor for use in the course of this Contract are subject to prior, written approval by the State. Contractor will provide the relevant deliverables according to the Production Timeline (as described in Section A.6.) and the State will provide information, feedback, and approvals on the specified dates.

(3) Corporate Logos

The State hereby allows Contractor to use and represents and warrants that it has the right to grant Contractor the ability to use any State identifying brand, logo or trademark on any materials provided by the State for use in the customization of ALEX for the State.

(4) English Closed Captioning.

The Contractor shall include a closed captioning option in English for ALEX®.

(5) Website

i. Hosting and Capacity.

The Contractor shall have the responsibility to "host" the microsite and ALEX® on a cloud based platform. The Contractor shall ensure adequate capacity and infrastructure to support the likely high-volume of traffic from plan members.

The specifics of the hosting offering are as follows:

1. Contractor will host ALEX, including all applications with related content via a dedicated URL as described below. The State will be solely responsible for driving traffic to ALEX.
2. Contractor will host ALEX on a dedicated domain set forth herein, provided the domain remains available for purchase.
3. If Customer uses a Citrix platform, Customer is responsible for testing compatibility with ALEX during the review of their first release.

ii. Reserved.

iii. Streamed Content.

The Contractor's website shall have the capability to provide streamed content (both audio and video), including ALEX® described in Section A.3.

iv. Updating/Availability of Content.

The Contractor shall create the final State-approved version of ALEX® using commonly available tools and meeting the following criteria:

Desktop Users

1. Broadband internet connection
2. 16-bit sound card with speakers or headphones



3. Flash player 11 or higher
4. Supported browsers:
 - a. Microsoft Internet Explorer 8.0 or higher (Compatibility View or Mode is not supported)
 - b. Firefox (latest) [Note: Firefox updates automatically for end users, so Contractor cannot list a minimum requirement]
 - c. Chrome (latest) [Note: Chrome updates automatically for end users, so Contractor cannot list a minimum requirement]
 - d. Safari 6.0 or higher
5. Supported Operating Systems:
 - a. Microsoft® Windows Vista®, XP, or 7
 - b. Mac OS X v10.4 or later

Mobile/Tablet Users

1. Internet Connection Requirements
 - a. Wi-Fi
 - b. 4G
2. Supported browsers:
 - a. iOS Safari 6.0+
 - b. Android Native Browser 4.3+
 - c. Chrome for Android 30+
3. Hardware Requirements:
 - a. iPad 2nd generation or later
 - b. Android tablets with dual core or higher

Note: Kindle Fire is not supported

If the Contractor prefers to use tools other than, or in addition to those mentioned, they must receive prior written approval from the State.

c. **Objectivity**

The intent of the ALEX software is to present all information (regardless of media) in an objective, dispassionate and conversational manner.

d. **Reading Level.**

The Contractor or State, at the election of the Contractor, shall evaluate materials using a build of the materials. If the sixth (6th) grade reading level is not achieved the State may at its discretion and in writing (i) approve a higher reading level, or (ii) request a change using the Change Order process herein.

A.5. **Post-Enrollment Period**

If the State elects to exercise Contract Section B.2 for one or all renewal options, the Contractor shall continue to update and provide the services outlined in this contract and the applicable mutually executed renewal documentation through the term of this contract. Examples of updated activities and services include, but are not limited to:

- i. Updating ALEX® to include new functionality;
- ii. Updating website content to reflect changes and updates; and
- iii. Hosting website.

A.6. **Implementation**

This section details the Contractor's responsibility to develop and submit a Project Implementation Plan to the State. Further, it delineates the due dates for other Contract deliverables, and summarizes the reporting requirements under the Contract. Finally, it details the performance requirements for both the Contractor and the State.



a. Project Implementation Plan

(1) General Requirements.

The Contractor shall develop a comprehensive implementation plan, which shall outline the steps necessary both (a) for the Contractor to submit deliverables by the dates specified in Section A.6.a.(2); and (b) for the Contractor to be fully operational and begin work according to the schedule specified herein. This plan shall include the following:

- i. An itemization of activities that the Contractor shall undertake during the period between Contract Award and the "go-live" dates. These activities shall have established deadlines and conform to the timeframes established in this Contract;
- ii. A project timeline and schedule (including release of draft materials to State for review, schedule of Account Team and State meetings, etc.);
- iii. Identification of Contractor expectations regarding participation by the State in the activities in the Project Implementation Plan and dependencies between these activities and implementation activities for which the State will be responsible; and
- iv. State Review and Approval.

The Contractor shall submit the Project Implementation Plan to the State for review and approval by the date specified in Section A.6.a.(2).

(2) Project Implementation Plan

So long as this Contract is mutually executed by on or before July 1, 2015 and the State provides timely reviews/feedback/approvals as outlined below, the Contractor will make the Software available on the production server by end of day on Friday, August 20, 2015 ("Launch Date") or other mutually agreed upon date based upon final contract execution date. Unless otherwise specified in writing, the parties shall adhere to the following schedule for the deliverables for which they are responsible under this Contract. Any delays in execution, reviews, feedback or approvals are subject to schedule delays and fees as outlined below.

All State deliverables are due END OF DAY (midnight CT). Failure to provide feedback/approval in accord with this schedule may result in additional fees and delays to the schedule (which could result in a launch after Launch Date).

