



STATE OF TENNESSEE
OFFICE OF CRIMINAL JUSTICE PROGRAMS

**PROFESSIONAL SERVICE SOLICITATION FOR
STATEWIDE DRUG COURT EVALUATION AND TRAINING**

Solicitation # 317.06-011-01

1. **INTRODUCTION**

The state intends to award a contract for a statewide evaluation of drug courts that includes arrest data analysis, outcome evaluation, development of a cost-benefit template, and training for drug court programs on feedback from the evaluation and on how to use the template.

- 1.1. This contract will require an estimated one thousand six hundred (1600) hours of service through its duration. Based on funding availability, the hourly rate proposed multiplied by the estimated 1600 hours cannot exceed \$173,422.00. The State shall deem a Cost Proposal with the PROPOSAL EVALUATION AMOUNT greater than \$173,422.00 as non-responsive and the State shall reject it.

2. **SCOPE OF SERVICE, CONTRACT PERIOD, TERMS AND CONDITIONS**

The Attachment 1 – *Pro Forma* Contract represents the contract document that the Proposer selected by the state must sign. It specifically details the state's required:

- Scope of Services and Deliverables (Section A);
- Contract Period (Section B);
- Payment Terms (Section C); and
- Terms and Conditions (Sections D & E).

3. **PROPOSAL CONTENTS**

A Proposer must submit ALL of the following to the State:

- 3.1. documentation of the following minimum qualifications and requirements (of the Proposer or Proposer's Employees as applicable):
- 3.1.1. a description of the Bidder's experience providing the required or similar services detailed in the attached *pro forma* contract
- 3.1.2. a description detailing how the Bidder will provide service if awarded the subject contract
- 3.1.3. three references with whom the Bidder has previously contracted with or been employed by to provide service comparable to that required by the attached *pro forma* contract, to include contact name and phone number
- 3.1.4. Transcript or diploma copy documenting education graduating from an accredited college or university with a Master's Degree or Doctoral Degree in Behavioral Science or research-related field.
- 3.1.5. Resume documenting the following:
1. Knowledge conducting research and evaluation on drug court programs;
 2. Master's Degree or Doctoral Degree in Behavioral Science or research-related field with 3 years of experience conducting research, process and outcome evaluations, and evaluation methodology;
 3. Understanding of criminogenic factors, court process and proceedings;
 4. Understanding of substance abuse assessment and treatment protocol specific to drug court programs;

5. Experience conducting a statewide evaluation that included outcome evaluation on a minimum of three programs;
6. Knowledgeable about data analysis and data analyzing software;
7. Knowledgeable about how to complete a cost-benefit analysis and create templates;
8. Training skills and experience;
9. Excellent report writing skills and experience—the Proposer must provide an example.

3.2. a completed, exact copy of Attachment 2, *Cost Proposal Bid Sheet*. The *Cost Proposal Bid Sheet* must be in a clearly labeled, separately sealed envelope.

NOTE: Each Proposer must ONLY record the proposed cost exactly as required by the Cost Proposal document and must NOT record any other rates, amounts, or information. The proposal cost must incorporate ALL costs for services under the contract for the total contract period.

4. **PROPOSAL DELIVERY**

No later than the PROPOSAL DEADLINE detailed in Section 5 below, a Proposer must deliver four (4) copies of ALL proposal documentation detailed in Section 3 above to the state at the following address:

Mitzi R. Hale
 State of Tennessee
 Department of Finance and Administration
 Wm. Snodgrass Tennessee Tower, 17th Floor
 312 Rosa L Parks Avenue
 Nashville, TN 37243-1102

5. **PROCUREMENT SCHEDULE**

The state reserves the right, at its sole discretion, to adjust the procurement schedule as necessary. The following table represents the best estimate of the schedule that will be followed:

EVENT	TIME	DATE
1. State Issues Solicitation		December 22, 2008
2. Deadline for Submitting a Bid Proposal and State Opens Bid Proposals	2:00 p.m., Central	January 20, 2009
3. State Completes Bid Evaluation		January 23, 2009
4. State Opens Cost Proposals	9:00 a.m., Central	January 26, 2009
5. State Notifies Bidders of Award and Opens Files for Public Inspection	9:00 a.m., Central	January 27, 2009
6. Procuring State Agency Head Signs Contract		February 6, 2009
7. Contractor Contract Signature Deadline	4:30 p.m., Central	February 19, 2009
8. Contract Start Date		March 1, 2009
The state reserves the right, at its sole discretion, to amend or cancel this solicitation at any time.		

