



Fiscal Review Committee  
Contract #: 58215, Amend 01  
Tracking #: 33111-00518

1. Summary letter
2. Supplemental documentation form
3. Edison query in Excel
4. Amendment request form
5. Original contract
6. Proposed amendment



**BILL HASLAM**  
GOVERNOR

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

**CANDICE MCQUEEN**  
COMMISSIONER

**SUBMITTED VIA ELECTRONIC MAIL**

TO: Fiscal Review Committee  
FROM: Candice McQueen, Commissioner  
DATE: 9/14/18  
RE: Request to appear before the fiscal review committee regarding non-competitive contract amendment 01 for agency tracking #: 33111-00518.

Please consider the enclosed request to amend contract #33111-00518 with the Tennessee Education Research Alliance (TERA) at Vanderbilt University for the creation, administration, data preparation and analysis of the annual Tennessee Educator Survey. The Tennessee Educator Survey is a comprehensive tool that gathers feedback from educators statewide and compiles data files that can be viewed publicly. This is critical work as it (a) provides an avenue for educators to provide direct, confidential feedback to leadership at the department, district, and school levels and; (b) provides survey results on school climate that are required by state board of education policy.

Through this contract, TERA provides: (a) an educator survey that is designed to be valid and reliable using the latest methodology and expertise, (b) survey data that is appropriately "weighted" to take into account non-response bias, (c) data files that are shared with district administrators for the school administrator evaluation required by state board policy, (d) survey data files that load to a public website. This amendment extends the end date through 2019, increases the maximum liability from \$138,000 to \$338,000, updates the payment rates, and updates the scope to provide for annual delivery. The FY19 governor's budget specifically provides recurring funding for this work.

Continuing this partnership through a non-competitive amendment is necessary for several reasons:

1. Our annual educator survey has been a joint effort with TERA since 2010. The educator survey represents the department's primary means for receiving direct, confidential feedback from all educators. After eight years of these surveys, educators expect to get their survey invitations from TERA and recognize TERA (along with the research protections provided by the University's Institutional Review Board) as the protector of their confidentiality.
2. The past years of work (with costs initially funded by an outside foundation) have allowed TERA to build out computer code to cost-efficiently analyze results to produce data files that populate the survey website and the department's data downloads page. Transferring this code to another vendor would add substantial costs around building sufficient familiarity with the code to undertake yearly updates.
3. TERA manages a data warehouse that holds many years of longitudinal data, some of which is protected by confidentiality agreements. Analyses that are built into current deliverables that depend on being able to compare current results to individual-level data from the initial years of the survey.

In summary, TERA is the only vendor with the institutional knowledge and secure technical setup to provide the files we need at the lowest possible cost; therefore, it is in the best interest of the State to extend the contract for one year. Thank you for your consideration.

Supplemental Documentation Required for  
Fiscal Review Committee

*Contact Name:	Joanna Collins	*Contact Phone:	615-770-3869
*Presenter's name(s):	Joanna Collins, Nate Schwartz, Elizabeth Fiveash		
Edison Contract Number: <i>(if applicable)</i>	58215	RFS Number: <i>(if applicable)</i>	33111-00518
*Original or Proposed Contract Begin Date:	4/27/18	*Current or Proposed End Date:	12/31/19
Current Request Amendment Number: <i>(if applicable)</i>	1		
Proposed Amendment Effective Date: <i>(if applicable)</i>	December 31, 2019		
*Department Submitting:	Department of Education		
*Division:	Assessment, Accountability Division		
*Date Submitted:	9/14/18		
*Submitted Within Sixty (60) days:	Yes		
<i>If not, explain:</i>			

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*Contract Vendor Name:			Vanderbilt University		
*Current or Proposed Maximum Liability:			\$ 338,000.00		
*Estimated Total Spend for Commodities:			N/A		
<b>*Current or Proposed Contract Allocation by Fiscal Year: (as Shown on Most Current Fully Executed Contract Summary Sheet)</b>					
FY: 2018	FY:2019	FY:2020			
138,000.00	130,000.00	70,000.00			
<b>*Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from Edison)</b>					
FY:2018	FY:2019	FY:2020	FY:	FY	FY
88000.00			\$	\$	\$
<p><b>IF</b> Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:</p>			<p>Current expenditures have been less than the maximum liability for the first fiscal year. This is due to the fact that invoices related to 2018 survey were held for the release of the survey. Therefore, there are still pending invoices related to 2018 survey.</p>		

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<b>IF</b> surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:		N/A	
<b>IF</b> Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:		N/A	
*Contract Funding Source/Amount:			
State:	\$338,000.00	Federal:	
<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>		Sole Source	

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\*What were the projected costs of the service for the entire term of the contract prior to contract award?  
How was this cost determined?