	Deliverable	Contract Reference(s)	Final Approval from State Due By
Implementation Plan			
1	Implementation plan and timetable (includes draft staffing plan)	A.6.a.(1)	Included herein
Data Export			
2	Contractor provides a list of outstanding benefit features that are required to begin production		Day 1 of implementation
3	Summary plan data and related materials submitted by State to	A.3.d.	4 business days later



Contractor		
Rough Cut		
4	Draft version of ALEX® presented to State for Approval via a URL and documentation verifying the data that was entered into the back-end data form. Contractor also provides scripts to the State for customizations, if applicable.	A.3.a. 7 business days after Step 3 is complete
5	The State provides feedback and approval on Draft and can request updates in plan details contained in the back-end data form until this date. Final edits and approval are also due on customization scripts.	4 business days after Step 4 is complete
Rough Cut 2		
6	Contractor presents the second Draft version of ALEX via a URL and documentation verifying the data that was entered into the back-end data form.	6 business days after Step 5 is complete
7	The State provides feedback and approval on the second Draft and can request updates in plan details contained in the back-end data form until this date.	4 business days after Step 6 is complete
Check Changes		
8	Contractor presents the State with the Check Changes release for the edited sections of ALEX via screenshots or videos and documentation verifying the data that was entered into the back-end data form.	3 business days after Step 7 is complete
9	The State provides feedback and approval on the Check Changes deliverable and can request updates in plan details contained in the back-end data form until this date. Any revisions to the customizations must be provided by this date as well, and may be subject to additional fees and/or schedule delays.	2 business days after Step 8 is complete
Final Cut (Launch Ready)		
10	Contractor presents the State with the Final Cut release of ALEX via a URL and documentation verifying the data that was entered into the back-end data form.	3 business days after Step 9 is complete



11	Final State-approved ALEX® Go-Live. The State provides feedback and approval on the second Check Changes deliverable and can request updates in plan details contained in the back-end data form until this date. Any revisions to the customizations must be provided by this date as well, and may be subject to additional fees and/or schedule delays.	A.3.a.	1 business day after Step 10 is complete
Check Changes 2			
12	Contractor presents the State with a second Check Changes release for the edited sections of ALEX via screenshots or videos and documentation verifying the data that was entered into the back-end data form.		3 business days after Step 11 is complete
13	The State provides feedback and approval on the second Check Changes deliverable and can request updates in plan details contained in the back-end data form until this date. Any revisions to the customizations must be provided by this date as well, and may be subject to additional fees and/or schedule delays.		1 business day after Step 12 is complete
14	Website content/microsite launch. Contractor launches ALEX, Customer approves launch on production server.	A.3.b.	2 business days after Step 13 is complete
15	Implementation Performance Assessment	A.6.c.	30 days after AEP

b. Reserved

c. Customizations

- (1) In the medical module, Contractor will add on-screen text and audio (up to 30 seconds or 90 words of audio/text) at the beginning of the module to highlight the "Partnership Promise" program.
- (2) In the vision module, Contractor will add on-screen text and audio (up to 30 seconds or 90 words of audio/text) regarding the vision coverage details to include specific plan details in both the Basic Plan and Expanded Plan for contact exams, contact lenses and eyeglass lenses as outlined in the benefits grid and member handbook.
- (3) In the dental module, Contractor will add on-screen text and audio (up to 30 seconds or 90 words of audio/text) to explain that there are additional options under the two dental coverage plans. Note that specific coverage amounts will be not displayed, but a high level overview will be explained.

d. Additional Terms.

- (1) Contractor has completed a plan analysis of Customer's benefits for the plan year beginning on January 1, 2015 ("2015 Benefits") to determine compatibility with ALEX Benefits Counselor and found it to be compatible. Customer



represents that its benefits for the 2016 Plan Year, including the new CDHP/HSA plan option, are not materially different from Customer's 2015 Benefits; recognizing that, if this assumption is incorrect, the fees, milestones, and other terms herein will change commensurate with the additional work Contractor must undertake related to such incorrect assumption.

- (2) The ALEX Benefits Counselor Software will be hosted at www.alexfortn.com/2016.

A.7. Information Technology Requirements

This section, unless otherwise noted, pertains to all information systems operated by the Contractor for storing, manipulating, displaying, querying or any other processing of data required for providing the services of this Contract.

a. Global Requirements

- (1) General Statement/Systems Functions.

The Contractor shall have information management processes and Information Technology that enable it to meet the requirements under this Contract.

- (2) General Statement/Systems Capacity.

The Contractor's Information Technology shall possess capacity sufficient to handle the workload projected for the start of the program and will be scalable and flexible so they can be adapted as needed, within negotiated timeframes, in response to a possible expansion of this initiative, changes in enrollment rules, increases in caseload estimates, etc.

- (3) General Statement/System Availability.

The Contractor's Information Technology shall meet the systems availability standards set forth below, where "availability" means the State end-user's ability to gain access to ALEX and calculated in accordance with the following formula, solely measured by Contract's monitoring system: $x = [(n - y) * 100]/n$, where x = Availability percentage, n = total hours per month, and y = hours ALEX was not available solely because of an act or omission by Contractor (excluding Maintenance Windows) ("Availability").

Contractor's maintenance windows shall be limited to nights (between 12:00 am and 4:00 am Central Time), weekends, and other "off hours," and Contractor shall give written notice to the State of such maintenance at least 72 hours in advance. Other than emergency maintenance and maintenance requests made by the State, the maintenance windows shall not exceed three (3) hours in any thirty (30) day period.

The Contractor shall notify the State of any known communications infrastructure or Information Technology problem that compromises the Contractor's ability to meet contract standards within twenty-four (24) hours.

The Contractor shall guarantee system Availability for 98% of the time during specified hours of the day outlined below CST calculated on a monthly basis.

- Microsite System – 24 hrs/day – 7 days a week
- ALEX® – 24 hrs/day – 7 days a week

- (4) Data and Document Management Standards.

Contractor represents and warrants that it does not store protected health information, and specifically that it is not a "business associate" within the



meaning of the Health Insurance Portability and Accountability Act and regulations promulgated thereunder ("HIPAA").

Further, the parties acknowledge that unless mutually agreed in writing in an amendment to this contract, Contractor will not store PHI and that HIPAA compliance requirements (including as stated in Section D.20) of this Contract is inapplicable to the scope of services provided.

(5) Routine System Maintenance.

The Contractor shall absorb the cost of routine maintenance, inclusive of defect correction, and production control activities, of all Systems within its Span of Control.

b. System and Information Security, Access Management and Integrity

(1) General Requirements.

The Contractor shall ensure that all data in its Information Technology are kept up-to-date. The Contractor shall implement commercially reasonable measures in an effort to provide that all data systems are protected against denial of services attacks, website highjacking, and placement of malicious code on the site by third parties intended to compromise user access so that data security and privacy are maintained.

c. Business Continuity and Disaster Recovery

(1) General Requirements.

