



**STATE OF TENNESSEE**  
**DEPARTMENT OF COMMERCE AND INSURANCE**  
500 JAMES ROBERTSON PARKWAY  
NASHVILLE, TENNESSEE 37243  
615-532-5259

May 22, 2019

Fiscal Review Committee  
8<sup>th</sup> Floor Rachel Jackson Building  
Nashville, Tennessee 37243

Re: **Proposed Contract – RFS #33501-19C0102**

Dear Fiscal Review Committee:

The following information is provided in support of the proposed contract submitted for consideration and approval of the Fiscal Review Committee.

**Procurement Purpose**

The Department of Commerce and Insurance (“TDCI”), Tennessee Law Enforcement Training Academy (“TLETA”) and Tennessee Fire Service and Codes Enforcement Academy (“TFACA”) are responsible for training firefighting and law enforcement personnel throughout the state of Tennessee. TLETA and TFACA procured the Acadis Readiness Suite (“Acadis”) from Envisage Technologies (“Envisage”) in 2011 and 2012. Acadis is a web-based commercial off-the-shelf (“COTS”) software package that is specific to first responder training modernization and automation. The software package provides the State of Tennessee legally defensible information about all emergency responders and law enforcement officers in a single system. A public facing portal provides emergency response personnel the ability to register for classes and track certifications. The Tennessee Emergency Management Agency (“TEMA”) purchased the Acadis Readiness Suite soon after TLETA and TFACA implemented their systems.

In 2016, at the request of TLETA, TFACA, and TEMA (“Agencies”), the Department of General Services Central Procurement Office (“CPO”) and the Department of Finance and Administration Strategic Technology Solutions (“STS”) created a sole source statewide contract for the provision of Acadis Software and Support (“SWC119”). Maintenance and support invoices for software purchased by the Agencies have been paid utilizing SWC119 and the proposed contract secures the ongoing maintenance and support required to ensure the Acadis system remains up to date; any issues encountered by the Agencies are addressed immediately; and the proposed contract is priced at a discounted rate.

## Justification for Proposed Contract

The reduced prices for ongoing maintenance and support provided to the Agencies through Fiscal Year 2019 were quoted by Envisage at the time the software modules were purchased. It was agreed the Agencies would transition to SWC119 terms and pricing. Upon review of SWC119 terms and pricing, it was determined the combined total of the ongoing maintenance and support for the Agencies would be \$426,000.00 per year, or \$2,130,000.00 for a five (5) year term. Discussions between the Agencies, CPO, STS, and Envisage resulted in a new proposal from the contractor for \$100,000.00 per year, or \$500,000.00 for a five (5) year term. This proposal applies to all Acadis modules already purchased and implemented by the Agencies. Any additional modules, as well as the associated maintenance and support, will be purchased using SWC119 by the individual agencies.

The proposed contract will provide that TDCI pays Envisage annual maintenance and support invoices for the Agencies. A separate Interagency Agreement will provide for TEMA to pay TDCI for their portion of the annual cost.

Acadis is proprietary software owned and solely supported by Envisage. TDCI has worked with Envisage to develop, install, implement, and support Acadis Software Modules since the initial purchase in 2011. State employees and Tennessee emergency response personnel actively use Acadis for training and certification conducted through TLETA and TFACA. TEMA's data will be merged and consolidated upon execution of this proposed contract. The cost to the Agencies, including STS and CPO, associated with identifying, developing, purchasing, testing, implementing, training, and transferring data from Acadis to different software would be too great. By combining the resources of the Agencies, the State captures a 75% discount off SWC119 price, or a savings of \$1,630,000.00 over a five (5) year term. Therefore, it is in the best interest of both Departments for TDCI to contract with Envisage, separate from SWC119, for Envisage's services.

Please advise if you have any questions or the Committee requires any additional information.

Respectfully,



Paul Hartbarger  
Assistant Commissioner  
(615) 532-5259  
[Paul.Hartbarger@tn.gov](mailto:Paul.Hartbarger@tn.gov)

Supplemental Documentation Required for  
Fiscal Review Committee

*Contact Name:	Paul Hartbarger	*Contact Phone:	615-532-5259		
*Presenter's name(s):	Paul Hartbarger				
Edison Contract Number: <i>(if applicable)</i>		RFS Number: <i>(if applicable)</i>	33501-19C0102		
*Original or Proposed Contract Begin Date:	08/01/2019	*Current or Proposed End Date:	07/31/2024		
Current Request Amendment Number: <i>(if applicable)</i>	N/A				
Proposed Amendment Effective Date: <i>(if applicable)</i>	N/A				
*Department Submitting:	Commerce and Insurance				
*Division:	TN Fire and Codes Academy; TN Law Enforcement Training Academy				
*Date Submitted:	05/24/19				
*Submitted Within Sixty (60) days:	Yes				
<i>If not, explain:</i>					
*Contract Vendor Name:	Envisage Technologies, LLC				
*Current or Proposed Maximum Liability:	\$500,000.00				
*Estimated Total Spend for Commodities:	\$500,000.00				
<b>*Current or Proposed Contract Allocation by Fiscal Year: (as Shown on Most Current Fully Executed Contract Summary Sheet)</b>					
FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	
\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00	\$100,000.00	
<b>*Current Total Expenditures by Fiscal Year of Contract: (attach backup documentation from Edison)</b>					
<b>IF</b> Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:		N/A			
<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			

Supplemental Documentation Required for  
Fiscal Review Committee

<b>*Contract Funding Source/Amount:</b>			
State:	\$400,000.00	Federal:	
<i>Interdepartmental:</i>	\$100,000.00	<i>Other:</i>	
If “ <i>other</i> ” please define:			
If “ <i>interdepartmental</i> ” please define:		Interagency Agreement with TN Emergency Management Agency for the provision of Acadis Software Maintenance and Support	
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>		Statewide contract SWC119	
*What were the projected costs of the service for the entire term of the contract prior to contract award? How was this cost determined?		\$2,130,000.00 Projected cost calculated using statewide contract (SWC119) pricing	
*List number of other potential vendors who could provide this good or service; efforts to identify other competitive procurement alternatives; and the reason(s) a sole-source contract is in the best interest of the State.		The Acadis Readiness Suite is proprietary software owned and solely supported by Envisage Technologies. Commerce and Insurance has worked with Envisage Technologies to develop, install, implement, and support Acadis Software Modules since the initial purchase in 2011. The cost associated with identifying, developing, and purchasing a different software package would be great.	



