

**CONTRACT #7**  
**RFS # 348.00-21603**  
**Edison # Pending**

**Tennessee Bureau of  
Investigation**

**VENDOR:**  
**Computer Project of Illinois**  
**(CPI), Inc.**



**BILL HASLAM**  
Governor

**TENNESSEE BUREAU OF INVESTIGATION**

901 R.S. Gass Boulevard  
Nashville, Tennessee 37216-2639  
(615) 744-4000  
Facsimile (615) 744-4500  
TDD (615) 744-4001



**MARK GWYN**  
Director

March 24, 2016

Leni Chick, Contract and Audit Coordinator  
Fiscal Review Committee  
8<sup>th</sup> Floor, Rachel Jackson Bldg.  
320 Sixth Avenue North  
Nashville, TN 37243

Re: Non-Competitive Contracts for the Provision of a COTS (Commercial Off the Shelf) Computerized Criminal History (CCH), Customization and Maintenance and support from CPI/ RFS 34800-021603

Dear Ms. Chick:

Attached for review and approval of the Fiscal Review Committee pursuant to Tenn. Code Ann. § 4-56-107(a) is a non-competitive proposed contract for the provision of CPI's COTS (commercial off the shelf) product for the TBI's Computerized Criminal History. This proposed contract will be presented in tandem with two other proposed contracts with CPI which include the Message Switch and the Sex Offender Registry.

The Tennessee Bureau of Investigation houses and maintains Tennessee's Computerized Criminal History (CCH). The CCH database contains hundreds of thousands of records concerning individuals who have been arrested in Tennessee and had prints submitted to the TBI. CPI's CCH product works hand-in-hand with the Message Switch product and creates a seamless transition for the Switch to be able to access and capture information. The CCH piece will simply have to be customized to meet the needs of the State and will need to have a migration of data from the old system into the new database.

The proposed contractor, CPI (Computer Project of Illinois) has a unique product that is a commercial off the shelf product, meaning that it is a prebuilt and is easily customized to meet the unique needs of the State. CPI's Message Switch product is in thirty (30) other states which means that the State has the advantage of receiving the most up-to-date enhancements without investing in the development of the enhancements. The continuity of being in thirty (30) states assures the State of the stability of CPI and added bonus of one day being able to connect to all CPI states for additional sharing capabilities. Furthermore,



vendors who currently work with TBI and work with other states with CPI, will be able to interface with the Message Switch easily because the interface has already been created.

I have attached the Supplemental Documentation and other information required for the review by the Fiscal Review Committee, including a proposed contract. Please do not hesitate to contact me if you have any questions or need any additional information.

Sincerely,



Nancy Myers

Attorney

(615) 744-4105

Nancy.Myers@tn.gov





Supplemental Documentation Required for  
Fiscal Review Committee

<b>*Contract Funding Source/Amount:</b>			
State:	\$ 260,000.00	Federal:	\$500,000.00
<i>Interdepartmental:</i>		<i>Other:</i>	
If “ <i>other</i> ” please define:			
If “ <i>interdepartmental</i> ” please define:			
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>	
Method of Original Award: <i>(if applicable)</i>		Special Contract Request for Sole Source Contract	
*What were the projected costs of the service for the entire term of the contract prior to contract award? How was this cost determined?		The cost for this Contract is for \$760,000. The cost was determined by a bid from the vendor. This amount accounts for \$500,000 in buildout for the CCH and \$260,000 in maintenance.	
*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.		<p>There are other vendors who could build a switch system for the state but there is no other product that is a Commercial Off the Shelf product containing a switch, SOR and CCH all in one product like what CPI offers. This allows for the State to not have to start from scratch, as the foundation of the system will be pre-built. Due to the funding through grant sources, time is of the essence on this project. Funds must be used by a certain calendar date and having a pre-built system helps tremendously with the customization of the product.</p> <p>Also, the vendor provides the service in multiple states and is able to offer the State of Tennessee the benefits paid for by other states at no additional costs. Certain vendors that must work with the Tennessee message switch have already built out to connect to the switch in other states and this should save the</p>	

Supplemental Documentation Required for  
Fiscal Review Committee

	State of Tennessee money in the future.
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# 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.

<b>APPROVED</b>  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: 2016.03.07 11:38:00 -06'00'  <b>Michael F. Perry -AK</b>		<b>APPROVED</b>    <b>JUSTIN P. WILSON</b>	
<b>CHIEF PROCUREMENT OFFICER</b>		<b>COMPTROLLER OF THE TREASURY</b>	
<b>Request Tracking #</b>		<b>34800-021603</b>	
<b>1. Contracting Agency</b>		<b>Tennessee Bureau of Investigation</b>	
<b>2. Type of Contract or Procurement Method</b>		<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 _____	
<b>3. Requestor Contact Information</b>		<b>Nancy Myers, Attorney for TBI</b> <b>615-744-4105</b>	
<b>4. Brief Goods or Services Caption</b>		<b>Software Solution</b>	
<b>5. Description of the Goods or Services to be Acquired</b>		<b>A COTS software solution that can be customized to replace the CCH</b>	
<b>6. Proposed Contractor</b>		<b>CPI</b>	
<b>7. Name &amp; Address of the Contractor's principal owner(s)</b> – NOT required for a TN state education institution		<b>Mr. Kevin Sawatzky C.E.O.</b> Computer Projects of Illinois, Inc. 475 Quadrangle Drive, Suite A Bolingbrook, IL 60440 Tel: (630) 754-8820 Fax: (630) 754-8835	
<b>8. Proposed Contract Period – with ALL options to extend exercised</b> The proposed contract start date shall follow the approval date of this request.		<b>60 months</b>	
<b>9. Office for Information Resources Pre-Approval Endorsement Request</b> – information technology (N/A to THDA)		<input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/> Attached	
<b>10. eHealth Pre-Approval Endorsement Request</b> – health-related professional, pharmaceutical, laboratory, or imaging		<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	