Regardless of the architecture of its Systems, the Contractor shall develop and be continually ready to invoke a business continuity and disaster recovery (BC-DR) plan. The BC-DR plan shall encompass all Information and Communications Technology as defined in this Contract. At a minimum the Contractor's BC-DR plan shall address the following scenarios:

- i. Central and/or satellite data processing, telecommunications, print and mailing facilities and functions therein, hardware and software are destroyed or damaged;
- ii. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromise the integrity of transactions that are active in a live system at the time of the outage;
- iii. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that compromises the integrity of data maintained in a live or archival system; and
- iv. System interruption or failure resulting from network, operating hardware, software, communications infrastructure or operational errors that does not compromise the integrity of transactions or data maintained in a live or archival system but does prevent access to the System (*i.e.*, causes unscheduled System Unavailability).

- (2) The Contractor shall periodically, but no less than annually, test its BC-DR plan through simulated disasters and lower level failures in order to demonstrate to the State that it can restore system functions per the standards outlined in this Section of the Contract.



- (3) In the event that the Contractor fails to demonstrate in the tests of its BC-DR plan that it can restore system functions per the standards outlined in this Contract, the Contractor shall submit to the State a Corrective Action Plan that describes how the failure will be resolved. The Contractor shall deliver the Corrective Action Plan within ten (10) business days of the conclusion of the test.
 - (4) Upon State receipt of the Corrective Action Plan, the Contractor shall implement the plan and re-test to demonstrate that it can restore system functions per the standards outlined in this Section of the contract. The Contractor shall submit test results to the State for review.
- d. Problem and Change Management
- (1) Problem Notifications.
Upon discovery of any problem within its Span of Control that may jeopardize the Contractor's ability to perform any function as specified in this Contract, the Contractor shall notify the applicable State staff in person, via phone or electronic mail as soon as practicable but no later than five (5) business hours after identification of the problem.
 - (2) Corrective Action Plan.
Within five (5) business days of a problem's occurrence, the Contractor shall deliver full written documentation (including a corrective action plan) that describes how the Contractor shall prevent a problem from occurring again.
 - (3) Change Notifications.
The Contractor shall notify the applicable State staff person of the following changes to Systems within its Span of Control and the anticipated impact to services in the Contract at least forty-eight (48) hours prior to the change:
 - i. Router/switch code upgrades;
 - ii. Router/switch configuration modifications;
 - iii. Firewall upgrades/modifications; and
 - iv. Any changes to its physical network infrastructure including wide area network connectivity for both voice and data communications.
 - (4) Escalation Procedures.
The Contractor shall furnish the State with all internal escalation procedures and with at least two levels of management escalation to deal with emergency or unresolved Information and Telecommunications Systems issues.
 - (5) Change Requests.
The Contractor shall maintain a service management system and related processes for tracking all problems and the State-initiated and/or Contractor-initiated change requests
- e. Information Ownership. All information, whether data or documents, and reports that contain or make references to said information, involving or arising out of this Contract are owned by the State; provided that such information does not include any aspect of the Contractor-Owned Software nor any derivative thereof. The Contractor is expressly prohibited from sharing or publishing State information and reports or releasing such information to external entities, affiliates, parent company, or subsidiaries without the prior written consent of the State. Notwithstanding the foregoing, the State acknowledges that Contractor utilizes



aggregated data compiled from its licensees' benefit plan data to improve ALEX and provide market research. But neither the State, the end users nor the State's plan data can be identified from such aggregated data.

- f. Software ownership and license. "Contractor-Owned Software," shall mean commercially available software the rights to which are owned by Contractor, including but not limited to ALEX® and any State-approved modifications made to ALEX® pursuant to the terms of this Contract. All right, title and interest in and to the Contractor-Owned Software shall at all times remain with Contractor. Notwithstanding anything to the contrary herein, unless otherwise expressly agreed in writing, all suggestions, solutions, improvements, corrections, and other contributions provided by the State regarding the Contractor-Owned Software or other Contractor materials provided to the State shall be owned by Contractor, and the State hereby agrees to assign any such rights to Contractor. Nothing in this Contract shall preclude Contractor from using in any manner or for any purpose it deems necessary, the know-how, techniques, or procedures acquired or used by Contractor in the performance of any services hereunder. Contractor grants a license to the State during the Term of the Contract to use all software provided under this Contract in the course of the State's business and purposes.

A.8. Reporting.

The State will receive access to an Analytics Dashboard with data from its End Users' usage of ALEX. This dashboard will allow the State to pull up-to-date data on the usage of ALEX. The State will have access to the data therein for the term of the license.

The State dashboard stores data from end users into a secure and encrypted database. The State will be able to select a date range and generate a report containing the following data points from the usage of ALEX:

1. A graph of the number of total visits to ALEX by day
2. Number of unique visits to ALEX
3. Number of total visits to ALEX by version (if applicable)
 - a. Desktop
 - b. Phone/Tablet
4. Number of visits to content for each benefit
5. Number of medical plans highlighted by plan name (if applicable)
6. Number of dental plans highlighted by plan name (if applicable)
7. Survey results and Survey verbatim comments (if applicable)

Dashboard Access

Contractor will create one unique username and password for the State to log into the Analytics Dashboard. In the event that the State loses/forgets its username and password or its account becomes locked out, Contractor will be available to help the State with the password retrieval system, if necessary. Those requests will be responded to within 2 business days.

- A.9. Warranty. Contractor represents and warrants that throughout the Term of this Contract ("Warranty Period"), the goods or services provided under this Contract shall conform to the terms and conditions of this Contract. Any nonconformance of the goods or services to the terms and conditions of this Contract shall constitute a "Defect" and shall be considered "Defective." If Contractor receives notice of a Defect during the Warranty Period, then Contractor shall correct the Defect, at no additional charge. Notwithstanding anything to the contrary herein, any nonconformance or other error related to or arising out of inaccurate or incomplete plan information or other data provided by State does not fall within the scope of this warranty.

Contractor represents and warrants that all goods or services provided under this Contract shall be provided in a timely and professional manner, by qualified and skilled individuals, in conformity with standards generally accepted in Contractor's industry.