# STIS Pre-Approval Endorsement Request E-Mail Transmittal

**TO :** STIS Contracts  
Department of Finance & Administration  
E-mail : [it.abc@tn.gov](mailto:it.abc@tn.gov)

**FROM :** Angela Lay  
E-mail : [Angela.Lay@tn.gov](mailto:Angela.Lay@tn.gov)

**DATE :** 01/15/2019 **Received by STIS on Tuesday, January 22, 2019**

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

**Applicable RFS # 33501-19C0102**

### State Security Confidential Information Applicability

Under Tenn. Code Ann. §10-7-504(i) vendor identity or a description of the goods or services provided by the vendor shall be confidential.

- Applicable  
 Not Applicable

Additional language is attached and endorsement is contingent upon inclusion of this additional language:

- Applicable  
 Not Applicable

### STIS Endorsement Signature & Date:

**Chief Information Officer**

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

Strategic Technology Solutions (STIS) 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 STIS 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 STIS endorsement of the described procurement (with the appropriate signature above), and return this document via e-mail at your earliest convenience.

**Contracting Agency**

**Commerce and Insurance**

<b>Applicable RFS # 33501-19C0102</b>	
<b>Agency Contact</b> (name, phone, e-mail)	<b>Angela Lay, 615-741-4703, Angela.Lay@tn.gov</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 STS. Special Contract Requests and Amendment Requests without Agency Head signature are acceptable. STS is aware that these documents will not have CPO signature when submitted with this request.</p> <p> <input type="checkbox"/> Solicitation Document  <input checked="" type="checkbox"/> Special Contract Request  <input type="checkbox"/> Amendment Request  <input type="checkbox"/> Proposed Contract/Grant or Amendment  <input type="checkbox"/> Original Contract/Grant and Previous Amendments (if any) </p>	
<p><b>Information Systems Plan (ISP) Project Applicability</b></p> <p>To avoid delay of STS pre-approval, the applicability of an ISP project to the procurement must be confirmed with agency IT staff prior to submitting this request to STS. If necessary, agency IT staff should contact STS Planning with questions concerning the need for an ISP project.</p> <p>IT Director/Staff Name Confirming (required): Michael R. Flowers</p> <p> <input checked="" type="checkbox"/> Applicable – Approved ISP Project# 1000425 and 1007016  <input type="checkbox"/> Not Applicable </p>	
<p><b>Subject Information Technology Service Description</b></p> <p>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.</p> <p>Establish a sole-source Agency Term Contract to be used by the Department of Commerce and Insurance and TEMA to purchase Acadis software annual maintenance and support from Envisage Technologies LLC.</p>	

## Attachment: STS Endorsement Conditions

### **This STS endorsement is contingent upon modification of the procurement documents as described below.**

If the contractor will be collecting, storing, processing, or transmitting confidential data, add the following to the Master Agreement:

#### Contractor Hosted Services Confidential Data, Audit, and Other Requirements

- Confidential State Data” is defined as data deemed confidential by State or Federal statute or regulation. The Contractor shall protect Confidential State Data as follows:
  - (1) The Contractor shall ensure that all Confidential State Data is housed in the continental United States, inclusive of backup data.
  - (2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard (“FIPS”) 140-2 validated encryption technologies.
  - (3) The Contractor and the Contractor’s processing environment containing Confidential State Data shall either (1) be in accordance with at least one of the following security standards: (i) International Standards Organization (“ISO”) 27001; (ii) Federal Risk and Authorization Management Program (“FedRAMP”); or (2) be subject to an annual engagement by a CPA firm in accordance with the standards of the American Institute of Certified Public Accountants (“AICPA”) for a System and Organization Controls for service organizations (“SOC”) Type II audit. The State shall approve the SOC audit control objectives. The Contractor shall provide proof of current ISO certification or FedRAMP authorization for the Contractor and Subcontractor(s), or provide the State with the Contractor’s and Subcontractor’s annual SOC Type II audit report within 30 days from when the CPA firm provides the audit report to the Contractor or Subcontractor. The Contractor shall submit corrective action plans to the State for any issues included in the audit report within 30 days after the CPA firm provides the audit report to the Contractor or Subcontractor.

If the scope of the most recent SOC audit report does not include all of the current State fiscal year, upon request from the State, the Contractor must provide to the State a letter from the Contractor or Subcontractor stating whether the Contractor or Subcontractor made any material changes to their control environment since the prior audit and, if so, whether the changes, in the opinion of the Contractor or Subcontractor, would negatively affect the auditor’s opinion in the most recent audit report.

No additional funding shall be allocated for these certifications, authorizations, or audits as these are included in the Maximum Liability of this Contract.

- (4) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. “Processing Environment” shall mean the combination of software and hardware on which the Application runs. “Application” shall mean the computer code that supports and accomplishes the State’s requirements as set forth in this Contract. “Penetration Tests” shall be in the form of attacks on the Contractor’s computer system, with the purpose of discovering security weaknesses which have the potential to gain access to the Processing Environment’s features and data. The “Vulnerability Assessment” shall be designed and executed to define, identify, and classify the security holes (vulnerabilities) in the Processing Environment. The Contractor shall allow the State, at its option, to perform

## Attachment: STS Endorsement Conditions

### This STS endorsement is contingent upon modification of the procurement documents as described below.

Penetration Tests and Vulnerability Assessments on the Processing Environment.

- (5) Upon State request, the Contractor shall provide a copy of all Confidential State Data it holds. The Contractor shall provide such data on media and in a format determined by the State
- (6) Upon termination of this Contract and in consultation with the State, the Contractor shall destroy all Confidential State Data it holds (including any copies such as backups) in accordance with the current version of National Institute of Standards and Technology (“NIST”) Special Publication 800-88. The Contractor shall provide a written confirmation of destruction to the State within ten (10) business days after destruction.

- Minimum Requirements

- (1) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State’s Enterprise Information Security Policies as amended periodically. The State’s Enterprise Information Security Policies document is found at the following URL: <https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>.
- (2) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. “Operating System” shall mean the software that supports a computer’s basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
- (3) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are at all times fully compatible with current versions of the Operating System and Application to ensure that security vulnerabilities are not introduced.

If there is no confidential information, add the following to the Master Agreement:

- Minimum Requirements

- (4) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State’s Enterprise Information Security Policies as amended periodically. The State’s Enterprise Information Security Policies document is found at the following URL: <https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>.