In the previous year, the cost for this work was \$138,000.00. That cost is less than the current cost because the vendor had an outside grant that funded a portion of the total. The total current costs of \$200,000.00 were determined based on hourly estimates derived from previous work. Price comparisons were completed based on similar work with other vendors and contracting with Vanderbilt is substantially the most cost effective approach.

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<p>*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>	<p>The Educator Survey has been a joint effort with the Education Research Alliance since 2010. This partnership is critical because the survey needs an independent research effort for it to be trusted by educators. Educators now recognize the survey as coming from Vanderbilt and recognize Vanderbilt as the protector of their confidentiality. To retain this trust, the continuity of the partnership with Vanderbilt is vital.</p> <p>Vanderbilt built out computer code to run the necessary data files in ways that sync with the TDOE educator survey website. These files and the process that supports them ensure that the work can be completed at a faster pace and at lower costs than are available under alternate procurement options.</p> <p>In summary, the sole source contract is in the best interest of the State to continue continuity of data quality; they have become the trusted source on this. TERA created computer code to put together the data files and transitioning to a new vendor would be a substantial financial and labor cost to the State.</p>
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# Amendment Request

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

**APPROVED**

CHIEF PROCUREMENT OFFICER

DATE

Agency request tracking #	33111-00518	
1. Procuring Agency	TN Department of Education (TDOE)	
2. Contractor	Vanderbilt University	
3. Edison contract ID #	58215	
4. Proposed amendment #	1	
5. Contract's Original Effective Date	4/27/2018	
6. Current end date	12/31/2018	
7. Proposed end date	12/31/2019	
8. Current Maximum Liability or Estimated Liability	\$ 138,000.00	
9. Proposed Maximum Liability or Estimated Liability	\$ 338,000.00	
10. Strategic Technology Solutions Pre-Approval Endorsement Request – information technology service (N/A to THDA)	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
11. eHealth Pre-Approval Endorsement Request – health-related professional, pharmaceutical, laboratory, or imaging	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
12. Human Resources Pre-Approval Endorsement Request – state employee training service	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached	
13. Explain why the proposed amendment is needed	<p>Extend the current end date by one year (renewal and extension clauses are in the contract) to continue support of the administration of the TN Educator Survey and the subsequent production of data files from the survey.</p> <p>An update of delivery dates in the scope/payment is needed to reflect annual delivery since we are extending the contract.</p> <p>Increase the maximum liability and updating payment rates. A grant to Vanderbilt in the first year of the contract meant that they did not need to charge us the full amount, but that funding is no longer available.</p>	

<b>Agency request tracking #</b>	<b>33111-00518</b>
<b>14. If the amendment involves a change in Scope, describe efforts to identify reasonable, competitive, procurement alternatives to amending the contract. N/A</b> <b>N/A other than updating delivery date references, which refer to dates in the first year of the contract term</b>	
<b>Signature of Agency head or authorized designee, title of signatory, and date</b> (the authorized designee may sign his or her own name if indicated on the Signature Certification and Authorization document)	

**CONTRACT**

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

Begin Date April 27, 2018	End Date December 31, 2018	Agency Tracking # 33111-00518	Edison Record ID 58215		
Contractor Legal Entity Name Vanderbilt University			Edison Vendor ID 91864		
Goods or Services Caption (one line only) Creation, administration, data preparation and analysis of the annual Tennessee Educator Survey					
Contractor <input checked="" type="checkbox"/> Contractor		CFDA #			
Funding					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2018	\$138,000.00				\$138,000.00
<b>TOTAL:</b>	<b>\$138,000.00</b>				<b>\$138,000.00</b>
Contractor Ownership Characteristics:					
<input type="checkbox"/> Minority Business Enterprise (MBE):					
<input type="checkbox"/> African American <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American					
<input type="checkbox"/> Woman Business Enterprise (WBE)					
<input type="checkbox"/> Tennessee Service Disabled Veteran Enterprise (SDVBE)					
<input type="checkbox"/> Disabled Owned Business (DSBE)					
<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"/> Government <input type="checkbox"/> Non-Minority/Disadvantaged <input type="checkbox"/> Other:					
Selection Method & Process Summary (mark the correct response to confirm the associated summary)					
<input type="checkbox"/> Competitive Selection					
<input checked="" type="checkbox"/> Other					
Sole source contract via approved special contract request.					
Budget Officer Confirmation: There is a balance in the appropriation from which obligations hereunder are required to be paid that is not already encumbered to pay other obligations.					
 4/20/18					
Speed Chart (optional) ED00000459		Account Code (optional) 70803000			