If Contractor fails to provide the goods or services as warranted, then Contractor will re-provide the goods or services at no additional charge. If Contractor is unable or unwilling to re-provide the goods or services as warranted, then the State shall be entitled to recover a pro-rated portion of the fees paid to Contractor for the Defective goods or services.

EXCEPT FOR THE FOREGOING, THE GOODS AND SERVICES ARE PROVIDED "AS IS", WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, AND CONTRACTOR HEREBY DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS WITH RESPECT TO THE GOODS AND SERVICES, EITHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES AND/OR CONDITIONS OF MERCHANTABILITY, OF SATISFACTORY QUALITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF ACCURACY, AND/OR OF QUIET ENJOYMENT. CONTRACTOR DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE GOODS AND SERVICES WILL MEET THE STATE'S REQUIREMENTS (EXCEPT AS DESCRIBED HEREIN), THAT THE OPERATION OF THE GOODS AND SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE GOODS AND SERVICES WILL BE COMPATIBLE WITH THIRD PARTY SOFTWARE. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY CONTRACTOR OR A CONTRACTOR REPRESENTATIVE SHALL CREATE A WARRANTY.

- A.10. Inspection and Acceptance. Contractor shall deliver to the State each deliverable in accordance with the schedule set forth in Section A.6.a.(2). The State shall accept or reject each such deliverable within the time period set forth in the schedule; provided that the State shall use its best efforts to inform Contractor of any matter that could cause a deliverable to be rejected as soon as such matter is identified. Any milestone that has not been timely rejected in accord with this Section A.10. by the State shall be considered approved. Should the State timely reject a deliverable, it must provide Contractor with a written explanation of the reasons for the rejection, a description of any errors identified, and any recommendations for corrections that would result in the deliverable being accepted by the State when resubmitted. Contractor shall promptly submit or resubmit the materials to the State which, so long as such corrections have been made and no new errors have been introduced, shall then be deemed approved.
- A.11. Definitions
- a. **Affiliate:** A business organization or entity that, directly or indirectly, is owned or controlled by the Contractor, or owns or controls the Contractor, or is under common ownership or control with the Contractor.
 - a. **After-Hours:** Hours between of 5:00 p.m. to 8:00 a.m. CT Monday through Friday and on State Holidays.
 - b. **Annual Enrollment Period (AEP).** The Annual Enrollment Periods for the public sector plans are defined as: (1) September 15 – October 15 for State and Higher Education members; (2) October 1 – October 31 for local government members; and (3) October 1 – October 31 for local education members.
 - c. **Benefits Administration:** The division of the Tennessee Department of Finance & Administration that administers the public sector plans.
 - d. **Business Days:** Traditional workdays, including Monday, Tuesday, Wednesday, Thursday, and Friday. State Government Holidays are excluded.
 - e. **Calendar Days:** All seven days of the week.
 - f. **Consumer Driven Health Plan with HSA eligible option (CDHP/HSA):** A consumer-directed health plan (CDHP) typically involves the combination of high-deductible health coverage with a health savings account (HSA) or health reimbursement arrangement (HRA). Those covered by CDHPs pay lower premiums for their health coverage because



the deductibles are high. Using either an HSA or HRA, they set aside extra money that can be used to help satisfy the deductible.

- g. Days: Unless otherwise specified, refers to calendar days.
- h. Deliverable: A document, manual, DVD or report (in hard copy, electronic format or specific medium as required) that the Contractor submits to the State to fulfill requirements of this Contract.
- i. Edison: The State's enterprise resource planning system, which supports human resources, payroll, insurance, contracting, procurement and other agency functions.
- j. State Government Holidays: Days on which official holidays and commemorations as defined in *Tennessee Code Annotated* § 15-1-101 *et seq.* are observed.
- k. Health Insurance Portability and Accountability Act of 1996 (HIPAA): Title I of HIPAA protects health insurance coverage for workers and their families when they change or lose their jobs. Title II, the Administrative Simplification (AS) provisions, requires the establishment of national standards for electronic healthcare transactions and national identifiers for providers, health insurance plans and employers. The HIPAA Administration Simplification provisions also address the security and privacy of health information.
- l. Information Systems (IS): See Information Technology.
- m. Information Technology (IT): A combination of computing hardware and software that is used in: (a) the capture, storage, manipulation, movement, control, display, interchange and/or transmission of information, *i.e.* structured data (which may include digitized audio and video) and documents; and/or (b) the processing of such information for the purposes of enabling and/or facilitating a business process or related transaction.
- n. Limited-English-Proficient Population: Individuals with a primary language other than English who must communicate in that language if the individual is to have an equal opportunity to participate effectively in, and benefit from, any aid, service or benefit provided by the Contractor.
- o. Local Education Agency (LEA) Plan: Refers to all health plan options sponsored by the Local Education Insurance Committee
- p. Local Government (LGA) Plan: Refers to all health plan options sponsored by the Local Government Insurance Committee.
- q. Patient Protection and Affordable Care Act (PPACA).
- r. Protected Health Information (PHI): As defined in the HIPAA Privacy Rule, 45 CFR § 160.103.
- s. Public Sector Plans: Refers to all plans sponsored by the State, Local Education, and Local Government Insurance Committees.
- t. Span of Control: Information Technology and telecommunications capabilities that the Contractor itself operates or for which it is otherwise legally responsible according to the terms and conditions of this Contract. The span of control also includes Systems and telecommunications capabilities outsourced by the Contractor.
- u. State, Local Government, and Local Education Insurance Committees: Policy making bodies for the State, Local Government, and Local Education plans established under Tennessee Code Annotated Title 8; Chapter 27 – 101, 207, and 301 respectively.



- v. State Government Plan: Refers to all health plan options sponsored by the State Insurance Committee.
- w. State Fiscal Year (SFY): The twelve (12) month period for fiscal year which runs from July 1 through June 30.
- x. Subcontract: Any written contract between Contractor and another party to fulfill the requirements of this contract.
- y. Subcontractor: A party with whom Contractor contracts to provide services and/or conduct activities related to fulfilling the requirements of this contract.
- z. System Unavailability: As measured within the Contractor's information technology Span of Control, when a system user does not get the complete, correct full-screen response to an input command within three (3) minutes after user input.
- aa. Week: The traditional seven-day week, Sunday through Saturday.