STS observed that the Master Agreement section 10.3 covers availability service levels. It appears that disaster recovery objectives are not covered. STS recommend adding the FA contract model Business Continuity Requirements to Master Agreement section 9.9:

Business Continuity Requirements. The Contractor shall maintain set(s) of documents, instructions, and procedures which enable the Contractor to respond to accidents, disasters, emergencies, or threats without any stoppage or hindrance in its key operations (“Business Continuity Requirements”). Business Continuity Requirements shall include:

## Attachment: STS Endorsement Conditions

**This STS endorsement is contingent upon modification of the procurement documents as described below.**

- (1) “Disaster Recovery Capabilities” refer to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives defined below. Disaster Recovery Capabilities shall meet the following objectives:
  - i. Recovery Point Objective (“RPO”). The RPO is defined as the maximum targeted period in which data might be lost from an IT service due to a major incident: **[NUMBER OF HOURS/MINUTES – To be set by agency]**
  - ii. Recovery Time Objective (“RTO”). The RTO is defined as the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity: **[NUMBER OF HOURS/MINUTES – To be set by agency]**

The Contractor and the Subcontractor(s) shall perform at least one Disaster Recovery Test every three hundred sixty-five (365) days. A “Disaster Recovery Test” shall mean the process of verifying the success of the restoration procedures that are executed after a critical IT failure or disruption occurs. The Disaster Recovery Test shall use actual State Data Sets that mirror production data, and success shall be defined as the Contractor verifying that the Contractor can meet the State’s RPO and RTO requirements. A “Data Set” is defined as a collection of related sets of information that is composed of separate elements but can be manipulated as a unit by a computer. The Contractor shall provide written confirmation to the State after each Disaster Recover Test that its Disaster Recovery Capabilities meet the RPO and RTO requirements.

## Attachment: Other Endorsement Conditions

If the contractor will be collecting, storing, processing, or transmitting confidential data, the Central Procurement Office (CPO) fee for service contracts instructions require inclusion of the following Comptroller Audit Requirements:

### Comptroller Audit Requirements

Upon reasonable notice and at any reasonable time, the Contractor and Subcontractor(s) agree to allow the State, the Comptroller of the Treasury, or their duly appointed representatives to perform information technology control audits of the Contractor and all Subcontractors used by the Contractor. Contractor will maintain and cause its Subcontractors to maintain a complete audit trail of all transactions and activities in connection with this Contract. Contractor will provide to the State, the Comptroller of the Treasury, or their duly appointed representatives access to Contractor and Subcontractor(s) personnel for the purpose of performing the information technology control audit.

The information technology control audit may include a review of general controls and application controls. General controls are the policies and procedures that apply to all or a large segment of the Contractor's or Subcontractor's information systems and applications and include controls over security management, access controls, configuration management, segregation

If the contractor will be collecting, storing, processing, or transmitting confidential data, the CPO fee for service contracts instructions require inclusion of the following Personally Identifiable Information language:

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 or ensure 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.

## **Attachment: Other Endorsement Conditions**

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.

**TO:** Chris Salita, Director of Sourcing  
Kevin C. Bartels, Staff Attorney-Sourcing

**FROM:** Mike Bentheimer, Sourcing Analyst

**DATE:** March 4, 2019

**SUBJECT:** Recommendation of Special Contract Request (cy19-12855)

The Tennessee Department of Commerce and Insurance is a 5 year sole source contract for \$500,000 for annual subscription for Acadis software maintenance and support. The Department was told by CPO Lead Attorney Paul Krivaka that they could pursue this avenue of contracting with the vendor if they could achieve a cheaper price than what is currently on Statewide. DCI is receiving GSA pricing on this contract. The Acadis software is furthermore solely owned and maintained by Envisiage Technologies.

I, Mike Bentheimer, recommend this sole source request for approval.

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Director of Sourcing

Date

---

Staff Attorney

3/5/19

Date

# 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>	<b>APPROVED</b>
CHIEF PROCUREMENT OFFICER	COMPTROLLER OF THE TREASURY
DATE	DATE

<b>Request Tracking #</b>	<b>33501-19C0102</b>
<b>1. Contracting Agency</b>	<b>Commerce and Insurance</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>Angela Lay, <a href="mailto:Angela.Lay@tn.gov">Angela.Lay@tn.gov</a>, 615-741-4703</b>
<b>4. Brief Goods or Services Caption</b>	<b>Acadis Software Maintenance</b>
<b>5. Description of the Goods or Services to be Acquired</b>	<b>Annual subscription for Acadis software maintenance and support</b>
<b>6. Proposed Contractor</b>	<b>Envisage Technologies</b>
<b>7. Name &amp; Address of the Contractor's principal owner(s)</b> <i>– NOT required for a TN state education institution</i>	<b>Ari Vidali, Founder and CEO, 101 West Kirkwood Ave, Suite 200, Bloomington, IN 47404</b>
<b>8. Proposed Contract Period</b> – with ALL options to extend exercised <i>The proposed contract start date shall follow the approval date of this request.</i>	<b>60 months</b>
<b>9. Strategic Technology Solutions (“STS”) Pre-Approval Endorsement Request</b> <i>– information technology (N/A to THDA)</i>	<input type="checkbox"/> Not Applicable <input checked="" type="checkbox"/> Attached
<b>10. eHealth Pre-Approval Endorsement Request</b> <i>– health-related professional, pharmaceutical, laboratory, or imaging</i>	<input checked="" type="checkbox"/> Not Applicable <input type="checkbox"/> Attached