6. **EVALUATION PROCESS**

- 6.1.1 A team of three procuring agency employees will review the supporting documentation from each bidder.
- 6.1.2 In order for a bid to be accepted for further evaluation, the evaluators must determine (based upon the minimum criteria detailed by the *Bid Solicitation*) that a bidder's documentation of qualifications indicates that the bidder would be, at least, minimally acceptable as a contractor for the given service.

- 6.1.3 The evaluator determinations regarding each bidder will be documented in writing for the procurement file. The State will not open Cost Proposal Bids until it has completed the initial determination described above. No pricing information shall be included in the Resume Proposal and Documentation of the bid document. Inclusion of Cost Proposal amounts in the Resume Proposal and Documentation shall make the proposal non-responsive and the State shall reject it.
- 6.1.4 The procurement coordinator will review the *Cost Proposal Bid Sheet* of each bidder evaluated to be acceptable.
- 6.1.5 The procurement coordinator will determine whether each *Cost Proposal Bid Sheet* complies, without qualification, with *Bid Solicitation* instructions and will document any finding(s) of noncompliance in writing for the procurement file.
- 6.1.6 The procurement coordinator will then review all compliant *Cost Proposal Bid Sheets* to identify the bidder offering the lowest cost to the State.
- 6.1.7 Department of Finance and Administration will award the contract (drafted as detailed in the Bid Solicitation and in accordance with relevant F&A regulations) to the responsive, responsible bidder offering the lowest cost to the State.

7. **GENERAL INFORMATION**

- 7.1. **Nondiscrimination.** No person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of a contract pursuant to this solicitation or in the employment practices of the contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The contractor pursuant to this solicitation shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- 7.2. **Conflict of Interest.** The state will not consider a proposal from or contract with:
- an individual who is, or within the past six months has been, an employee or official of the state of Tennessee;
 - a company, corporation, or any other contracting entity in which an ownership of two percent (2%) or more is held by an individual who is, or within the past six months has been, an employee or official of the state of Tennessee (this will not apply either to financial interests that have been placed into a “blind trust” arrangement pursuant to which the employee does not have knowledge of the retention or disposition of such interests or to the ownership of publicly traded stocks or bonds where such ownership constitutes less than 2% of the total outstanding amount of the stocks or bonds of the issuing entity); or,
 - a company, corporation, or any other contracting entity which employs an individual who is, or within the past six months has been, an employee or official of the state of Tennessee in a position that would allow the direct or indirect use or disclosure of information, which was obtained through or in connection with his or her employment and not made available to the general public, for the purpose of furthering the private interest or personal profit of any person.

For the purposes of applying these requirements, the state will deem an individual to be an employee or official of the state of Tennessee until such time as all compensation for salary, termination pay, and annual leave has been paid.

PRO FORMA CONTRACT FOLLOWING THE CURRENT FA-TYPE, FEE-FOR-SERVICE CONTRACT MODEL POLICY

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION
OFFICE OF CRIMINAL JUSTICE PROGRAMS
AND
CONTRACTOR NAME**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, Office of Criminal Justice Programs, hereinafter referred to as the "State" and **CONTRACTOR LEGAL ENTITY NAME**, hereinafter referred to as the "Contractor," is for the provision of a consultant to provide a statewide evaluation of drug courts, as further defined in the "SCOPE OF SERVICES."