**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
Tennessee Department of Education  
AND  
Vanderbilt University**

This Contract, by and between the State of Tennessee, Tennessee Department of Education ("State") and Vanderbilt University ("Contractor"), is for the provision of the annual Tennessee Educator Survey completed by the Tennessee Education Research Alliance, 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 Non-Profit  
Contractor Place of Incorporation or Organization: Nashville, Tennessee  
Contractor Edison Registration ID # 91864

**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. The Contractor will design and administer the annual educator survey to Tennessee educators, collect responses, and provide several data files with final results. The Tennessee Education Research Alliance ("TERA") is a research-practice partnership between the State and Contractor, the offices of which are housed in the Contractor's Peabody College.

The detailed and specific work of the Contract under each larger deliverable listed in A.3. through A.6., including commitments by both parties, will be outlined and agreed upon by both parties in writing through a detailed workplan within 14 days after execution of the Contract. Specifically, the Contractor will provide the services detailed in A.3. to A.5. The State agrees to provide services or requirements as outlined in A.6.

- A.3. To create the annual educator survey, the Contractor shall by April 20, 2018:
- a. Develop survey content and structure with input from the State and TERA researchers.
  - b. Create the following final survey sections with input from the State and TERA researchers:
    - a. A primary "core" teacher survey to send to all teachers in the state
    - i. Teacher survey modules to send to randomized groups of teachers
    - ii. A primary "core" administrator survey to send to all administrators in the state
    - iii. Administrator modules to send to randomized groups of administrators
    - iv. Mini-branches for subsets of teachers
  - b. Create a stand-alone document named "Matched with Results" that contains file dictionary information and an exact replica of the online survey on timeline specified in workplan.
  - c. Propose rules for ensuring the proper granularity of detail in public reporting so as to prevent disclosure or identification of individual respondents.
  - d. Using files included in the TERA dataset and provided by the State under contract number 33111-00617 executed by both parties on August 15, 2017, create survey sampling frame.
  - e. Create process to identify teachers and administrators who should receive branching questions from the survey core and to identify randomized samples of teachers and administrators to receive survey modules.
  - f. Run data checks to ensure that the process runs correctly.
  - g. Collect survey piloting feedback from teacher participants. Feedback will include, but is not limited to, spelling and grammar issues, platform functionality, and survey length.
  - h. Check for consistency of survey language and response choices across questions and survey forms.
  - i. Verify that requested survey structure (e.g. branches, matrices, piping, etc.) functions effectively in the online survey platform.
  - j. Submit an institutional review board (IRB) application to Vanderbilt and receive approval for the survey's administration.

- A.4. To administer the annual educator survey, the Contractor shall by April 20, 2018:
- a. Review and revise the procedures used to troubleshoot technical issues as well as to address educator questions and concerns about survey invitations. Work with the State to address any issues through the State IT systems as needed.
  - b. Implement a coherent system for distribution and subsequent communication of the educator survey. Specifically, send an original survey invitation (via email link) to all intended recipients on timeline specified in workplan; send or facilitate the sending of weekly reminder emails only to those who have not yet completed the survey; and coordinate additional survey outreach with the State. The Contractor will provide a file containing the email addresses, survey links, and other necessary and available information on educators who have not yet taken the survey to the State when requested.
  - c. Provide the State with a report of teacher and administrator response rate files at the school, district, and state level at least twice a week during the time that the survey window is open. Until distribution problems are resolved (no districts with more than 5% bounced emails), the Contractor will provide an additional file weekly showing the number and rate of problematic deliveries (bounced emails, emails delivered but not read, etc.).
  - d. Run lotteries to pick survey incentive winners based on State-developed criteria.
  - e. Maintain a survey-related email address dedicated to requests for assistance from Tennessee educators. Respond to all requests for assistance within two business days.
- A.5. To analyze and provide data from the annual educator survey, the Contractor shall:
- a. Collect all survey data and clean as necessary to create a file of individual responses tagged to each survey question. Responses should be identified by license number.
  - b. Provide a results data file in Stata format to the State within two weeks of survey completion and by April 27<sup>th</sup>, 2018. These data will be owned and may be used by both the Contractor and the State.
  - c. Upon the completion of weighting for survey results, provide a stata results data file to the State that contains all weights by June 15, 2018. These data will be owned and may be used by both the Contractor and the State.
  - d. Provide a detailed memo and/or code book that explains the weights contained in the stata results data file.
  - e. Work with State to develop a quality assessment protocol for the .json and excel file creation process.
  - f. By August 1, 2018, using suppression rules provided by the State, provide weighted, suppressed state-level and district-level excel workbooks for the teacher and administrator branches. Provide final .json and gz.json files on timeline specified in workplan that include the following
    - a. Questions.json
    - b. Demographic jsons (e.g., school.json, district\_teacher.json, etc.)
    - c. District-level .json files for the following:
      - d. Teacher core with additional filters (e.g., Pre-K, K-8, High School, Tested, and Untested)
      - e. Teacher branches
      - f. Administrator core and administrator branches
      - g. School-level .json files for the teacher core
  - g. Provide school-level excel workbooks to include questions from the teacher core on timeline specified in workplan (and by at least June 15<sup>th</sup>).
  - h. Provide state-level and district-level excel workbooks including results from the administrator core on timeline specified in workplan.
  - i. Provide state level workbooks including results from teacher and administrator modules on timeline specified in workplan.
  - j. Run data checks to ensure that the files are produced correctly.
  - k. Complete all processing within stata with programs and documentation shared with the State within two weeks of completion.
- A.6. To allow the Contractor the needed information to complete the annual educator survey, the State shall:
- a. Provide Contractor with all necessary files to complete Contractor requirements by the