<b>Request Tracking #</b>	<b>33501-19C0102</b>
<b>11. Human Resources Pre-Approval Endorsement Request</b> – contracts with an individual, state employee training, or services related to the employment of current or prospective state employees	<input checked="" type="checkbox"/> <b>Not Applicable</b> <input type="checkbox"/> <b>Attached</b>
<b>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.</b>	<input type="checkbox"/> <b>NO</b> <input checked="" type="checkbox"/> <b>YES, The contractor is offering GSA pricing that is significantly lower than an initial estimate based on SWC pricing.</b>
<b>13. Maximum Contract Cost – with ALL options to extend exercised</b>	<b>\$ 500,000.00</b>
<b>14. Was there an initial government estimate? If so, what amount?</b>	<input type="checkbox"/> <b>NO</b> <input checked="" type="checkbox"/> <b>YES, \$2,130,000.00</b>
<b>15. Cost Determination Used-</b> How did agency arrive at the estimate of expected costs?	<b>SWC119 Acadis New Software Support Catalog</b>
<b>16. Explanation of Fair and Reasonable Price-</b> Explain how agency determined that price is fair and reasonable	<b>The proposal price is 25% of the negotiated SWC price.</b>
<b>17. Documentation of Discussions with Contractor-</b> How did agency document discussions with Contractor? Attach documentation to this request as applicable.	<b>Emails</b>
<b>18. Explanation of Need for or requirement placed on the State to acquire the goods or services</b>	<b>The Departments of Commerce and Insurance and Military are currently using Acadis Software modules to create a single portal for all emergency personnel training and certification conducted through the Tennessee Fire and Codes Academy (TFACA), Tennessee Law Enforcement Training Academy (TLETA), and Tennessee Emergency Management Agency (TEMA). This contract secures the support and ongoing maintenance required to ensure the Acadis system remains up to date and that any issues encountered by either department are addressed immediately.</b>
<b>19. Proposed contract impact on current State operations</b>	<b>It ensures continuity of services used by both departments and minimizes any downtime experienced by end users</b>
<b>20. Justification</b> – Specifically explain why the goods or services should be acquired through the procurement method or contract type selected.	<b>The Acadis Software is solely owned and maintained by Envisage Technologies. By partnering with the Department of Military and TEMA, Commerce and Insurance is able to capture cost savings for both departments that cannot be captured using the SWC.</b>
<b>For No Cost and Revenue Contracts Only</b>	
<b>21. What costs will the State incur as a result of this contract? If any, please explain.</b>	

<b>Request Tracking #</b>	<b>33501-19C0102</b>
<b>22. What is the total estimated revenue that the State would receive as a result of this contract?</b>	
<b>23. Could the State also contract with other parties interested in entering substantially the same agreement? Please explain.</b>	<input type="checkbox"/> NO <input type="checkbox"/> YES
<b>24. Summary of State responsibilities under proposed contract</b>	
<b>For Sole Source and Proprietary Procurements Only</b>	
<b>25. Evidence of Contractor's experience &amp; length of experience providing the goods or services to be procured.</b>	Commerce and Insurance has worked with Envisage Technologies to develop, install, implement, and support Acadis Software Modules since the initial purchase in 2012.
<b>26. 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.</b>	<input type="checkbox"/> NO <input checked="" type="checkbox"/> YES, Method: Sole Source ITB Contract Name/Address: Envisage Technologies 101 West Kirkwood Ave, Suite 200, Bloomington, IN 47404
<b>27. Contractor selection process and efforts to identify reasonable, competitive, procurement alternatives</b>	Since the Acadis Software is already in place at both departments and is proprietary software owned by Envisage, the software maintenance can only be provided by Envisage. The cost associated with identifying, developing, and purchasing a different software package would be too costly
<b>Signature Required for all Special Contract Requests</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)	
 <p>Digitally signed by James Paul Hartbarger DN: cn=James Paul Hartbarger, o=Commerce and Insurance, ou=Administration, email=paul.hartbarger@tn.gov, c=US Date: 2019.03.01 14:53:31 -06'00'</p>	
Signature: _____	Date: _____



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

**TO :** STIS Contracts  
Department of Finance & Administration  
E-mail : [it.abc@tn.gov](mailto:it.abc@tn.gov)

**FROM :** Angela Lay  
E-mail : [Angela.Lay@tn.gov](mailto:Angela.Lay@tn.gov)

**DATE :** 01/15/2019 **Received by STIS on Tuesday, January 22, 2019**

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

**Applicable RFS # 33501-19C0102**

### State Security Confidential Information Applicability

Under Tenn. Code Ann. §10-7-504(i) vendor identity or a description of the goods or services provided by the vendor shall be confidential.

- Applicable  
 Not Applicable

Additional language is attached and endorsement is contingent upon inclusion of this additional language:

- Applicable  
 Not Applicable

### STIS Endorsement Signature & Date:

**Stephanie Dedmon,**  
**CIO (WMH)**

Digitally signed by Stephanie Dedmon, CIO (WMH)  
DN: cn=Stephanie Dedmon, CIO (WMH), o=Tennessee  
Department of Finance and Admin, ou=Strategic  
Technology Solutions, email=william.hafley@tn.gov, c=US  
Date: 2019.02.07 13:42:49 -06'00'

**Chief Information Officer**

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

Strategic Technology Solutions (STIS) 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 STIS 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 STIS endorsement of the described procurement (with the appropriate signature above), and return this document via e-mail at your earliest convenience.

**Contracting Agency**

**Commerce and Insurance**

<b>Applicable RFS # 33501-19C0102</b>	
<b>Agency Contact</b> (name, phone, e-mail)	<b>Angela Lay, 615-741-4703, Angela.Lay@tn.gov</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 STS. Special Contract Requests and Amendment Requests without Agency Head signature are acceptable. STS is aware that these documents will not have CPO signature when submitted with this request.</p> <p> <input type="checkbox"/> Solicitation Document  <input checked="" type="checkbox"/> Special Contract Request  <input type="checkbox"/> Amendment Request  <input type="checkbox"/> Proposed Contract/Grant or Amendment  <input type="checkbox"/> Original Contract/Grant and Previous Amendments (if any) </p>	
<p><b>Information Systems Plan (ISP) Project Applicability</b></p> <p>To avoid delay of STS pre-approval, the applicability of an ISP project to the procurement must be confirmed with agency IT staff prior to submitting this request to STS. If necessary, agency IT staff should contact STS Planning with questions concerning the need for an ISP project.</p> <p>IT Director/Staff Name Confirming (required): Michael R. Flowers</p> <p> <input checked="" type="checkbox"/> Applicable – Approved ISP Project# 1000425 and 1007016  <input type="checkbox"/> Not Applicable </p>	
<p><b>Subject Information Technology Service Description</b></p> <p>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.</p> <p>Establish a sole-source Agency Term Contract to be used by the Department of Commerce and Insurance and TEMA to purchase Acadis software annual maintenance and support from Envisage Technologies LLC.</p>	

## Attachment: STS Endorsement Conditions

### **This STS endorsement is contingent upon modification of the procurement documents as described below.**

If the contractor will be collecting, storing, processing, or transmitting confidential data, add the following to the Master Agreement:

#### Contractor Hosted Services Confidential Data, Audit, and Other Requirements

- Confidential State Data” is defined as data deemed confidential by State or Federal statute or regulation. The Contractor shall protect Confidential State Data as follows:
  - (1) The Contractor shall ensure that all Confidential State Data is housed in the continental United States, inclusive of backup data.
  - (2) The Contractor shall encrypt Confidential State Data at rest and in transit using the current version of Federal Information Processing Standard (“FIPS”) 140-2 validated encryption technologies.
  - (3) The Contractor and the Contractor’s processing environment containing Confidential State Data shall either (1) be in accordance with at least one of the following security standards: (i) International Standards Organization (“ISO”) 27001; (ii) Federal Risk and Authorization Management Program (“FedRAMP”); or (2) be subject to an annual engagement by a CPA firm in accordance with the standards of the American Institute of Certified Public Accountants (“AICPA”) for a System and Organization Controls for service organizations (“SOC”) Type II audit. The State shall approve the SOC audit control objectives. The Contractor shall provide proof of current ISO certification or FedRAMP authorization for the Contractor and Subcontractor(s), or provide the State with the Contractor’s and Subcontractor’s annual SOC Type II audit report within 30 days from when the CPA firm provides the audit report to the Contractor or Subcontractor. The Contractor shall submit corrective action plans to the State for any issues included in the audit report within 30 days after the CPA firm provides the audit report to the Contractor or Subcontractor.

If the scope of the most recent SOC audit report does not include all of the current State fiscal year, upon request from the State, the Contractor must provide to the State a letter from the Contractor or Subcontractor stating whether the Contractor or Subcontractor made any material changes to their control environment since the prior audit and, if so, whether the changes, in the opinion of the Contractor or Subcontractor, would negatively affect the auditor’s opinion in the most recent audit report.

No additional funding shall be allocated for these certifications, authorizations, or audits as these are included in the Maximum Liability of this Contract.

- (4) The Contractor must annually perform Penetration Tests and Vulnerability Assessments against its Processing Environment. “Processing Environment” shall mean the combination of software and hardware on which the Application runs. “Application” shall mean the computer code that supports and accomplishes the State’s requirements as set forth in this Contract. “Penetration Tests” shall be in the form of attacks on the Contractor’s computer system, with the purpose of discovering security weaknesses which have the potential to gain access to the Processing Environment’s features and data. The “Vulnerability Assessment” shall be designed and executed to define, identify, and classify the security holes (vulnerabilities) in the Processing Environment. The Contractor shall allow the State, at its option, to perform

## Attachment: STS Endorsement Conditions

### This STS endorsement is contingent upon modification of the procurement documents as described below.

Penetration Tests and Vulnerability Assessments on the Processing Environment.

- (5) Upon State request, the Contractor shall provide a copy of all Confidential State Data it holds. The Contractor shall provide such data on media and in a format determined by the State
- (6) Upon termination of this Contract and in consultation with the State, the Contractor shall destroy all Confidential State Data it holds (including any copies such as backups) in accordance with the current version of National Institute of Standards and Technology (“NIST”) Special Publication 800-88. The Contractor shall provide a written confirmation of destruction to the State within ten (10) business days after destruction.

- Minimum Requirements

- (1) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State’s Enterprise Information Security Policies as amended periodically. The State’s Enterprise Information Security Policies document is found at the following URL: <https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>.
- (2) The Contractor agrees to maintain the Application so that it will run on a current, manufacturer-supported Operating System. “Operating System” shall mean the software that supports a computer’s basic functions, such as scheduling tasks, executing applications, and controlling peripherals.
- (3) If the Application requires middleware or database software, Contractor shall maintain middleware and database software versions that are at all times fully compatible with current versions of the Operating System and Application to ensure that security vulnerabilities are not introduced.

If there is no confidential information, add the following to the Master Agreement:

- Minimum Requirements

- (4) The Contractor and all data centers used by the Contractor to host State data, including those of all Subcontractors, must comply with the State’s Enterprise Information Security Policies as amended periodically. The State’s Enterprise Information Security Policies document is found at the following URL: <https://www.tn.gov/finance/strategic-technology-solutions/strategic-technology-solutions/sts-security-policies.html>.

STS observed that the Master Agreement section 10.3 covers availability service levels. It appears that disaster recovery objectives are not covered. STS recommend adding the FA contract model Business Continuity Requirements to Master Agreement section 9.9:

Business Continuity Requirements. The Contractor shall maintain set(s) of documents, instructions, and procedures which enable the Contractor to respond to accidents, disasters, emergencies, or threats without any stoppage or hindrance in its key operations (“Business Continuity Requirements”). Business Continuity Requirements shall include:

## Attachment: STS Endorsement Conditions

**This STS endorsement is contingent upon modification of the procurement documents as described below.**

- (1) “Disaster Recovery Capabilities” refer to the actions the Contractor takes to meet the Recovery Point and Recovery Time Objectives defined below. Disaster Recovery Capabilities shall meet the following objectives:
  - i. Recovery Point Objective (“RPO”). The RPO is defined as the maximum targeted period in which data might be lost from an IT service due to a major incident: **[NUMBER OF HOURS/MINUTES – To be set by agency]**
  - ii. Recovery Time Objective (“RTO”). The RTO is defined as the targeted duration of time and a service level within which a business process must be restored after a disaster (or disruption) in order to avoid unacceptable consequences associated with a break in business continuity: **[NUMBER OF HOURS/MINUTES – To be set by agency]**

The Contractor and the Subcontractor(s) shall perform at least one Disaster Recovery Test every three hundred sixty-five (365) days. A “Disaster Recovery Test” shall mean the process of verifying the success of the restoration procedures that are executed after a critical IT failure or disruption occurs. The Disaster Recovery Test shall use actual State Data Sets that mirror production data, and success shall be defined as the Contractor verifying that the Contractor can meet the State’s RPO and RTO requirements. A “Data Set” is defined as a collection of related sets of information that is composed of separate elements but can be manipulated as a unit by a computer. The Contractor shall provide written confirmation to the State after each Disaster Recover Test that its Disaster Recovery Capabilities meet the RPO and RTO requirements.

## Attachment: Other Endorsement Conditions

If the contractor will be collecting, storing, processing, or transmitting confidential data, the Central Procurement Office (CPO) fee for service contracts instructions require inclusion of the following Comptroller Audit Requirements:

### Comptroller Audit Requirements

Upon reasonable notice and at any reasonable time, the Contractor and Subcontractor(s) agree to allow the State, the Comptroller of the Treasury, or their duly appointed representatives to perform information technology control audits of the Contractor and all Subcontractors used by the Contractor. Contractor will maintain and cause its Subcontractors to maintain a complete audit trail of all transactions and activities in connection with this Contract. Contractor will provide to the State, the Comptroller of the Treasury, or their duly appointed representatives access to Contractor and Subcontractor(s) personnel for the purpose of performing the information technology control audit.