Request Tracking #	34800-021603
11. Human Resources Pre-Approval Endorsement Request - state employee training	<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 - with ALL options to extend exercised	\$ 960,000.00
14. Was there an initial government estimate? If so, what amount?	<input type="checkbox"/> NO <input checked="" type="checkbox"/> YES, \$ 960,000.00
15. Cost Determination Used- How did agency arrive at the estimate of expected costs?	This is the cost of the software, customization, and maintenance and support for 5 years.
16. Explanation of Fair and Reasonable Price- Explain how agency determined that price is fair and reasonable	TBI spoke with both our existing Contractor, DCI, and other State agencies and received high level estimates for all three applications. CPI's quote for all three products is significantly less than other vendors in this market. CPI stated that they were very interested in obtaining Tennessee's business and discounted their products accordingly.
17. Documentation of Discussions with Contractor- How did agency document discussions with Contractor? Attach documentation to this request as applicable.	Contractor has presented a demonstration at TBI of its system. TBI has asked for a cost estimate of what is needed from Contractor.
18. Explanation of Need for or requirement placed on the State to acquire the goods or services	The current CCH needs to be revamped to coexist with the new message switch. The CCH is part of the COTS package offered by the Contractor. This is a mission critical function of the TBI.
19. Proposed contract impact on current State operations	The new CCH will improve State operations by replacing the CCH with one that will work with the new Switch.
20. Justification - Specifically explain why the goods or services should be acquired through the procurement method or contract type selected.	A sole source is being requested for several reasons. Timing of the grants is such that an RFP would add additional time on to the very tight timeline possibly jeopardizing grant funding for the project. The Contractor provides this service in 31 other states. This could eventually provide a seamless connection between our system and other states' systems. Under the Contract, TBI will be able to capitalize off of the Contractor being in 31 states because any new added feature or modification to the software shall be provided to the TBI at no cost to the state.
<b>For No Cost and Revenue Contracts Only</b>	
21. What costs will the State incur as a result of this contract? If any, please explain.	

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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	
<b>For Sole Source and Proprietary Procurements Only</b>	
25. Explanation of Need for or requirement placed on the State to acquire the goods or services	As stated earlier, this project is mission critical for the TBI. The new CCH is needed to work in conjunction with the new Switch.
26. Evidence of Contractor's experience & length of experience providing the goods or services to be procured.	CPI has over 25 years experience in providing solutions to law enforcement states across the country. Currently, they provide thirty-one states Message Switch, Computerized Criminal History, and Sex Offender Registry solutions nationwide. No other Vendor in this market provides all three solutions as a "COTS" solution in the industry today
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 type="checkbox"/> NO <input checked="" type="checkbox"/> YES, Method: RFP for the maintenance; sole source for buildout by SENT Name/Address: SENT Software (CCH) Maintenance provided by DCI
28. Contractor selection process and efforts to identify reasonable, competitive, procurement alternatives	TBI performed a combination of investigation efforts including speaking with other state counterparts and what solutions they were using, spoke to our existing Contractor regarding their solution, spoke with the Federal Bureau of Investigation on their experience with CPI, and made our best effort to determine that CPI is the only Vendor that provides all three solutions as a "COTS" solution in the law enforcement market today. Based on our Federal grant funding awards, we would not meet the time requirements of the grants if we used another Vendor that would custom develop these solutions for us. Based on all these factors, CPI was the clear choice for the Vendor solution on the three products.

Request Tracking #	34800-021603
<b>Signature Required for all Special Contract Requests</b>	
<b>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)</b>	
Signature: 	Date: 3-3-16



## OIR Pre-Approval Endorsement Request E-Mail Transmittal

**TO :** Mark Rampey, OIR Contracts  
Department of Finance & Administration  
E-mail : [Mark.Rampey@tn.gov](mailto:Mark.Rampey@tn.gov)

**FROM :** Nancy Myers  
E-mail : [nancy.myers@tn.gov](mailto:nancy.myers@tn.gov)

**DATE :** 02/09/16

**RE :** Request for OIR Pre-Approval Endorsement

**Applicable RFS # 34800-021603**

**OIR Endorsement Signature & Date:**

Mark F. Bengel (by William Hafley,  
authorized by Jamie M. Etheridge,  
Deputy CIO

Digitally signed by Mark F. Bengel (by William Hafley, authorized by Jamie M. Etheridge, Deputy CIO  
DN: cn=Mark F. Bengel (by William Hafley, authorized by Jamie M. Etheridge, Deputy CIO, o=TN Department of Finance and Administration, ou=Strategic Technology Solutions, email=william.hafley@tn.gov, c=US  
Date: 2016.02.26 15:22:21 -06'00'

**Chief Information Officer**

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

Office for Information Resources (OIR) pre-approval endorsement 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.

<b>Contracting Agency</b>	<b>Tennessee Bureau of Investigation</b>
<b>Agency Contact</b> (name, phone, e-mail)	<b>Nancy B. Myers, 615-744-4501</b>
<p><b>Attachments Supporting Request</b> (mark all applicable)</p> <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</p> <p><input checked="" type="checkbox"/> Special Contract Request</p> <p><input type="checkbox"/> Amendment Request</p> <p><input type="checkbox"/> Proposed Contract/Grant or Amendment</p> <p><input type="checkbox"/> Original Contract/Grant and Previous Amendments (if any)</p>	
<b>Information Systems Plan (ISP) Project Applicability</b>	

**Applicable RFS # 34800-021603**

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): Mark Hackney

Applicable – Approved ISP Project# #1001458

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.

This RFS is in combination with RFS #s 34800-021601 and 34800-021602.

This software is for a COTS product that can be customized by the Contractor for the Criminal Computerized History database. This houses all of the Tennessee criminal history records. This Contract will also include maintenance and training on the software. Migration from the old CCH to the new will occur under the terms of this Contract. This is a crucial and mission critical part of the TBI. Due to the fact that this is a software service, the entire scope involves IT services. The Contractor will only use State hardware on State property.