A.12 The State may, at its sole discretion and with written notice to the Contractor, request changes in the Scope that are necessary but were inadvertently unspecified in this Contract.

- a. Change Order Creation— After receipt of a written request for additional services from the State, the Contractor shall respond to the State, within a maximum of ten (10) business days, with a written proposal for completing the service. Contractor's 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 scope for completing the change(s);
- (3) the expected schedule for completing the change(s); and
- (4) the cost for the change(s).

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

- b. Change Order Performance— Subsequent to creation of a Change Order, the Contractor shall complete the required services. The acceptance process shall be as specified under Section A.10 herein.
- c. Change Order Remuneration— The State will remunerate the Contractor only for acceptable work as specified under Section A.10 herein. All acceptable work performed pursuant to an approved Change Order, 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 such amount as mutually agreed upon in the Change Order. In no instance shall the State be liable to the Contractor for any amount exceeding the maximum cost specified by the Change Order authorizing the goods or services. Upon State approval of the work, the Contractor shall invoice the State in accordance with the relevant provisions of this Contract.

B.1. TERM OF CONTRACT:

This Contract shall be effective on July 1, 2015 ("Effective Date") and extend for a period of twelve (12) months after the Effective Date ("Term"). The State shall have no obligation for goods



or services provided by the Contractor prior to the Effective Date. Contractor shall license ALEX to the State for distribution over the internet for a period of one year

- B.2. **Renewal Options.** This Contract may be renewed upon satisfactory completion of the Term. The parties may mutually agree to execute up to four (4) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, at the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.
- B.3. **Term Extension.** The parties may agree in writing to extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.
- B.4. **Termination Responsibilities.** Upon termination, expiration, or other cessation of this Contract, the State agrees to cease use of ALEX and return to Contractor all proprietary and confidential Contractor materials.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed two hundred and forty thousand dollars (\$240,000) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.
- C.2. **Compensation Firm.** The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.
- C.3. **Payment Methodology.** The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
 - a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
 - b. The Contractor shall be compensated based upon the following payment methodology:

Service Description	Amount (per compensable increment)
Final State-approved implementation plan and timetable (see Contract Section A.6.a.(1))	\$120,000
Submission of draft version of ALEX® (see Contract Section A.6.a.(2).4)	\$50,000
Final State-approved version of ALEX® (see Contract Section A.6.a.(2).14)	\$50,000



Website launch and hosting of the State-approved version of ALEX® (see Contract Section A.3.b.)

\$5,000 on November 1, 2015; \$5,000 on January 1, 2016; \$5,000 on March 1, 2016; \$5,000 on May 1, 2016

- c. The Contractor shall be compensated for changes requested and performed pursuant to Contract Section A.12, without a formal amendment of this Contract, PROVIDED THAT compensation to the Contractor for such "change order" work shall not exceed three percent (3 %) of the sum of milestone payment rates detailed in Section C.3.b., above (which is the total cost for the milestones and associated deliverables set forth in Contract Sections A.3., through A.7.). If, at any point during the Term, the State determines that the cost of necessary "change order" work would exceed the maximum amount, the State may amend this Contract to address the need.
- 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 goods delivered and accepted by the State or services satisfactorily provided at the amounts stipulated in Section C.3., above. Contractor shall submit invoices and necessary supporting documentation to the following address: Sylvia Chunn, Procurement & Contracting Manager
Tennessee Department of Finance & Administration
Benefits Administration Division
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, Suite 1900
Nashville, Tennessee 37243
- a. Each invoice, on Contractor's letterhead, shall clearly and accurately detail all of the following 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: Finance & Administration; Benefits Administration Division
 - (5) Customer account number (assigned by the Contractor to the above-referenced Customer);
 - (6) Contractor name;
 - (7) Contractor Tennessee Edison registration ID number;
 - (8) Contractor contact for invoice questions (name, phone, or email);
 - (9) Contractor remittance address;
 - (10) Description of delivered goods or services provided and invoiced, including identifying information as applicable;
 - (11) Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
 - (12) Applicable payment methodology (as stipulated in Section C.3.) of each good or service invoiced;
 - (13) Amount due for each compensable unit of good or service; and
 - (14) Total amount due for the invoice period.
- b. Contractor's invoices shall:
- (1) Only include charges for goods delivered or services provided as described in Section A and in accordance with payment terms and conditions set forth in Section C;
 - (2) Only be submitted for goods delivered or services completed and shall not include any charge for future goods to be delivered or services to be performed;
 - (3) Not include Contractor's taxes, which includes without limitation Contractor's sales and use tax, excise taxes, franchise taxes, real or personal property taxes, or income taxes; and



- (4) Include shipping or delivery charges only as authorized in this Contract.
- c. The timeframe for payment (or any discounts) begins only when the State is in receipt of an invoice that 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 other matter. A payment by the State shall not be construed as acceptance of goods delivered, any part of the services provided, or as approval of any amount invoiced.
- C.7. Additional Customer Release Fee. For each release delivered in excess of the five available in a standard Benefits Counselor implementation or delivered as a rush release outside the agreed-upon schedule, the State shall pay \$5,000 per release
- 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 that 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, properly completed documentation.
 - a. The Contractor shall complete, sign, and present to the State an "Authorization Agreement for Automatic Deposit Form" provided by the State. By doing so, the Contractor acknowledges and agrees that, once this 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.
 - b. The Contractor shall complete, sign, and present to the State a "Substitute W-9 Form" provided by the State. The taxpayer identification number in the Substitute W-9 Form must be the same as the Contractor's Federal Employer Identification Number or Tennessee Edison Registration ID.