timelines agreed upon in the workplan.

- a. A matched with results to survey website crosswalk used as the foundation of .json files.
- b. A matched with results to survey website crosswalk used as the foundation of excel files.
- c. Input files for the distribution data, including the district model mapping, Instructional Partnership Initiative (IPI) file identifiers, English Language Arts ("ELA"), Math data, and email addresses.
- b. Lead the development and implementation of a communications plan and timelines for communication with educators, school districts, and other stakeholders.
- c. Work with internal IT staff and school district IT staff to create the necessary conditions for educators to receive the survey via email including the following
  - a. Providing accurate email addresses for educators
  - b. Whitelisting survey mechanisms that allow for school district information technology staff to allow for the survey emails to not get caught in spam filters.
- d. Work with internal State IT staff to create and maintain a link lookup page to be used by educators to find their unique survey link.
- e. Provide a list of emails to be used for distributing links during survey piloting. During survey piloting, the State will collect and share pilot feedback from the Center for Regional Excellence offices. Feedback will include, but is not limited to, spelling and grammar issues, platform functionality, and survey length.
- f. Pilot finalized surveys with groups of teachers and administrators in order to verify time requirements.
- g. Conduct interviews with teachers about the validity of survey questions.

- A.7. 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.8. 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.

## B. TERM OF CONTRACT:

- B.1. This contract shall be effective on April 27, 2018 ("Effective Date") and end December 31, 2018 ("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 four (4) renewal options under the same terms and conditions for a period not to exceed twelve (12) months each by the State, as the State's sole option. In no event, however, shall the maximum Term, including all renewals or extensions, exceed a total of sixty (60) months.
- B.3. Term Extension. The State may extend the Term an additional period of time, not to exceed one hundred-eighty (180) days beyond the expiration date of this Contract, under the same terms and conditions, 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 one hundred thirty-eight thousand dollars (\$138,000) ("Maximum Liability"). This Contract does not grant the Contractor any exclusive rights. The State does not guarantee that it will buy any minimum quantity of goods or services under this Contract. Subject to the terms and

conditions of this Contract, the Contractor will only be paid for goods or services provided under this Contract after a purchase order is issued to Contractor by the State or as otherwise specified by this Contract.

- C.2. **Compensation Firm.** The payment methodology in Section C.3. of this Contract shall constitute the entire compensation due the Contractor for all goods or services provided under this Contract regardless of the difficulty, materials or equipment required. The payment methodology includes all applicable taxes, fees, overhead, and all other direct and indirect costs incurred or to be incurred by the Contractor.
- C.3. **Payment Methodology.** The Contractor shall be compensated based on the payment methodology for goods or services authorized by the State in a total amount as set forth in Section C.1.
- a. The Contractor's compensation shall be contingent upon the satisfactory provision of goods or services as set forth in Section A.
  - b. The Contractor shall be compensated based upon the following payment methodology:

Goods or Services Description	Amount (per compensable increment)
A.3 & A.4. - Survey constructed, prepared for administration along with a Matched with Results Document, and administered; Biweekly Response Rate Files Delivered to State by April 27, 2018.	\$43,000.00 upon completion
A.5.a. & A.5.b. - Unweighted, Cleaned Survey Analytical Data File Delivered to State by April 27, 2018.	\$10,000.00 upon completion
A.5.c-e. - Survey weights delivered. Administrator evaluation files delivered by June 15, 2018.	\$35,000.00 upon completion
A.5.f-j. - Website Files including .json Delivered to State by August 1, 2018.	\$50,000.00 upon completion

- 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:

Tennessee Department of Education  
710 James Robertson Parkway, 10<sup>th</sup> Floor  
Nashville, TN 37243

- c. 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: Tennessee Department of Education, Division of Research and Strategy
  - (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.

d. 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:

Nate Schwartz, Chief Research and Strategy Officer  
 Tennessee Department of Education  
 710 James Robertson Parkway  
 Nashville, Tennessee 37243  
 nate.schwartz@tn.gov  
 Telephone # 615-906-1544  
 FAX # 615-253-5706

The Contractor:

Vanderbilt University  
 PMB 406310Address  
 2301 Vanderbilt Place  
 Nashville, TN 37240-6310  
 Telephone # 615-343-3895  
 FAX # 615-322-4488

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 A, 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, 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. 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.20. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical Health ("HITECH") Act and any other relevant laws and regulations regarding privacy (collectively the "Privacy Rules"). The obligations set forth in this Section shall survive the termination of this Contract.

- a. Contractor warrants to the State that it is familiar with the requirements of the Privacy Rules, and will comply with all applicable requirements in the course of this Contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by the Privacy Rules, in the course of performance of the Contract so that both parties will be in compliance with the Privacy Rules.
- c. The State and the Contractor will sign documents, including but not limited to business associate 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.21. Tennessee Consolidated Retirement System. Subject to statutory exceptions contained in Tenn. Code Ann. §§ 8-36-801, *et seq.*, the law governing the Tennessee Consolidated Retirement System ("TCRS"), provides that if a retired member of TCRS, or of any superseded system

administered by TCRS, or of any local retirement fund established under Tenn. Code Ann. §§ 8-35-101, *et seq.*, accepts State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor, if a retired member of TCRS, may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the Term.

- D.22. Tennessee Department of Revenue Registration. The Contractor shall comply with all applicable registration requirements contained in Tenn. Code Ann. §§ 67-6-601 – 608. Compliance with applicable registration requirements is a material requirement of this Contract.
- D.23. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals:
- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
  - b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
  - c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
  - d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

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

- D.24. Force Majeure: "Force Majeure Event" means fire, flood, earthquake, elements of nature or acts of God, wars, riots, civil disorders, rebellions or revolutions, acts of terrorism or any other similar cause beyond the reasonable control of the Party except to the extent that the non-performing Party is at fault in failing to prevent or causing the default or delay, and provided that the default or delay cannot reasonably be circumvented by the non-performing Party through the use of alternate sources, 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.25. State and Federal Compliance. The Contractor shall comply with all applicable state and federal laws and regulations in the performance of this Contract.
- D.26. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Tennessee Claims Commission or the state or federal courts in Tennessee shall be the venue for all claims, disputes, or disagreements arising under this Contract. The Contractor acknowledges and agrees that any rights, claims, or remedies against the State of Tennessee or its employees arising under this Contract shall be subject to and limited to those rights and remedies available under Tenn. Code Ann. §§ 9-8-101 - 407.
- D.27. Entire 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.28. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions of this Contract shall not be affected and shall remain in full force and effect. The terms and conditions of this Contract are severable.
- D.29. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.
- D.30. Incorporation of Additional Documents. Each of the following documents is included as a part of this Contract by reference. In the event of a discrepancy or ambiguity regarding the Contractor's duties, responsibilities, and performance under this Contract, these items shall govern in order of precedence below:
- a. any amendment to this Contract, with the latter in time controlling over any earlier amendments;
  - b. this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes Attachment A;
  - c. any clarifications of or addenda to the Contractor's proposal seeking this Contract;
  - d. the State solicitation, as may be amended, requesting responses in competition for this Contract;
  - e. any technical specifications provided to proposers during the procurement process to award this Contract; and
  - f. the Contractor's response seeking this Contract.
- D.31. Iran Divestment Act. The requirements of Tenn. Code Ann. § 12-12-101 et seq., addressing contracting with persons as defined at T.C.A. §12-12-103(5) that engage in investment activities in Iran, shall be a material provision of this Contract. The Contractor certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
- D.32. Insurance. Contractor shall maintain insurance coverage as specified in this Section. The State reserves the right to amend or require additional insurance coverage, coverage amounts, and endorsements required under this Contract. Contractor's failure to maintain or submit evidence of insurance coverage, as required, is a material breach of this Contract. If Contractor loses insurance coverage, fails to renew coverage, or for any reason becomes uninsured during the Term, Contractor shall immediately notify the State. All insurance companies providing coverage must be: (a) acceptable to the State; (b) authorized by the Tennessee Department of Commerce and Insurance ("TDCI"); and (c) rated A- / VII or better by A.M. Best. All coverage must be on a primary basis and noncontributory with any other insurance or self-insurance carried by the State. Contractor agrees to name the State as an additional insured on any insurance policy with the