**TO:** Andy Kidd, Director of Sourcing  
Kevin C. Bartels, Staff Attorney-Sourcing

**FROM:** Nick Edwards, Sourcing Analyst **Nicholas  
Edwards**

**DATE:** March 3, 2016

**SUBJECT:** Recommendation of Special Contract Request 34800-021603 (cy16-6393)

Digitally signed by Nicholas Edwards  
DN: cn=Nicholas Edwards, o=State of  
TN, ou=CPO,  
email=#nicholas.edwards@tn.gov, c=US  
Date: 2016.03.03 13:44:38 -0600

The Tennessee Bureau of Investigation (TBI) is requesting a sole source contract for a commercial off-the-shelf (COTS) solution to replace the Computerized Criminal History (CCH), which is a mission critical function of TBI.

The current CCH has to be reconfigured to coexist with the new message switch. Due to the timing of grant funding, TBI is requesting a sole source contract instead of developing and conducting an RFP which could jeopardize the funding of this project. The proposed vendor, Computer Projects of Illinois, inc. (CPI), provides this service in thirty one states. TBI will utilize CPI's current product and any additional features or modifications will be provided at no cost to the State.

Sourcing Analyst recommends the approval of this sole source request.

**Kevin C.  
Bartels**

Digitally signed by Kevin C. Bartels  
DN: cn=Kevin C. Bartels, o, ou=CPO  
Legal, email=Kevin.C.Bartels@tn.gov,  
c=US  
Date: 2016.03.04 10:07:54 -06'00'

---

Staff Attorney

Date

**Andy T.  
Kidd**

Digitally signed by Andy T. Kidd  
DN: cn=Andy T. Kidd, o=CPO,  
ou=CPO - Sourcing,  
email=andy.kidd@tn.gov, c=US  
Date: 2016.03.07 11:37:45 -06'00'

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Director of Sourcing

Date



## OIR Pre-Approval Endorsement Request E-Mail Transmittal

**TO :** Mark Rampey, OIR Contracts  
Department of Finance & Administration  
E-mail : [Mark.Rampey@tn.gov](mailto:Mark.Rampey@tn.gov)

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E-mail : [nancy.myers@tn.gov](mailto:nancy.myers@tn.gov)

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DN: cn=Mark F. Bengel (by William Hafley, authorized by Jamie M. Etheridge, Deputy CIO, o=TN Department of Finance and Administration, ou=Strategic Technology Solutions, email=william.hafley@tn.gov, c=US  
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<b>Agency Contact</b> (name, phone, e-mail)	<b>Nancy B. Myers, 615-744-4501</b>
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This RFS is in combination with RFS #s 34800-021601 and 34800-021602.

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# CONTRACT

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

<b>Begin Date</b> June 1, 2016	<b>End Date</b> May 31, 2019	<b>Agency Tracking #</b> 34800-21603	<b>Edison Record ID</b>		
<b>Contractor Legal Entity Name</b> CPI				<b>Edison Vendor ID</b>	
<b>Goods or Services Caption (one line only)</b> Provision of CCH component					
<b>Contractor</b> <input checked="" type="checkbox"/> Contractor			<b>CFDA #</b>		
<b>Funding —</b>					
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
2016	60,000.00	500,000.00			560000.00
2017	100,000.00				100000.00
2018	100,000.00				100000.00
2019	0				0
<b>TOTAL:</b>	<b>260,000.00</b>	<b>500,000.00</b>			<b>760,000.00</b>
<b>Contractor Ownership Characteristics:</b>					
<input type="checkbox"/> Minority Business Enterprise (MBE): African American, Asian American, Hispanic American, Native American					
<input type="checkbox"/> Woman Business Enterprise (WBE)					
<input type="checkbox"/> Tennessee Service Disabled Veteran Enterprise (SDVBE)					
<input type="checkbox"/> 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.					
<input type="checkbox"/> Other:					
<b>Selection Method &amp; Process Summary (mark the correct response to confirm the associated summary)</b>					
<input type="checkbox"/> Competitive Selection			Describe the competitive selection process used		
<input checked="" type="checkbox"/> Other			Sole Source		
<b>Budget Officer Confirmation:</b> 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.					
<b>Speed Chart (optional)</b>			<b>Account Code (optional)</b>		

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
TENNESSEE BUREAU OF INVESTIGATION  
AND  
COMPUTER PROJECTS OF ILLINOIS (CPI)**

This Contract, by and between the State of Tennessee, Tennessee Bureau of Investigation ("State") and CPI ("Contractor"), is for the provision of Solution and Maintenance and Support for Solution, 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: Illinois  
Contractor Edison Registration ID # Number

**Definitions**

"CCH", as referenced in this Contract, is that part of the Solution that is the Tennessee criminal history repository that contains all Tennessee computerized reported arrest records and dispositions.

"Go-live" is when the Solution shall become the State's primary Criminal Justice Information System which includes the CCH.

"Maintenance and Support" shall include Contractor's updates, upgrades, new development, patches, bug fixes, problem management as further set out in Contract Section A.15. of this Contract or any change to Solution as required by law, rule or regulation. Maintenance and Support shall include both twenty four hour (24) remote and on-site as set out in Contract Section A.22.

"Planned downtime" is defined as that period of time when the Solution is not accessible by users and the Contractor has given the State notification of the downtime and forty-eight hours of advanced notice in order to provide warning to users.

"Solution", as referenced in this Contract, is for a perpetual, royalty free worldwide license for unlimited users of Contractor's software product that has been customized for the State and includes all applications for a state level Criminal Justice Information System including the the State's CCH.