D. MANDATORY TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is duly approved by the Parties and all appropriate State officials in accordance with applicable Tennessee laws and regulations. Depending upon the specifics of this Contract, this may include approvals by the Commissioner of Finance and Administration, the Commissioner of Human Resources, the Comptroller of the Treasury, and the Chief Procurement Officer. Approvals shall be evidenced by a signature or electronic approval.
- D.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. All communications, regardless of method of transmission, shall be addressed to the respective Party at the appropriate mailing address, facsimile number, or email address as stated below or any other address provided in writing by a Party.

The State:

Sylvia Chunn, Procurement & Contracting Manager
Tennessee Department of Finance & Administration
Benefits Administration Division
William R. Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, Suite 1900
Nashville, Tennessee 37243
Sylvia.chunn@tn.gov



Telephone 615.253.8358
FAX 615.253.8556

The Contractor:
Helen Calvin, VP of Customer Insights
with a copy to Kurt Hirsch, Executive Vice President / General Counsel
The Jellyvision Lab, Inc.
848 W. Eastman, Suite 104
Chicago, Illinois 60642
helen@jellyvision.com
with a copy to kurt@jellyvision.com
Telephone # 312-340-6403

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

- D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials. The State's exercise of a valid Renewal Option or Term Extension does not constitute an amendment so long as there are no other changes to the Contract's terms and conditions.
- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If a Party ("Breaching Party") fails to properly perform its obligations under this Contract, or if a Party materially violates any terms of this Contract ("Breach Condition"), the other Party ("Non-breaching Party") may provide written notice to the Breaching Party specifying the Breach Condition. If within thirty (30) days of notice, the Breaching Party has not cured the Breach Condition, the Non-breaching Party may terminate the Contract. In the event the Non-breaching Party is the State, the State may withhold payments in excess of compensation for completed services or provided goods. The Breaching Party shall not be relieved of liability to the Non-breaching Party for damages sustained by virtue of any breach of this contract, and the Non-breaching Party may seek other remedies allowed at law or in equity for breach of this Contract.
- D.7. Assignment and Subcontracting. The Contractor shall not enter into a subcontract, except as set forth in Section A.2.b(4), for any of the goods or services provided under this Contract without the prior written approval of the State. In the event of a change of control or ownership of Contractor, Contractor shall notify the State and the State may elect an assignment of the Contract to assignee ("Assignee"). If the State decides that it is in the State's best interest, the State shall



seek approval of an amendment to the Contract transferring the rights and obligations of Contractor to Assignee. If the State decides not to amend the Contract to transfer the rights and obligations of Contractor to Assignee or if an amendment to the Contract regarding the transfer is not approved, the State may terminate the Contract without liability to Contractor or Assignee, and Contractor or Assignee shall refund to the State any fees prepaid by the State to Contractor or Assignee for services or goods not actually provided to or accepted by the State. Notwithstanding any use of the approved subcontractors, the Contractor shall be the prime contractor and responsible for compliance with all terms and conditions of this Contract. The State reserves the right to request additional information or impose additional terms and conditions before approving an assignment of this Contract in whole or in part or the use of subcontractors in fulfilling the Contractor's obligations under this Contract.

- D.8. Conflicts of Interest. The Contractor warrants that no part of the Contractor's compensation 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 under 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 (6) 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 (6) months has been, an employee of the State of Tennessee.

- D.9. 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, creed, color, religion, sex, national origin, or any other classification protected by federal or state law. The Contractor shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.10. 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, upon written request from the State. If the Contractor is a party to more than one contract with the State, the Contractor may submit one attestation that applies to all contracts with the State. All Contractor attestations shall be maintained by the Contractor and made available to State officials upon request.
- b. Reserved
- c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Contractor's 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: (i) a United States citizen; (ii) a Lawful Permanent Resident; (iii) a person whose physical presence in the United States is authorized; (iv) allowed by the federal



Department of Homeland Security and who, under federal immigration laws or regulations, is authorized to be employed in the U.S.; or (v) is otherwise authorized to provide services under the Contract.

- D.11. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained for a period of five (5) 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.
- D.12. 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. This Section shall only apply to the activities and records of Contractor specifically concerning the State and shall not include any records regarding other clients of Contractor. As a matter of clarity, nothing in this Contract permits the State to monitor Contractor's network or systems.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested in writing.
- D.14. Strict Performance. Failure by any Party to this Contract to require, in any one or more cases, 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 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.
- D.15. Independent Contractor. The Parties shall not act as employees, partners, joint venturers, or associates of one another. The Parties are independent contracting entities. Nothing in this Contract shall be construed to create an employer/employee relationship or to allow either Party 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 are not employees or agents of the other Party.
- D.16. Patient Protection and Affordable Care Act. The Contractor agrees that it will be responsible for compliance with the Patient Protection and Affordable Care Act ("PPACA") with respect to itself and its employees, including any obligation to report health insurance coverage, provide health insurance coverage, or pay any financial assessment, tax, or penalty for not providing health insurance. The Contractor shall indemnify the State and hold it harmless for any costs to the State arising from Contractor's failure to fulfill its PPACA responsibilities for itself or its employees.
- D.17. Limitation of State's Liability. The State shall have no liability except as specifically provided in this Contract. In no event will the State be liable to the Contractor or any other party for any lost revenues, lost profits, loss of business, decrease in the value of any securities or cash position, time, money, goodwill, or any indirect, special, incidental, punitive, exemplary or consequential damages of any nature, whether based on warranty, contract, statute, regulation, tort (including but not limited to negligence), or any other legal theory that may arise under this Contract or otherwise. The State's total liability under this Contract (including any exhibits, schedules, amendments or other attachments to the Contract) or otherwise shall under no circumstances exceed the Maximum Liability. This limitation of liability is cumulative and not per incident.
- D.18. Limitation of Contractor's Liability. In accordance with Tenn. Code Ann. § 12-3-701, the Contractor's liability for all claims arising under this Contract shall be limited to an amount equal to the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (i) intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; (ii) any claims covered by any specific provision in the Contract providing for liquidated damages; or (iii) any claims for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.