exception of workers' compensation (employer liability) and professional liability (errors and omissions) insurance. All policies must contain an endorsement for a waiver of subrogation in favor of the State. Any deductible over fifty thousand dollars (\$50,000) must be approved by the State. The deductible and any premiums are the Contractor's sole responsibility. 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.

To achieve the required coverage amounts, a combination of an otherwise deficient specific policy and an umbrella policy with an aggregate meeting or exceeding the required coverage amounts is acceptable. For example: If the required policy limit under this Contract is for two million dollars (\$2,000,000) in coverage, acceptable coverage would include a specific policy covering one million dollars (\$1,000,000) combined with an umbrella policy for an additional one million dollars (\$1,000,000). If the deficient underlying policy is for a coverage area without aggregate limits (generally Automobile Liability and Employers' Liability Accident), Contractor shall provide a copy of the umbrella insurance policy documents to ensure that no aggregate limit applies to the umbrella policy for that coverage area.

Contractor shall provide the State a certificate of insurance ("COI") evidencing the coverages and amounts specified in this Section. The COI must be on a form approved by the TDCI (standard ACORD form preferred). The COI must list each insurer's National Association of Insurance Commissioners (NAIC) number and be signed by an authorized representative of the insurer. The COI must list the State of Tennessee – CPO Risk Manager, 312 Rosa L. Parks Ave., 3<sup>rd</sup> floor Central Procurement Office, Nashville, TN 37243 as the certificate holder. Contractor shall provide the COI ten (10) business days prior to the Effective Date and again thirty (30) calendar days before renewal or replacement of coverage. Contractor shall provide the State evidence that all subcontractors maintain the required insurance or that subcontractors are included under the Contractor's policy. At any time, the State may require Contractor to provide a valid COI. The parties agree that failure to provide evidence of insurance coverage as required is a material breach of this Contract. If Contractor self-insures, then a COI will not be required to prove coverage. Instead Contractor shall provide a certificate of self-insurance or a letter, on Contractor's letterhead, detailing its coverage, policy amounts, and proof of funds to reasonably cover such expenses.

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.

**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).

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 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 employs 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.

c. Automobile Liability Insurance

- 1) The Contractor shall maintain automobile liability insurance which shall cover liability arising out of any automobile (including owned, leased, hired, and non-owned automobiles).
- 2) The Contractor shall maintain bodily injury/property damage with a limit not less than one million dollars (\$1,000,000) per occurrence or combined single limit.

D.33. Major Procurement Contract Sales and Use Tax. Pursuant to Tenn. Code Ann. § 4-39-102 and to the extent applicable, the Contractor and the Contractor's subcontractors shall remit sales and use taxes on the sales of goods or services that are made by the Contractor or the Contractor's subcontractors and that are subject to tax.

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. 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.

IN WITNESS WHEREOF,

VANDERBILT UNIVERSITY:

Janiece Harrison,  
Assistant Provost for  
Research Operations

Digitally signed by Janiece Harrison, Assistant  
Provost for Research Operations  
DN: cn=Janiece Harrison, Assistant Provost for  
Research Operations, o=Vanderbilt University,  
ou=Sponsored Programs Administration,  
email=janiece.harrison@vanderbilt.edu, c=US  
Date: 2018.04.18 08:53:01 -05'00'

32-34-127A

18 April, 2018

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**CONTRACTOR SIGNATURE**

**DATE**

Janiece Harrison, Director, Sponsored Programs Administration

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

**TENNESSEE DEPARTMENT OF EDUCATION:**

Candice McQueen\_jc

Digitally signed by Candice McQueen\_jc  
DN: cn=Candice McQueen\_jc, o, ou=TN:Department  
of Education, email=joanna.collins@tn.gov, c=US  
Date: 2018.04.19 11:00:58 -05'00'