"Solution design documentation" is documentation that describes the basic system design, functionality and architecture of the Solution and should include a high-level description of the Solution's hardware, ( servers, network requirements), software, database and security components. The documentation includes component and/or contextual diagrams (Visio diagrams are usually provided) of the data workflow and system components such as Servers, Firewalls, Load Balancers, Network connections,

IP Addresses, and Data diagrams that describes the software application in detail. This document can be used to recover the system in an event of a disaster or troubleshoot performance and operating issues that can occur after a system is placed in production.

“Unplanned downtime” is defined as that period of time when the Solution is not accessible by the end user and very little if any notification has been given to the State regarding the downtime. Any notification less than forty-eight hours by Contractor of downtime shall be deemed unplanned downtime and the State shall be credited according to this Contract in A.15..

“Uptime” is defined as the percentage of time each month that the Solution is accessible and operational by the end user.

“User” is defined as an individual who under the CJIS policy is authorized to use the Solution

“User Authentication” is defined as that part of the Solution that is able to identify a particular end user and allows access to all available databases to that particular user.

“User Repository” is defined as a list of end users and which databases those users are able to access. This repository shall interface the State’s active directory of users.

**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. Contractor shall provide Solution to the State that includes applications for a state level Criminal Justice Information System including the CCH.
- A.3. Contractor shall provide Solution Design Documentation to the State.
- A.4. Contractor shall provide maintenance and support for Solution twenty four (24) hours a day, seven (7) days a week, and three hundred sixty-five (365) days of the year.
- A.5. Solution shall be housed at State's site and on State's hardware.
- A.6. Contractor shall provide a single sign-on user repository that allows users to select the application that is needed from a menu without logging on to a new application each time.

- A.7. . Contractor shall ensure that all existing interfaces with the CCH existing at the time of Solution's GoLive shall be incorporated into the Solution. All functionality of theCCH at go-live shall continue with Solution.
- A.8. Contractor shall provide only CJIS compliant personnel to perform work per this Contract.
- A.9. Contractor shall provide annual users conference at no cost to the State, consistent with state policy, of three (3) individuals employed by State and working with the Solution. This users' conference shall allow for the State users to voice opinions regarding new features, updates, upgrades, modifications and future changes.
- A.10. Solution shall have a common look and feel to all of the applications to create continuity.
- A.11. Solution shall support NIEM and GJXDM XML standards.
- A.12. Solution shall maintain a 99.8% Uptime.
- A.13. Solution shall be completely configurable meaning that Contractor shall be capable of customizing the Solution to meet the State's needs and requirements.
- A.14. Solution shall support a User Repository and security policies insuring that each user is authenticated and is currently certified.
- A.15. Contractor shall provide problem management as part of the Maintenance and Support of the Solution.
  - i. Problems are divided into three categories, as follows:
    - (1) Critical Problem –
      - a. Problems or issues in the software/service that interrupt or prevent the entire customer population from performing regular business operations; or
      - b. Problems or issues caused by the software/service having a catastrophic impact on regular business operations.
    - (2) Major Problem –
      - a. Problems or issues in the software/service that interrupt or prevent a significant percentage of the customer population from performing regular business operations; or
      - b. Problems or issues caused by the software/service having a major impact on regular business operations.

(3) Minor Problem –

- a. Problems or issues in the software/Solution that interrupt or prevent an individual from performing regular business operations; or
  - b. Problems or issues having a minor impact on regular business operations.
  - c. Information requests.
- ii. For each of the above Problem types, the following actions must be taken to resolve the problems as follows (each time period shall be construed as “action completed within XX timeframe”):

Action	Critical	Major	Minor
Initial response	15 min	30 min	30 min
Time from initial response to final resolution of incident	3 hours	5 hours	1 calendar day (24 hours)

- f. Failure to comply with the above-listed time periods may result in State’s exercise of deductions in amounts owed to Contractor under C.3. of this Contract in the following amounts: one day of maintenance and support for every hour in excess of resolution time for critical classifications, one day of maintenance and support for every two (2) hours in excess of resolution time for high classifications, one day of maintenance and support for every eight (8) hours in excess of resolution time for normal classifications.

A.16. Contractor Testing

Contractor shall conduct thorough testing of the Solution prior to delivery to the State (“Contractor Testing”). Contractor Testing shall be reported to the State:

A.17. Integration

Upon successful completion of Contractor testing as determined by the State, Contractor shall install and configure the Solution in the pre-production infrastructure environments designated by the State. Contractor shall continue to install and configure the Solution with any and all subsequent revisions including but not limited to resolution of all Defects for the Contract Period.

A.18. System Testing

Upon successful completion of Integration into the pre-production infrastructure environments as determined by the State, the State shall conduct testing to ensure the Solution does not crash and meets technical requirements (“System Testing”).

#### A.19. User Acceptance Testing

Upon successful completion of System Testing as determined by the State, the State shall conduct User Acceptance Testing ("UAT") which is the process of State Subject Matter Experts ("SME") verifying in a test environment that the Solution meets requirements of the Scope of Services of this Contract for Solution Go-Live. The Contractor and State shall develop a UAT plan that meets the Solution requirements as set forth in this Contract and Contractor shall notify State in writing when the Solution is ready for UAT. Should issues arise during UAT that need to be resolved by the Contractor, State shall notify Contractor within five (5) business days following the completion of UAT. However, in no way shall this language limit the State's other rights under this Contract.

#### A.20. Deployment and Acceptance Criteria

Upon successful completion of the UAT phase as determined by the State, Contractor and State shall deploy Solution. "Deployment" shall consist of installing the Solution into the production environment.

After Deployment, State will be entitled to test the Solution to determine if it operates in accordance with, and otherwise conforms to, the Acceptance Criteria. "Acceptance Criteria" means the criteria by which the Solution will be evaluated for purposes of determining acceptance by State, which shall include the functional, technical, design and performance characteristics and other requirements specifically set forth or incorporated by reference in this Contract. Contractor will provide (at no additional cost to State) such assistance as State may reasonably require to conduct the acceptance testing. State shall have thirty (30) days following the date the Solution is received and installed in a production environment prior to Go-Live operation to conduct acceptance testing, and the State may use its own internal test procedures. "Live" shall mean Solution has become the State's active system of record for the CCH.