- D.19. Reserved.
- D.20. 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"). The obligations set forth in this Section shall survive the termination of this Contract.
- 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 contracts, 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 the information without entering into a business associate contract or signing another 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.
- D.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 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 under Tenn. Code Ann. §§ 8-35-101, *et seq.*, 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 Term.
- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
 - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust



statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

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

- D.24. Force Majeure. "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, workarounds plans or other means. A strike, lockout or labor dispute shall not excuse either Party from its obligations under this Contract. Except as set forth in this Section, any failure or delay by a Party in the performance of its obligations under this Contract arising from a Force Majeure Event is not a default under this Contract or grounds for termination. The non-performing Party will be excused from performing those obligations directly affected by the Force Majeure Event, and only for as long as the Force Majeure Event continues, provided that the Party continues to use diligent, good faith efforts to resume performance without delay. The occurrence of a Force Majeure Event affecting Contractor's representatives, suppliers, subcontractors, customers or business apart from this Contract is not a Force Majeure Event under this Contract. Contractor will promptly notify the State of any delay caused by a Force Majeure Event (to be confirmed in a written notice to the State within one (1) day of the inception of the delay) that a Force Majeure Event has occurred, and will describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event results in a delay in Contractor's performance longer than forty-eight (48) hours, the State may, upon notice to Contractor: (a) cease payment of the fees until Contractor resumes performance of the affected obligations; or (b) immediately terminate this Contract or any purchase order, in whole or in part, without further payment except for fees then due and payable. Contractor will not increase its charges under this Contract or charge the State any fees other than those provided for in this Contract as the result of a Force Majeure Event.
- D.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.
- D.27. Entire Contract. This Contract is complete and contains the entire understanding between the Parties relating to its subject matter, including all the terms and conditions of the Parties' contract. This Contract supersedes any and all prior understandings, representations, negotiations, and contracts between the Parties, whether written or oral.
- D.28. 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 of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.



- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
 - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below);
 - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
 - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
 - e. any technical specifications provided to proposers during the procurement process to award this Contract; and,
 - f. the Contractor's response seeking this Contract.
- D.31 **Insurance**. Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified below. The COI shall be provided ten (10) business days prior to the Effective Date and again upon renewal or replacement of coverages required by this Contract. If insurance expires during the Term, the State must receive a new COI within fifteen (15) calendar days of the prior insurance's expiration date. If the Contractor loses insurance coverage, does not renew coverage, or for any reason becomes uninsured during the Term, the Contractor shall notify the State immediately.

The COI shall be on an industry standard form and signed by an authorized representative of the insurer. The COI shall list each insurer's national association of insurance commissioners (also known as NAIC) number or federal employer identification number. At any time, the State may by written notice require the Contractor to provide a valid COI detailing coverage description; insurance company; policy number; policy effective date; policy expiration date; limits of liability; and the name and address of insured. The Contractor's failure to maintain or submit evidence of insurance coverage is considered a material breach of this Contract.

If the Contractor desires to self-insure, then a COI will not be required to prove coverage. In place of the COI, the Contractor must provide a certificate of self-insurance or a letter on the Contractor's letterhead detailing its coverage, liability policy amounts, and proof of funds to reasonably cover such expenses. Compliance with Tenn. Code Ann. § 50-6-405 and the rules of the TDCI is required for the Contractor to self-insure workers' compensation. All insurance companies must be: rated A- VII or better by A. M. Best.

The deductible and any premiums are the Contractor's sole responsibility. Any deductible over one hundred thousand dollars (\$100,000) must be approved by the State. The Contractor agrees that the insurance requirements specified in this Section do not reduce any liability the Contractor has assumed under this Contract including any indemnification or hold harmless requirements. The State agrees that it shall give written notice to the Contractor as soon as practicable after the State becomes aware of any claim asserted or made against the State, but in no event later than five (5) calendar days after the State becomes aware of such claim. The failure of the State to give notice shall only relieve the Contractor of its obligations under this Section to the extent that the Contractor can demonstrate actual prejudice arising from the failure to give notice. This Section shall not grant the Contractor or its insurer, through its attorneys, the right to represent the State in any legal matter, as the right to represent the State is governed by Tenn. Code Ann. § 8-6-106.

All coverage required shall be on a primary basis and noncontributory with any other insurance coverage or self-insurance carried by the State. The parties by mutual agreement may seek to amend or require additional endorsements, types of coverage, and higher or lower limits of coverage depending on the nature of the work. Purchases or contracts involving any hazardous



activity or equipment, tenant, concessionaire and lease agreements, alcohol sales, environmental risks, special motorized equipment, or property may require customized insurance requirements (e.g. umbrella liability insurance) in addition to the general requirements listed below.

The Contractor shall obtain and maintain, at a minimum, the following Insurance coverages and policy limits.

a. Commercial General Liability Insurance

- 1) The Contractor shall maintain commercial general liability insurance, and shall cover liability arising from property damage, premises/operations, independent contractors, contractual liability, completed operations/products, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).
- 2) The Contractor shall maintain bodily injury/property damage with a combined single limit not less than one million dollars (\$1,000,000) per occurrence and one million dollars (\$1,000,000) aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least one million dollars (\$1,000,000).

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain:
 - i. Workers' compensation and employer liability insurance in the amounts required by appropriate state statutes; or
 - ii. In an amount not less than one million dollars (\$1,000,000) including employer liability of one million dollars (\$1,000,000) per accident for bodily injury by accident, one million dollars (\$1,000,000) policy limit by disease, and one million dollars (\$1,000,000) per employee for bodily injury by disease.
- 2) If the Contractor certifies that it is exempt from the requirements of Tenn. Code Ann. §§ 50-6-101 – 103, then the Contractor shall furnish written proof of such exemption for one or more of the following reasons:
 - i. The Contractor employees fewer than five (5) employees;
 - ii. The Contractor is a sole proprietor;
 - iii. The Contractor is in the construction business or trades with no employees;
 - iv. The Contractor is in the coal mining industry with no employees;
 - v. The Contractor is a state or local government; or
 - vi. The Contractor self-insures its workers' compensation and is in compliance with the TDCI rules and Tenn. Code Ann. § 50-6-405.

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, the special terms and conditions shall be subordinate to the Contract's other terms and conditions.



E.2. Reserved.