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**DR. CANDICE MCQUEEN, COMMISSIONER**

**DATE**



## CONTRACT AMENDMENT COVER SHEET

Agency Tracking # 33111 -00518	Edison ID 58215	Contract # 58215	Amendment # 1		
Contractor Legal Entity Name Vanderbilt University			Edison Vendor ID 91864		
Amendment Purpose & Effect(s) Extend contract end date, increase maximum liability, update delivery dates in scope and payment, update payment rates					
Amendment Changes Contract End Date: <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO		End Date: 12/31/2019			
TOTAL Contract Amount INCREASE or DECREASE per this Amendment (zero if N/A):			<b>\$ 200,000.00</b>		
Funding —					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2018	\$138,000.00				\$138,000.00
2019	\$130,000.00				\$130,000.00
2020	\$70,000.00				\$70,000.00
<b>TOTAL:</b>	<b>\$338,000.00</b>				<b>\$338,000.00</b>
American Recovery and Reinvestment Act (ARRA) Funding: <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO					
<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.  			<i>CPO USE</i>		
Speed Chart (optional) ED00000459		Account Code (optional) 70803000			

**AMENDMENT 1  
OF CONTRACT 58215**

This Amendment is made and entered by and between the State of Tennessee, Department of Education, hereinafter referred to as the "State" and Vanderbilt University, hereinafter referred to as the "Contractor." For good and valuable consideration, the sufficiency of which is hereby acknowledged, it is mutually understood and agreed by and between said, undersigned contracting parties that the subject contract is hereby amended as follows:

1. Contract A. 2. is deleted in its entirety and replaced with the following:

A.2. The Contractor will design and administer the annual educator survey to Tennessee educators, collect responses, and provide several data files and reports with final results. The Tennessee Education Research Alliance ("TERA") is a research-practice partnership between the State and Contractor, the offices of which are housed in the Contractor's Peabody College.

The detailed and specific work of the Contract under each larger deliverable listed in A.3. through A.6., including commitments by both parties, will be outlined and agreed upon by both parties in writing through a detailed annual workplan by September 15 of each year of the Contract term. Specifically, the Contractor will provide the services detailed in A.3. to A.5. The State agrees to provide services or requirements as outlined in A.6.

2. Contract A.3. is deleted in its entirety and replaced with the following:

A.3. To create the annual educator survey, the Contractor shall by March 1, of each year of the Contract term, or earlier as established in the annual work plan :

- a. Develop survey content and structure with input from the State and TERA researchers.
- b. Create the following final survey sections with input from the State and TERA researchers:
  - a. A primary "core" teacher survey to send to all teachers in the state
    - i. Teacher survey modules to send to randomized groups of teachers
    - ii. A primary "core" administrator survey to send to all administrators in the state
    - iii. Administrator modules to send to randomized groups of administrators
    - iv. Mini-branches for subsets of teachers
- b. Create a stand-alone document named "Matched with Results" that contains file dictionary information and an exact replica of the online survey on timeline specified in work plan.
- c. Propose rules for ensuring the proper granularity of detail in public reporting so as to prevent disclosure or identification of individual respondents.
- d. Using files included in the TERA dataset and provided by the State under contract number 33111-00617 executed by both parties on August 15, 2017, create survey sampling frame.
- e. Create process to identify teachers and administrators who should receive branching questions from the survey core and to identify randomized samples of teachers and administrators to receive survey modules.
- f. Run data checks to ensure that the process runs correctly.
- g. Collect survey piloting feedback from teacher participants. Feedback will include, but is not limited to, spelling and grammar issues, platform functionality, and survey length.
- h. Check for consistency of survey language and response choices across questions and survey forms.
- i. Verify that requested survey structure (e.g. branches, matrices, piping, etc.) functions effectively in the online survey platform.
- j. Submit an institutional review board (IRB) application to Vanderbilt and receive approval for the survey's administration.