The information technology control audit may include a review of general controls and application controls. General controls are the policies and procedures that apply to all or a large segment of the Contractor's or Subcontractor's information systems and applications and include controls over security management, access controls, configuration management, segregation

If the contractor will be collecting, storing, processing, or transmitting confidential data, the CPO fee for service contracts instructions require inclusion of the following Personally Identifiable Information language:

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 or ensure 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.

## **Attachment: Other Endorsement Conditions**

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.



# CONTRACT

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

<b>Begin Date</b> 08/01/2019	<b>End Date</b> 07/31/2024	<b>Agency Tracking #</b> 33501-19C0102	<b>Edison Record ID</b>
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<b>Contractor Legal Entity Name</b> Envisage Technologies, LLC	<b>Edison Vendor ID</b> 140495
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**Goods or Services Caption** (one line only)  
Acadis Software Maintenance and Support

<b>Contractor</b> <input checked="" type="checkbox"/> Contractor	<b>CFDA #</b>
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<b>Funding —</b>					
<b>FY</b>	<b>State</b>	<b>Federal</b>	<b>Interdepartmental</b>	<b>Other</b>	<b>TOTAL Contract Amount</b>
2020	80,000.00		20,000.00		100,000.00
2021	80,000.00		20,000.00		100,000.00
2022	80,000.00		20,000.00		100,000.00
2023	80,000.00		20,000.00		100,000.00
2024	80,000.00		20,000.00		100,000.00
<b>TOTAL:</b>					<b>500,000.00</b>

**Contractor Ownership Characteristics:**

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

Woman Business Enterprise (WBE)

Tennessee Service Disabled Veteran Enterprise (SDVBE)

Disabled Owned Business (DSBE)

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.

Government  Non-Minority/Disadvantaged  Other:

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

Competitive Selection

Other

This selection was made as a sole source procurement pursuant to an approved Special Contract Request in accordance with Tenn. Comp. R. & Regs. 0690-03-01-.05(6).

**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.

<b>Speed Chart</b> (optional)	<b>Account Code</b> (optional)
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**CONTRACT  
BETWEEN THE STATE OF TENNESSEE,  
DEPARTMENT OF COMMERCE AND INSURANCE  
AND  
ENVISAGE TECHNOLOGIES, LLC**

This Contract, by and between the State of Tennessee, Department of Commerce and Insurance ("State") and Envisage Technologies, LLC ("Contractor"), is for the provision of Acadis Software Maintenance and Support, 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 limited liability company.  
Contractor Place of Incorporation or Organization: Delaware  
Contractor Edison Registration ID # 0000140495

**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. This Contract is applicable to existing Licensed Software Programs identified in A.3.c. for the Tennessee Fire Service and Codes Enforcement Academy (TFACA), Tennessee Law Enforcement Training Academy (TLETA), and Tennessee Emergency Management Agency (TEMA). TFACA, TLETA, and TEMA may be referred to individually as an "Agency" or collectively as the "Agencies" throughout this Contract.

A.3. Summary of Services

A.3.a. Acadis Software Maintenance Program

The Contractor shall address Acadis License Software Programs's functionality issues through software maintenance, bug-fixes, enhancements, new features, scheduled version releases, help desk support, or other improvements in the Contractor's software, that it shall make generally available to its customers, including the State. The Contractor shall provide direct technical support and shall maintain the operational readiness, interoperability, and conformance to specifications and requirements of Acadis software.

Action Items Defined:

**Bug Fixes:** Applied to critical bugs that prevent clients from doing their work where there is no workaround. These shall be assigned the highest priority to ensure that fixes are completed and applied to the next release. The Contractor shall initiate an unscheduled release if the problem is critical.

**Enhancements to Current Features:** Features that improve and/or expand the use and function of the current version of Acadis.

**New Features for Existing Modules:** Features developed periodically as part of the Agile process. Future enhancements shall be included in the periodic releases within the current version of Acadis.

A.3.b. The Contractor shall:

- 1. Make appropriate Contractor support resources available to the State via Help Desk and email, Monday through Friday, 7:30 AM - 4:30 PM Central Time, except on State holidays, to provide the services described and detailed in this section.

2. Diagnose and resolve problems reported by the State that have not been diagnosed and resolved at lower levels of support within the State, as practicably possible. The State will determine the severity level of each reported problem, as defined below.

- a. Support Severity Levels and Timelines

<b>Level</b>	<b>Definition</b>	<b>Support Ticket Entry</b>	<b>Acknowledge</b>	<b>Resolution</b>	<b>Expectations</b>
<b>Emergency</b>	Critical systems down. Multi-agency outages; or critical agency outage. Severe security and/or financial implications to an agency/state.	15 Min	30 Min	Incident will be resolved as soon as possible.	Contractor to document emergency services and service restoration order. Next level supervisor to provide journal updates to Support Center/Help Desk. Support Center/Help Desk will provide the impacted Agency with updates, status reports, and notification of expected delays. Technician journaling suspended until resolution. Manager notification by Support Center/Help Desk. Agency emergency requests <b>require</b> that an agency contact be available to Envisage at all times. Updates to the impacted Agency shall occur every hour, as mutually agreed upon based on the issue type and determined resolution action, or as the Agency requests.
<b>Critical</b>	Serious disruption to agency business where there is <b>no</b> alternative or work around. Serious security and/or financial implications to agency/state.	30 Min	1 Hour	Within 1 Business Day	Next level supervisor to provide journal updates to Support Center/Help Desk. Support Center/Help Desk will provide the impacted Agency with updates, status reports, and notification of expected delays. Technician journaling suspended until resolution. Manager notification by Support Center/Help Desk. Updates to the impacted Agency shall occur every two (2) hours, or as mutually agreed upon based on the issue type and determined resolution action, or as the Agency requests.
<b>Urgent</b>	Affects a large number of users or can causes serious disruption to agency	30 Min	2 Hours	Within 2 Business Days	Two (2) business days for ticket resolution, or as mutually agreed upon based on the issue type and determined resolution action.