If State determines that the Solution successfully operates in accordance with, and otherwise conforms to, the Acceptance Criteria, then State will notify Contractor that State accepts the Solution ("Acceptance"). If State determines that the Solution does not operate in accordance with, or otherwise conform to, the applicable Acceptance Criteria, then State will provide Contractor, within ten (10) days of completion of the testing phase detailed in this Section, with a notice describing the Defect(s). A "Defect" means a bug, failure, malfunction, or nonconformity in the Solution that prevents the Solution from operating in accordance with the applicable Acceptance Criteria or producing correct results. Contractor will have ten (10) business days following the date it receives State's notice of Defect to correct the Solution, at no additional cost to State. If Contractor delivers a corrected version of the Solution, then State will be entitled to repeat the testing process. If (through no fault of State) Contractor fails to deliver, within the ten(10) day period, a version of the Solution that conforms to the Acceptance Criteria, then State may reject the Solution upon written notice to

Contractor, without financial liability or obligation. State shall not be deemed to have accepted a Solution unless State notifies Contractor that the Solution has successfully passed the Acceptance testing by providing the Acceptance notice which the State will do within 10 days of completion of Acceptance testing or the Solution shall be deemed accepted. Acceptance of the Solution shall not constitute a waiver of any rights State may have based on Contractor's warranties.

- A.21. Training. The State requires that all users of the Solution, administrators and support teams, be trained to correctly utilize the Solution. The Contractor shall be responsible for developing and updating the training material content, as well as providing onsite training, along with associated materials. The State must pre-approve all training materials, including updates, in writing. In addition to any training materials, the Contractor shall also provide user and technical manuals in an electronic format. Contractor shall provide training as close to the go-live date as possible but not more than ten (10) business days before go-live. Contractor shall provide message switch training of at least two (2) days and half day training sessions each for the CCH and SOR. Onsite training shall be recorded and used for makeup classes and new employee training. State shall decide what days and times that the training shall occur.

In the event of a significant Solution change, additional training shall be provided by Contractor at no cost to the State. A significant Solution change shall be defined as any change in Solution that requires the end user to change work logic, work flow, graphic users or interfaces.

- A.22. Maintenance and Support Hours. The Contractor shall provide on-site maintenance and support coverage Monday through Friday from 8:00 a.m. central time through 5:00 p.m. central for Solution. Contractor shall provide on-site maintenance and support for the first twelve months after Acceptance of Solution at a discounted rate. The Contractor shall log every contact whether by e-mail or phone Contractor shall provide "after-hours" support and maintenance if an emergency concerning the Solution, as determined by the State, occurs. Contractor shall provide remote twenty four hour, seven day a week support Contractor shall provide remote maintenance and support at no cost to the State for the first twelve months after Acceptance of Solution..

- A.23. Change Management.

- a. All changes to the Solution shall be reviewed and approved by the State prior to any planned implementation.
- b. Documentation of change process shall be provided by Contractor
- c. The Contractor shall use the State's Remedy ticketing Solution or other acceptable ticketing to process all change requests.
- d. The Contractor shall supply the State with a schedule for releases and patches (monthly/quarterly/yearly). The Contractor shall supply the State with

detailed release notes at least three (3) weeks prior to a major release and two (2) weeks prior to a minor release. The Contractor shall coordinate with the State to upgrade the State testing environment with the release/patch at least (2) weeks prior to the release to production.

A.24. Security Certification, Accreditation, Audit.

- a. At the State's request, the Contractor shall provide proof of certification, accreditation, or audit on a yearly basis to the State to validate Solution security. (Examples: SAS 70, SSAE 16, SOC 2 / SOC 3, ISO 27001/2.).
- b. The Contractor shall represent and warrant that the Software / Application / Network shall be free from all computer viruses, worms, time-outs, time bombs, back doors, disabling devices and other harmful or malicious code intended to or which may damage, disrupt, inconvenience or permit access to the Software user's or another's software, hardware, networks, data or information. If the Contractor is aware of any security incident, vulnerability or other malicious code within their software or network, the Contractor shall immediately disclose this information to the State via telephone and e-mail, as well as identify a timeline to mitigate and eliminate the risk.

.A.25. No Cost Generally Available Updates. All new releases including modifications and enhancements and bug fixes (collectively referred to as "Changes") for any software deliverable developed or published by the Contractor and made generally available to its other customers at no additional charge shall be provided to the State at no additional cost.

A.26. 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:
  - i. the effect, if any, of implementing the requested change(s) on all other services required under this Contract;
  - ii. the specific effort involved in completing the change(s);
  - iii. the expected schedule for completing the change(s);
  - iv. the maximum number of person hours required for the change(s); and

- v. the maximum cost for the change(s)— this maximum cost shall in no instance exceed the product of the person hours required multiplied by the appropriate payment rate proposed for such work.
  - vi. 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 State will be the sole judge of the acceptable completion of work and, upon such determination, shall provide the Contractor written approval.
- i. Change Order Remuneration— The State will remunerate the Contractor only for acceptable work. 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 the cost of the actual goods or services provided to complete the necessary work, not to exceed the maximum cost for the change detailed 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.

A.27. Warranty. Contractor represents and warrants that the term of the warranty (“Warranty Period”) shall be the greater of the Term of this Contract or any other warranty general offered by Contractor, its suppliers, or manufacturers to customers of its goods or services. The goods or services provided under this Contract shall conform to the terms and conditions of this Contract throughout the Warranty Period. 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.

Contractor represents and warrants that the State is authorized to possess and use all equipment, materials, software, and deliverables provided under this Contract.

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, and 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 the fees paid to Contractor for the Defective goods or services. Any exercise of the State's rights under this Section shall not prejudice the State's rights to seek any other remedies available under this Contract or applicable law.