E.3. Confidentiality of Records. Strict standards of confidentiality of Confidential Information shall be maintained in accordance with applicable state and federal law. "Confidential Information" means any software, material, data or business, financial, operational, customer, contractor, and other information, disclosed by one party to the other and not generally known by or disclosed to the public, and shall include, without limitation, the terms of this Contract. All of a party's Confidential Information disclosed to the other party, and all copies thereof, shall be and remain the property of the disclosing party. Except as required by law or permitted by this Contract, the receiving party shall not disclose Confidential Information to any third party (other than to its legal and financial advisors, agents, employees, and consultants on a "need to know" basis who are under obligations of confidentiality at least as restrictive as those in this Contract), without the disclosing party's prior express written consent, and the receiving party shall not use any Confidential Information for any purpose other than in connection with the performance of its obligations and exercise of its rights under this Contract. Notwithstanding anything herein to the contrary, Confidential Information shall not include information that is: (a) already known to or otherwise in the possession of a party at the time of receipt from the other party and that was not known or received as the result of violation of any obligation of confidentiality; (b) publicly available or otherwise in the public domain prior to disclosure by a party; (c) rightfully obtained by a party from any third party having a right to disclose such information without restriction and without breach of any confidentiality obligation by such third party; (d) developed by a party independent of any disclosure hereunder; or (e) disclosed pursuant to the order of a court, legislative or administrative body of competent jurisdiction or a government agency, provided that the party receiving such order shall notify the other prior to such disclosure and shall cooperate with the other party in the event such party elects to legally contest, request confidential treatment, or otherwise avoid such disclosure.

The obligations set forth in this Section shall survive the termination of this Contract.

E.4. Reserved.

E.5. Prohibited Advertising or Marketing. The Contractor shall not suggest or imply in advertising or marketing materials that Contractor's goods or services are endorsed by the State. The restrictions on Contractor advertising or marketing materials under this Section shall survive the termination of this Contract.

E.6. Intellectual Property. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims or suits which may be brought against the State concerning or arising out of any claim of an alleged patent, copyright, trade secret or other intellectual property infringement. In any such claim or action brought against the State, the Contractor shall satisfy and indemnify the State for the amount of any settlement or final judgment, and the Contractor shall be responsible for all legal or other fees or expenses incurred by the State arising from any such claim. The State shall give the Contractor notice of any such claim or suit and full right and opportunity to conduct the Contractor's own defense thereof, however, the failure of the State to give such notice shall only relieve Contractor of its obligations under this Section to the extent Contractor can demonstrate actual prejudice arising from the State's failure to give notice. This Section shall not grant the Contractor, through its attorneys, the right to represent the State of Tennessee in any legal matter, as provided in Tenn. Code Ann. § 8-6-106.

E.7. Unencumbered Personnel. The Contractor shall not restrict its employees, agents, subcontractors or principals who perform services for the State under this Contract 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.



E.8. Survival. The terms, provisions, representations, and warranties contained in this Contract, which by their sense and context are intended to survive the performance and termination of this Contract, shall survive the completion of performance, termination or expiration of this Contract.



IN WITNESS WHEREOF,

THE JELLYVISION LAB, INC.:

DocuSigned by:
Kurt Hirsch
168A2803438C4A0

6/30/2015

CONTRACTOR SIGNATURE

DATE

Kurt Hirsch

EVP / GC

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

STATE OF TENNESSEE
STATE INSURANCE COMMITTEE,
LOCAL EDUCATION INSURANCE COMMITTEE,
LOCAL GOVERNMENT INSURANCE COMMITTEE:

Larry B. Martin

6-30-15

LARRY B. MARTIN, CHAIRMAN

DATE



ATTACHMENT A

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

SUBJECT CONTRACT NUMBER:	
CONTRACTOR LEGAL ENTITY NAME:	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: (or Social Security Number)	

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

CONTRACTOR SIGNATURE

NOTICE: This attestation **MUST** be signed by an individual empowered to contractually bind the Contractor. Attach evidence documenting the individual's authority to contractually bind the Contractor, unless the signatory is the Contractor's chief executive or president.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION



ATTACHMENT B

SUPPORT AGREEMENT**Problem Management & Support**

If the State reports or Contractor detects any problem regarding end user ability to use ALEX, Contractor shall promptly within the time frames set forth below and at no charge to the State: (i) investigate, assemble, and preserve pertinent information with respect to, and report on, the causes of the problem, including performing a root cause analysis of the problem; (ii) advise the State of the status of remedial efforts being undertaken; (iii) use commercially reasonable efforts to minimize the impact of, correct and provide a workaround for the problem; and (iv) take appropriate preventive measures to avoid any recurrence of the problem.

<u>Classification</u>	<u>Definition</u>	<u>Initial Response Time</u>	<u>Target Repair Time</u>	<u>Updates to the State</u>
Severity 1	End user ability (affecting greater than 10% of active users) to use ALEX is stopped or severely impacted. There is no workaround.	1 Hour	4 Hours	Every 2 hours
Severity 2	An important feature is severely impacted, but there is a temporary workaround that is accepted by the State. Once the temporary workaround is achieved and accepted by the State, the issue is moved to a Severity 3 for permanent resolution.	2 Hours	1 business day	Every 4 hours
Severity 3	An optional feature or cosmetic element of ALEX is unavailable and a temporary workaround is available or Contractor determines no impact on their business.	1 business day	No longer than one month	Weekly

The State's Responsibilities

In order for Contractor to provide the highest level of service, the State, in the event that State identifies an issue, shall reasonably attempt to take the following steps:

- a. Timely reporting of the issue;
- b. Document steps to reproduce the issue when known;
- c. Provide relevant URLs, test accounts or end user profiles if applicable; and
- d. Provide device and environment information when known.

Support Contact Information

Contractor shall provide telephone support and online support to the State and shall also be reachable by email for non-urgent matters.

Contractor can be reached by the following methods:

Method	Contact Details	Support Hours
Standard Support	Account Manager phone number to be provided during kickoff meeting	Local office business hours 8:00am – 5:00pm Central
Email	Account Manager email to be provided during kickoff meeting	All hours For non-urgent matters only
Off Hour Phone Support	(888) 488-8560	All hours