3. Contract A.4. is deleted in its entirety and replaced with the following:

A.4. To administer the annual educator survey, the Contractor shall by April 30 of each year of the Contract term, or earlier as established in the annual workplan:

- a. Review and revise the procedures used to troubleshoot technical issues as well as to address educator questions and concerns about survey invitations. Work with the State to address any issues through the State IT systems as needed.
- b. Implement a coherent system for distribution and subsequent communication of the educator survey. Specifically, send an original survey invitation (via email link) to all intended recipients on timeline specified in workplan; send or facilitate the sending of weekly reminder emails only to those who have not yet completed the survey; and coordinate additional survey outreach with the State. The Contractor will provide a file containing the email addresses, survey links, and other necessary and available information on educators who have not yet taken the survey to the State when requested.
- c. Provide the State with a report of teacher and administrator response rate files at the school, district, and state level at least twice a week during the time that the survey window is open. Until distribution problems are resolved (no districts with more than 5% bounced emails), the Contractor will provide an additional file weekly showing the number and rate of problematic deliveries (bounced emails, emails delivered but not read, etc.).
- d. Run lotteries to pick survey incentive winners based on State-developed criteria.
- e. Maintain a survey-related email address dedicated to requests for assistance from Tennessee educators. Respond to all requests for assistance within two business days.

5. Contract A.5. is deleted in its entirety and replaced with:

A.5. To analyze and provide data from the annual educator survey, the Contractor shall:

- a. Collect all survey data and clean as necessary to create a file of individual responses tagged to each survey question. Responses should be identified by license number.
- b. Provide a results data file in Stata format to the State within two weeks of survey completion and by April 30 of each year of the Contract term, or earlier as established in the annual workplan. These data will be owned and may be used by both the Contractor and the State.
- c. Upon the completion of weighting for survey results, provide a stata results data file to the State that contains all weights by June 30 of each year of the Contract term, or earlier as established in the annual workplan. These data will be owned and may be used by both the Contractor and the State.
- d. Provide a detailed memo and/or code book that explains the weights contained in the stata results data file.
- e. Work with State to develop a quality assessment protocol for the .json and excel file creation process.
- f. By August 1 of each year of the Contract term or earlier as established in the annual workplan, using suppression rules provided by the State, provide weighted, suppressed state-level and district-level excel workbooks for the teacher and administrator branches. Provide final .json and gz.json files on timeline specified in workplan that include the following
  - a. Questions.json
  - b. Demographic jsons (e.g., school.json, district\_teacher.json, etc.)
  - c. District-level .json files for the following:
    - d. Teacher core with additional filters (e.g., Pre-K, K-8, High School, Tested, and Untested)
    - e. Teacher branches
    - f. Administrator core and administrator branches
    - g. School-level .json files for the teacher core
- g. Provide school-level excel workbooks to include questions from the teacher core on timeline specified in workplan (and by at least June 30).
- h. Provide state-level and district-level excel workbooks including results from the administrator core on timeline specified in workplan.
- i. Provide state level workbooks including results from teacher and administrator modules on timeline specified in workplan.
- j. Run data checks to ensure that the files are produced correctly.
- k. Complete all processing within stata with programs and documentation shared with the State within two weeks of completion.
- l. Complete analyses using survey data as agreed upon by Contractor and the State by

December 31 of each year of the Contract term, or earlier as established in the annual workplan.

6. Contract section B.1. is deleted in its entirety and replaced with the following:

B.1. This contract shall be effective on April 27, 2018 ("Effective Date") and end December 31, 2019 ("Term"). The State shall have no obligation for good or services provided by the Contractor prior to the Effective Date.

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

C.1. **Maximum Liability.** In no event shall the maximum liability of the State under this Contract exceed three hundred thirty-eight thousand dollars (\$338,000.00) ("Maximum Liability"). This Contract does not grant the Contractor 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 contractors will only be paid for goods and services provided under this contract after a purchase order is issued to Contractor by the State or as otherwise specified by this contract.

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

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>
A.3. - Survey constructed, prepared for administration along with a Matched with Results Document.	\$50,000.00 upon completion
A.4. - Survey administered; Biweekly Response Rate Files Delivered to the State.	\$35,000.00 upon completion
A.5.a. & A.5.b. - Unweighted, Cleaned Survey Analytical Data File Delivered to the State.	\$10,000.00 upon completion
A.5.c-e. - Survey weights delivered. Administrator evaluation files delivered the State.	\$35,000.00 upon completion
A.5.f-j. - Website Files including .json delivered to the State.	\$50,000.00 upon completion
A.5.i. - Complete analyses using survey data delivered to the State.	\$20,000.00 upon completion

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

Amendment Effective Date. The revisions set forth herein shall be effective 12/31/2018. All other terms and conditions of this Contract not expressly amended herein shall remain in full force and effect.

**IN WITNESS WHEREOF,**

**VANDERBILT UNIVERSITY:**

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**SIGNATURE**

**DATE**

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

**TENNESSEE DEPARTMENT OF EDUCATION:**

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**CANDICE MCQUEEN, COMMISSIONER**

**DATE**