A.28. Inspection and Acceptance. The State shall have the right to inspect all goods or services provided by Contractor under this Contract. If, upon inspection, the State determines that the goods or services are Defective, the State shall notify Contractor, and Contractor shall re-deliver the goods or provide the services at no additional cost to the State. If after a period of thirty (30) days following delivery of goods or performance of services the State does not provide a notice of any Defects, the goods or services shall be deemed to have been accepted by the State.

A.29. Transition Upon expiration or termination of this Contract, Contractor shall provide detailed procedures to enable this Contract to transition to State management or management by a third party at no additional cost to the State. Upon expiration or termination of this Contract, Contractor shall work with State under State's management supervision for a period of sixty (60) days, prior to the expiration or termination of this Contract, to ensure the orderly transfer and efficient transition from current Contractor management to State's management (or management by a third party). During this transition period, Contractor shall transfer any and all maintenance records, files and logs to State regarding work performed for State during the Contract Term.

Under no circumstances shall Contractor refuse a request by the State or State's designated third party concerning migrating data or information from Solution. Contractor shall not demand or solicit additional fees from the State in order to allow State to access State's data or information. State shall be able to access and migrate data from Solution at any time.

## **B. TERM OF CONTRACT:**

B.1. This Contract shall be effective on June 1, 2016 ("Effective Date") and extend for a period of number (36) 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.

B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to two (2) 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

**C. PAYMENT TERMS AND CONDITIONS:**

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed seven hundred sixty thousand (\$760,000.00) ("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:

<b>Goods or Services Description</b>	<b>Amount (per compensable increment)</b>
State Acceptance of CCH on or before xxxx	\$ 500,000.00
Discounted Monthly Maintenance and Support to begin at Acceptance	\$5,000.00 per month
Regular Monthly Maintenance and Support to begin after twelve months of Discounted Monthly Maintenance and Support	\$ 8,333.33 per month

\*Daily rate for Maintenance and Support shall be \$278.00 for purposes of Section A.15. of this Contract.

C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel time, travel expenses, 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, no more frequently than once a month, and no later than thirty (30) days after goods or services have been provided to the following address:

State Agency Billing Address

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: State Agency & Division Name;
- (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. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment that is determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, to not constitute proper compensation for goods delivered or services provided.
- 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 the "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, payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee, may be made by ACH; and
  - b. The Contractor shall complete, sign, and return to the State the State-provided W-9 form. The taxpayer identification number on the W-9 form must be the same as the Contractor's Federal Employer Identification Number or Social Security Number referenced in the Contractor's Edison registration information.

**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:

Mark Hackney  
CIO  
Tennessee Bureau of Investigation  
901 R.S. Gass Blvd.  
Nashville, TN 37216  
615-744-4321

The Contractor:

Mr. Kevin Sawatzky  
C.E.O.  
Computer Projects of Illinois, Inc.  
475 Quadrangle Drive, Suite A  
Bolingbrook, IL 60440  
Tel: (630) 754-8820  
Fax: (630) 754-8835  
Support Center: (866) 471-6305

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.
- 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 the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor materially violates any terms of this Contract ("Breach Condition"), the State shall have the right to immediately terminate the Contract and withhold payments in excess of compensation for completed services or provided goods. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any Breach Condition and the State may seek other remedies allowed at law or in equity for breach of this Contract.
- D.7. Assignment and Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the goods or services provided under this Contract without the prior written approval of 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 Reference, semi-annually during the Term. 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. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the Term, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work under this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work under this Contract. Attestations obtained from subcontractors shall be maintained by the Contractor and made available to State officials upon request.
  - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. 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. The financial statements shall be prepared in accordance with generally accepted accounting principles.

- 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.
- D.13. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- 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 two (2) times the Maximum Liability amount detailed in Section C.1. and as may be amended, PROVIDED THAT in no event shall this Section limit the liability of the Contractor for: (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. 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 at least thirty (30) calendar days prior to the 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 a form approved by the Tennessee Department of Commerce and Insurance ("TDCI") 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 and list the State of Tennessee, Risk Manager, 312 Rosa L. Parks Ave., 3<sup>rd</sup> floor Central Procurement Office, Nashville, TN 37243 in the certificate holder section. At any time, the State may require the Contractor to provide a valid COI detailing coverage description; insurance company; policy number; exceptions; exclusions; 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: (a) acceptable to the State; (b) authorized by the TDCI to transact business in the State of Tennessee; and (c) rated A- VII or better by A. M. Best. The Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that the subcontractors are included under the Contractor's policy.

The Contractor agrees to name the State as an additional insured on any insurance policies with the exception of workers' compensation (employer liability) and professional liability (errors and omissions) ("Professional Liability") insurance. Also, all policies shall contain an endorsement for a waiver of subrogation in favor of the State.

The deductible and any premiums are the Contractor's sole responsibility. Any deductible over fifty thousand dollars (\$50,000) 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 thirty (30) 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 State reserves the right 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, cyber-liability risks, 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, which shall be written on an Insurance Services Office, Inc. (also known as ISO) occurrence form (or a substitute form providing equivalent coverage) 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 two million dollars (\$2,000,000) aggregate for bodily injury and property damage, including products and completed operations coverage with an aggregate limit of at least two million dollars (\$2,000,000).

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.

D.20. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State to enforce the terms of this Contract.

In the event of any suit or claim, the Parties shall give each other immediate

notice and provide all necessary assistance to respond. 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, 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.

- D.21. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). 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 agreements, as required by the Privacy Rules and that are reasonably necessary to keep the State and Contractor in compliance with the Privacy Rules. This provision shall not apply if information received or delivered by the parties under this Contract is NOT "protected health information" as defined by the Privacy Rules, or if the Privacy Rules permit the parties to receive or deliver the information without entering into a business associate agreement 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.22. 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.23. 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.24. 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.25. 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, workaround 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.26. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.
- D.27. 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.28. Entire Agreement. 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' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the Parties, whether written or oral.
- D.29. 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.30. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

- D.31. 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), which includes [identify attachments and exhibits];
  - 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.