<b>Level</b>	<b>Definition</b>	<b>Support Ticket Entry</b>	<b>Acknowledge</b>	<b>Resolution</b>	<b>Expectations</b>
	business where there <b>is</b> an alternative or work around.				
<b>Normal</b>	Affects small number of users. Causes inconvenience for an agency or delays agency business. Prevents use of a fully supported service by an agency or individual.	30 Min	4 Hours	Within 5 Business days	Five (5) business days for resolution, or as mutually agreed upon based on the issue type and determined resolution action.
<b>Low</b>	Problem concerning minor items, i.e. document formatting. Prevents use of non-supported service by an agency or individual.	30 Min	1 Business Day	Within 7 Business Days	Supported during standard business hours. Seven (7) business days for resolution. Journal entries are to be supplied during those days if action or work has been performed.
<b>Long term</b>	Includes long-term assignments, scheduled or routine maintenance, tech generated for tracking, or a problem expected to occur in the next twelve months.	30 Min	5 Business Days	Based on expressed customer need	Supported during core business hours. Often used as filling tasks. Supervisor will monitor progress. If scheduled date is missed, customer support will contact technician.

3. Maintain the operational readiness of Acadis software within the current State systems environment by identifying and communicating problems or issues to the State, making necessary adjustments and repairs.

A.3.c. The Contractor shall provide maintenance and support for the following licensed software programs.

**TFACATLETA Programs**

- Acadis Training
- Acadis Compliance
- Acadis Documents
- Acadis Housing
- Acadis LMS
- Acadis Registration
- Acadis Scheduling

Acadis Person Portal  
Acadis Online Registration  
Acadis In-service Reporting  
Acadis Workforce Portal  
Acadis Instructor Scheduling Portal

**TEMA Programs**

Acadis Training  
Acadis Compliance  
Acadis Documents  
Acadis LMS  
Acadis Registration  
Acadis Scheduling  
Acadis Testing  
Acadis Surveys

A.3.d. Record Ceiling

The following outlines the definition and strategies for Active Person Records with the Acadis database.

1. An "Active Person Record" is defined as an individual in Acadis who:
  - a. has an active employment record;
  - b. has an active certification; and/or
  - c. registers for, receives, and/or reports training to the Agencies.
2. An Active Person Record is controlled by a status flag of "Active" or "Inactive."
3. An "Inactive Person Record" is defined as an individual in Acadis who:
  - a. does not have an active employment record;
  - b. does not have an active certification; and/or
  - c. has not registered for, received, and/or reported training to the Agencies.
4. Inactive Person Records do not count towards the Active Person Record ceiling.
5. The Active Person Record ceiling for the Acadis instance for the Agencies will be 100,000. Acadis does not prevent additional Active Person Records from being added, but the Contract will govern the ceiling.
6. The Contractor shall allow a five percent (5%) variance above 100,000 to account for periodic growth at customer organizations. As of the Effective Date, there are 99,688 Active Person Records in the system, but a certain number of these may actually be inactive.
7. The Contractor will work with the Agencies to reduce the number of Active Person Records and outline a process to stay below the Active Person Record ceiling, especially with the migration of TEMA person records. The State shall identify the data and strategy to determine the appropriate records to move to inactive status. This may include:
  - a. inactivating person records that do not have an employing agency (estimated at 33,000);
  - b. inactivating person records who are not citizens of Tennessee or employed by Tennessee agencies;
  - c. inactivating person records for individuals who have not received training in a specified number of years (e.g., 50); and/or
  - d. developing a communication plan and process to allow agency designees to manage active employment through the Acadis Workforce Portal.

8. Strategies will be developed by the Agencies and data will be exported for analysis and approval by the Agencies' staff before being run on production data. This tasking is included in the Acadis Software Maintenance Program.

<b>Task</b>	<b>Owner</b>	<b>Est. Duration to Allow</b>
Define criteria for determining which Person Records to inactivate	Agencies, with consulting from Envisage, as needed.	One (1) week to finalize.
Submit Helpdesk ticket for Advanced Data Export SQL query	Envisage	One (1) hour
Write and test SQL query	Envisage	Two (2) days
Provide SQL query / Create Advanced Data Export in TFACA/TLETA/TEMA production site	Envisage or Agencies	Four (4) hours
Execute Advanced Data Export	Envisage	One (1) hour
Review initial export results	Agencies	Four (4) hours
[Optional] Update SQL query, as needed, to align with any changes requested by TFACA/TLETA/TEMA. Rerun query and review results, as needed.	Envisage (review work done by Agencies)	One (1) day
Provide final approval on list of Person Records to inactivate	Agencies	One (1) hour
Run import to inactivate all TFACA/TLETA/TEMA-approved Person Records	Envisage	One (1) hour
Verify new active Person Record counts – report results to TFACA/TLETA/TEMA and Envisage management	Envisage or Agencies	One (1) hour

9. The Contractor shall maintain Inactive Person Records in Acadis for search, review, and reporting.

The Contractor shall reduce the Active Person Records within twelve (12) months of the Effective Date of this Contract, unless additional time is agreed upon in writing by the Parties prior to the end of the first twelve (12) months from the Effective Date of this Contract.

- A.4. **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 generally 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.5. 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.6. Periodic Meetings. The State reserves the right, at the State's option, to request periodic meetings with the Contractor management staff to discuss topics including, but not limited to, the following: general contract direction, management, and coordination; State of Tennessee technical infrastructure and standards; time keeping and other project progress records. At the State's sole discretion, these meetings shall occur at a State location or via conference call and shall be at no additional cost to the State or the Agencies.
- A.7. Correction of Deficiencies. Any corrections of defects or deficiencies relating to the Contract Scope of Services requirements or deliverables and any investigation necessary to determine the source of such defects or deficiencies shall be completed by the Contractor at no additional cost to the State.
- A.8. Contract Management and Reporting. The Contractor shall designate a Contract Manager to be a single point of contact for all activities and issues related to work under this Contract. The Contract Manager shall coordinate as necessary with the State to ensure that Contractor activities are managed consistently with overall Contract requirements.
- a. Risk Management Plan. If available, the Contractor shall provide a Risk Management Plan outlining potential risks, mitigation strategies, and risk management processes.
- b. Issue Management Plan. If available, the Contractor shall provide an Issue Management Plan for documenting, tracking, and reporting issues, including the process for elevating issues for joint management decision by the Contractor and the State.
- c. Contingency of Operations Plan. The Contractor shall develop and submit a Contingency of Operations Plan to specify planning for the remediation of specific software and/or operations in the event of critical impact resulting from natural, accidental, or intentional events. The Contingency Operations Plan shall document the Contractor's plans and procedures to maintain State support and shall include, but not be limited to the following:
- description of the Contractor's emergency management procedures and policy;
  - how the Contractor will communicate with the State during emergencies;
  - list of primary and alternate Contractor points of contact, each with primary and alternate telephone numbers and e-mail addresses; and
  - procedures for safeguarding sensitive and/or classified State information (if applicable).

**B. TERM OF CONTRACT:**

- B.1. This Contract shall be effective on August 1, 2019, ("Effective Date") and extend for a period of twenty-four (24) months after the Effective Date ("Term"). The State shall have no obligation for goods or services provided by the Contractor prior to the Effective Date.

B.2. Renewal Options. This Contract may be renewed upon satisfactory completion of the Term. The State reserves the right to execute up to three (3) 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 Five Hundred Thousand Dollars (\$500,000.00) ("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:

Goods or Services Description	Amount (per compensable increment)
Acadis Software Maintenance Program	\$ 100,000.00 per year

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 Commerce and Insurance  
 500 James Robertson Parkway  
 Nashville, TN 37243  
 Attn: Accounts Payable

Email Submissions Preferred: [ciaccounts.payable@tn.gov](mailto:ciaccounts.payable@tn.gov)

- 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: TFACA/TLETA/TEMA; c/o Dept of Commerce and Insurance
- (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:

Steven Majchrzak, Executive Director  
Commerce and Insurance, TFACA  
2161 Unionville-Deason Road  
Bell Buckle, TN 37020  
[Steven.Majchrzak@tn.gov](mailto:Steven.Majchrzak@tn.gov)  
Telephone # 615-253-6846

Brian Grisham, Director  
Commerce and Insurance, TLETA  
3025 Lebanon Road  
Nashville, TN 37214  
[Brian.Grisham@tn.gov](mailto:Brian.Grisham@tn.gov)  
Telephone # 615-741-2980

David Nock, Training and Exercise Administrator  
TEMA  
3041 Sidco Drive  
Nashville, TN 37204  
[David.Nock@tn.gov](mailto:David.Nock@tn.gov)  
Telephone # 615-741-2940

The Contractor:

Cory Myers, Vice President of Homeland Security Solutions  
Envisage Technologies, LLC  
101 West Kirkwood Avenue, Ste. 200  
Bloomington, Indiana 47404  
[cory.myers@envisagenow.com](mailto:cory.myers@envisagenow.com)  
Telephone # 812-961-9669  
Mobile # 812-369-0307

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

D.3. Modification and Amendment. This Contract may be modified only by a written amendment signed by all Parties and approved by all applicable State officials. The State's exercise of a valid

Renewal Option or Term Extension does not constitute an amendment so long as there are no other changes to the Contract's terms and conditions.

- D.4. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State or federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate this Contract upon written notice to the Contractor. The State's exercise of its right to terminate this Contract shall not constitute a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. If the State terminates this Contract due to lack of funds availability, the Contractor shall be entitled to compensation for all conforming goods requested and accepted by the State and for all satisfactory and authorized services completed as of the termination date. Should the State exercise its right to terminate this Contract due to unavailability of funds, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages of any description or amount.
- D.5. Termination for Convenience. The State may terminate this Contract for convenience without cause and for any reason. The State shall give the Contractor at least thirty (30) days written notice before the termination date. The Contractor shall be entitled to compensation for all conforming goods delivered and accepted by the State or for satisfactory, authorized services completed as of the termination date. In no event shall the State be liable to the Contractor for compensation for any goods neither requested nor accepted by the State or for any services neither requested by the State nor satisfactorily performed by the Contractor. In no event shall the State's exercise of its right to terminate this Contract for convenience relieve the Contractor of any liability to the State for any damages or claims arising under this Contract.
- D.6. Termination for Cause. If 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 from 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' fees, court costs, expert witness fees, and other litigation expenses 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, without regard to its conflict or choice of law rules. 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 - 408.
- 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);
  - 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 Tenn. Code Ann. §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 or self insured retention ("SIR") over fifty thousand dollars (\$50,000) must be approved by the State. The deductible or SIR 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. In the event that an umbrella policy is being provided to achieve any required coverage amounts, the umbrella policy shall be accompanied by an endorsement at least as broad as the Insurance Services Office, Inc. (also known as "ISO") "Noncontributory—Other Insurance Condition" endorsement or shall be written on a policy form that addresses both the primary and noncontributory basis of the umbrella policy if the State is otherwise named as an additional insured.

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 reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

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 insurance obligations under this Contract shall be: (1)—all the insurance coverage and policy limits carried by the Contractor; or (2)—the minimum insurance coverage requirements and policy limits shown in this Contract; whichever is greater. Any insurance proceeds in excess of or broader than the minimum required coverage and minimum required policy limits, which are applicable to a given loss, shall be available to the State. No representation is made that the minimum insurance requirements of the Contract are sufficient to cover the obligations of the Contractor arising under this Contract. The Contractor shall obtain and maintain, at a minimum, the following insurance coverages and policy limits.**

a. Commercial General Liability ("CGL") Insurance

- 1) The Contractor shall maintain CGL, which shall be written on an ISO Form CG 00 01 occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from property damage, premises and operations products and completed operations, bodily injury, 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 single limits not less than one million dollars (\$1,000,000) per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this policy or location of occurrence or the general aggregate limit shall be twice the required occurrence limit.

b. Workers' Compensation and Employer Liability Insurance

- 1) For Contractors statutorily required to carry workers' compensation and employer liability insurance, the Contractor shall maintain 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. Extraneous Terms and Conditions. Contractor shall fill all orders submitted by the State under this Contract. No purchase order, invoice, or other documents associated with any sales, orders, or supply of any good or service under this Contract shall contain any terms or conditions other than as set forth in the Contract. Any such extraneous terms and conditions shall be void, invalid and unenforceable against the State. Any refusal by Contractor to supply any goods or services under this Contract conditioned upon the State submitting to any extraneous terms and conditions shall be a material breach of the Contract and constitute an act of bad faith by Contractor.

E.4. Intellectual Property Indemnity. 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.5. 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.

**IN WITNESS WHEREOF,**

**ENVISAGE TECHNOLOGIES, LLC:**

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**HEATHER DEMOSS, EXECUTIVE VICE PRESIDENT**

**DATE**

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

**DEPARTMENT OF COMMERCE AND INSURANCE:**

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**JULIE MIX MCPEAK, COMMISSIONER**

**DATE**

**ATTACHMENT A**

**ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE**

<b>SUBJECT CONTRACT NUMBER:</b>	
<b>CONTRACTOR LEGAL ENTITY NAME:</b>	
<b>EDISON VENDOR IDENTIFICATION NUMBER:</b>	

**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.

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**PRINTED NAME AND TITLE OF SIGNATORY**

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**DATE OF ATTESTATION**