**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. Confidentiality of Records. Strict standards of confidentiality of records and information shall be maintained in accordance with applicable state and federal law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State that is regarded as confidential under state or federal law shall be regarded as "Confidential Information." Nothing in this Section shall permit Contractor to disclose any Confidential Information, regardless of whether it has been disclosed or made available to the Contractor due to intentional or negligent actions or inactions of agents of the State or third parties. Confidential Information shall not be disclosed except as required or permitted under state or federal law. Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

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

- E.3. Software License Warranty. Contractor grants a license to the State to use all software provided under this Contract in the course of the State's business and purposes.
- E.4. Software Support and Maintenance Warranty. Contractor shall provide to the

State all software upgrades, modifications, bug fixes, or other improvements in its software that it makes generally available to its customers.

- E.5. Additional lines, items, or options. At its sole discretion, the State may make written requests to the Contractor to add lines, items, or options that are needed and within the Scope but were not included in the original Contract. Such lines, items, or options will be added to the Contract through a Memorandum of Understanding (“MOU”), not an amendment.
- a. After the Contractor receives a written request to add lines, items, or options, the Contractor shall have ten (10) business days to respond with a written proposal. The Contractor’s written proposal shall include:
    - (1) The effect, if any, of adding the lines, items, or options on the other goods or services required under the Contract;
    - (2) Any pricing related to the new lines, items, or options;
    - (3) The expected effective date for the availability of the new lines, items, or options; and
    - (4) Any additional information requested by the State.
  - b. The State may negotiate the terms of the Contractor’s proposal by requesting revisions to the proposal.
  - c. To indicate acceptance of a proposal, the State will sign it. The signed proposal shall constitute a MOU between the Parties, and the lines, items, or options shall be incorporated into the Contract as if set forth verbatim.
- Only after a MOU has been executed shall the Contractor perform or deliver the new lines, items, or options

E.6. Ownership of Software and Work Products.

- a. Definitions.
  - (1) “Contractor-Owned Software,” shall mean commercially available software the rights to which are owned by Contractor, including but not limited to commercial “off-the-shelf” software which is not developed using State’s money or resources.
  - (2) “Custom-Developed Application Software,” shall mean customized application software developed by Contractor solely for State.
  - (3) “Rights Transfer Application Software,” shall mean any pre-existing application software owned by Contractor or a third party, provided to State and to which Contractor will grant and assign, or will facilitate the granting and assignment of, all rights, including the source code, to State.
  - (4) “Third-Party Software,” shall mean software not owned by the State or the Contractor.

- (5) "Work Product," shall mean all deliverables exclusive of hardware, such as software, software source code, documentation, planning, etc., that are created, designed, developed, or documented by the Contractor exclusively for the State during the course of the project using State's money or resources, including Custom-Developed Application Software. If the deliverables under this Contract include Rights Transfer Application Software, the definition of Work Product shall also include such software. Work Product shall not include Contractor-Owned Software or Third-Party Software.

b. Rights and Title to the Software

- (1) All right, title and interest in and to the Contractor-Owned Software shall at all times remain with Contractor, subject to any license granted under this Contract.
- (2) All right, title and interest in and to the Work Product, and to modifications thereof made by State, including without limitation all copyrights, patents, trade secrets and other intellectual property and other proprietary rights embodied by and arising out of the Work Product, shall belong to State. To the extent such rights do not automatically belong to State, Contractor hereby assigns, transfers, and conveys all right, title and interest in and to the Work Product, including without limitation the copyrights, patents, trade secrets, and other intellectual property rights arising out of or embodied by the Work Product. Contractor and its employees, agents, contractors or representatives shall execute any other documents that State or its counsel deem necessary or desirable to document this transfer or allow State to register its claims and rights to such intellectual property rights or enforce them against third parties.
- (3) All right, title and interest in and to the Third-Party Software shall at all times remain with the third party, subject to any license granted under this Contract.

- c. The Contractor may use for its own purposes the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of performing under this Contract. The Contractor may develop for itself, or for others, materials which are similar to or competitive with those that are produced under this Contract.

E.7. State Furnished Property. The Contractor shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible personal property furnished by the State for the Contractor's use under this Contract. Upon termination of this Contract, all property furnished by the State shall be returned to the State in the same condition as when received, less reasonable wear and tear. Should the property be destroyed, lost, or stolen, the

Contractor shall be responsible to the State for the fair market value of the property at the time of loss.

E.8. 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.9. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with any contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

E.10. 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, 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.11. 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.12. 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.13. Personally Identifiable Information. While performing its obligations under this Contract, Contractor may have access to Personally Identifiable Information held by the State ("PII"). For the purposes of this Contract, "PII" includes "Nonpublic Personal Information" as that term is defined in Title V of the Gramm-Leach-Bliley Act of 1999 or any successor federal statute, and the rules and regulations thereunder, all as may be amended or supplemented from time to time ("GLBA") and personally identifiable information and other data protected under any other applicable laws, rule or regulation of any jurisdiction relating to disclosure or use of personal information ("Privacy Laws"). Contractor agrees it shall not do or omit to do anything which would cause the State to be in breach of any Privacy Laws. Contractor shall, and shall cause its employees, agents and representatives to: (i) keep PII confidential and may use and disclose PII only as necessary to carry out those specific aspects of the purpose for which the PII was disclosed to Contractor and in accordance with this Contract, GLBA and Privacy Laws; and (ii) implement and maintain appropriate technical and organizational measures regarding information security to: (A) ensure the security and confidentiality of PII; (B) protect against any threats or hazards to the security or integrity of PII; and (C) prevent unauthorized access to or use of PII. Contractor shall immediately notify State: (1) of any disclosure or use of any PII by Contractor or any of its employees, agents and representatives in breach of this Contract; and (2) of any disclosure of any PII to Contractor or its employees, agents and representatives where the purpose of such disclosure is not known to Contractor or its employees, agents and representatives. The State reserves the right to review Contractor's policies and procedures used to maintain the security and confidentiality of PII and Contractor shall, and cause its employees, agents and representatives to, comply with all reasonable requests or directions from the State to enable the State to verify and/or procure that Contractor is in full compliance with its obligations under this Contract in relation to PII. Upon termination or expiration of the Contract or at the State's direction at

any time in its sole discretion, whichever is earlier, Contractor shall immediately return to the State any and all PII which it has received under this Contract and shall destroy all records of such PII.

The Contractor shall report to the State any instances of unauthorized access to or potential disclosure of PII in the custody or control of Contractor ("Unauthorized Disclosure") that come to the Contractor's attention. Any such report shall be made by the Contractor within twenty-four (24) hours after the Unauthorized Disclosure has come to the attention of the Contractor. Contractor shall take all necessary measures to halt any further Unauthorized Disclosures. The Contractor, at the sole discretion of the State, shall provide no cost credit monitoring services for individuals whose PII was affected by the Unauthorized Disclosure. The Contractor shall bear the cost of notification to all individuals affected by the Unauthorized Disclosure, including individual letters and public notice. The remedies set forth in this Section are not exclusive and are in addition to any claims or remedies available to this State under this Contract or otherwise available at law.

- E.14. Federal Funding Accountability and Transparency Act (FFATA). This Contract requires the Contractor to provide supplies or services that are funded in whole or in part by federal funds that are subject to FFATA. The Contractor is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of FFATA are met and that the Contractor provides information to the State as required.

The Contractor shall comply with the following:

- a. Reporting of Total Compensation of the Contractor's Executives.
  - (1) The Contractor shall report the names and total compensation of each of its five most highly compensated executives for the Contractor's preceding completed fiscal year, if in the Contractor's preceding fiscal year it received:
    - i. 80 percent or more of the Contractor's annual gross revenues from federal procurement contracts and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
    - ii. \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards); and
    - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S.

Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>).

As defined in 2 C.F.R. § 170.315, "Executive" means officers, managing partners, or any other employees in management positions.

- (2) Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):
- i. Salary and bonus.
  - ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
  - iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
  - iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
  - v. Above-market earnings on deferred compensation which is not tax qualified.
  - vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.
- b. The Contractor must report executive total compensation described above to the State by the end of the month during which this Contract is awarded.
- c. If this Contract is amended to extend the Term, the Contractor must submit an executive total compensation report to the State by the end of the month in which the term extension becomes effective.
- d. The Contractor will obtain a Data Universal Numbering System (DUNS) number and maintain its DUNS number for the term of this Contract. More information about obtaining a DUNS Number can be found at: <http://fedgov.dnb.com/webform/>

The Contractor's failure to comply with the above requirements is a material breach of this Contract for which the State may terminate this Contract for cause. The State will

not be obligated to pay any outstanding invoice received from the Contractor unless and until the Contractor is in full compliance with the above requirements.

E.15. 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 so survive the completion of performance and termination of this Contract.

**IN WITNESS WHEREOF,**

**CONTRACTOR LEGAL ENTITY NAME:**

---

**CONTRACTOR SIGNATURE**

**DATE**

---

**PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)**

**STATE AGENCY NAME:**

---

**NAME & TITLE**

**DATE**

**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

<b>SUBJECT CONTRACT NUMBER:</b>	
<b>CONTRACTOR LEGAL ENTITY NAME:</b>	
<b>FEDERAL EMPLOYER IDENTIFICATION NUMBER:</b> (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.**

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**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**

### ADDITIONAL REQUESTED INFORMATION

1. Provide information on the circumstances and status of any disciplinary action taken or pending against the vendor during the past 5 years with state agencies/departments, professional organizations, or through any legal action.

The TBI knows of no circumstance regarding disciplinary actions taken against CPI. A search was conducted on the Illinois Attorney General's website and no actions were noted. Also, the BBB gives CPI an A+ rating.

2. In addition, please provide any information regarding the due diligence that the Department has taken to ensure that the vendor is not or has not been involved in any circumstances related to illegal activity, including but not limited to fraud.

The TBI contacted several states that use CPI currently. All states were extremely pleased with the product and service. CPI has been in business since 1989.

## Chicago and Northern Illinois

### Change Location

# BBB Business Review

BBB ACCREDITED BUSINESS SINCE 4/1/2005

**Computer Projects Of Illinois, Inc**

Phone: (630) 754-8820

Fax: (630) 754-8835

475 Quadrangle Dr Ste A, Bolingbrook, IL 60440

ksawatzky@openfox.com

<http://www.openfox.com>



On a scale of A+ to F

Reason for Rating

[BBB Ratings System Overview](#)

*BBB Business Reviews may not be reproduced for sales or promotional purposes.*

**Request a Quote**

Request a Quote from Computer Projects Of Illinois, Inc

## BBB Accreditation

A BBB Accredited Business since 4/1/2005



Total Customer Reviews 0

[Read Customer Reviews](#) | [Submit a Customer Review](#) | [See Trends in Customer Reviews on Computer Projects Of Illinois, Inc](#)

## Government Actions

BBB knows of no government actions involving the marketplace conduct of Computer Projects Of Illinois, Inc.

What government actions does BBB report on?

## Advertising Review

BBB has nothing to report concerning Computer Projects Of Illinois, Inc's advertising at this time.

What is BBB Advertising Review?

## Additional Information

BBB file opened: July 18, 2003

Business started: 04/01/1989

Business started locally: 04/01/1989

### Type of Entity

Corporation

### Business Management

Mr. Kevin Sawatzky, President

### Contact Information

Principal: Mr. Kevin Sawatzky, President

### Business Category

Computer Software Publishers & Developers

Data Systems - Consultants & Designers

Software Publishers (NAICS: 511210)