The Contractor is **A/AN INDIVIDUAL, FOR-PROFIT CORPORATION, NON-PROFIT CORPORATION, SPECIAL PURPOSE CORPORATION OR ASSOCIATION, PARTNERSHIP, JOINT VENTURE, OR LIMITED LIABILITY COMPANY.**

Contractor Federal Employer Identification or Social Security Number: **ID NUMBER**

Contractor Place of Incorporation or Organization: **LOCATION**

A. SCOPE OF SERVICES:

A.1. The Contractor shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.

A.2. All State of Tennessee drug courts are required to report performance data to the Office of Criminal Justice Programs on an annual basis. The setting up and continuous improvement of systems and the ongoing collection and reporting of performance data all require a great amount of time and effort that go unmeasured.

The Contractor shall work with the Tennessee Bureau of Investigation to collect, analyze, and report the drug court program participant arrest data from the standardized performance measures that are currently not being collected.

A.3. Contractor shall develop written criteria to determine drug court program eligibility in outcome evaluation using a quasi-experimental design for at least three (3) but no more than five (5) drug court programs that takes into account the unique program and judicial structure of the Tennessee court system.

A.4. Contractor shall develop and implement drug court outcome evaluation on the drug court programs chosen based on the developed and approved criteria. This evaluation will involve on site evaluative work at each chosen location, using a quasi-experimental research design that is intended to measure outcomes for at least three (3) but no more than five (5) drug court programs.

A.5. Contractor shall meet with program administrators and state partners as needed (at least quarterly) to maintain the project goals and timeline detailed in Contract Section A.11.

A.6. Contractor shall collaborate with the Drug Court Advisory Committee for recommendations on evaluation design and progress.

- A.7. Contractor shall produce a report of the findings from the outcome evaluation. This report should include a description of the overall research implementation and design, a summary of the overall findings, and the program description and findings for each of the drug court programs participating in the outcome evaluation. This report will be reviewed and approved by the Office of Criminal Justice Programs prior to official submission to the Department of Justice, Bureau of Justice Assistance. See Contract Section A.12.e.
- A.8. Contractor shall provide training to drug court programs based on feedback for improvement outlined in the outcome evaluations. The training will detail findings from the outcome evaluation (in summary) such as program improvement, adherence to the 10 Key Components, program process issues, data collection, or other areas that are found needing improvement that would be helpful to all drug court programs. This training will be made available to all drug court programs through three (3) regional trainings.
- a. The estimated date, location and presentation order of the regional trainings will be determined and included in the plan and timeline detailed in Contract Section A.11.
 - b. The Contractor will be responsible for developing all training material which must be approved by the State prior to use. The training will be presented as classroom training.
 - c. The location, equipment for the training (i.e., training room and projector), and cost of training material will be provided by the State.
- A.9. Contractor shall develop a cost-benefit tool and template specific to Tennessee drug courts that can be used by drug court program personnel for cost-benefit analysis. This tool should be a simple, computer and/or paper-based tool, that can be used on any state approved computer system. The tool should include detailed instructions and have the ability to calculate. The specific data in the tool should be discussed with and reviewed by the Drug Court Advisory Committee.
- A.10. Contractor shall train state administrators and drug court programs on use of the cost-benefit tool. Evaluator shall provide this training to all drug court programs in three (3) regional trainings at locations obtained by OCJP staff. The purpose of the training is to explain in detail the data captured by the cost-benefit tool and the correct method to complete the tool.
- a. The estimated date, location and presentation order of the regional trainings will be determined and included in the plan and timeline detailed in Contract Section A.11.
 - b. The Contractor will be responsible for developing all training material which must be approved by the State prior to use. The training will be presented as classroom training.
 - c. The location, equipment for the training (i.e., training room, desktops, and projector), and cost of training material will be provided by the State.
- A.11. Contractor shall work with the Office of Criminal Justice Programs to develop a plan and time line for evaluation deliverables. The plan and timeline will be due 90 days from contract Begin Date. Contractor will update and maintain this plan and time line throughout the project, with the State input.
- A.12. Deliverables. In the provision of the above services the Contractor will submit the following deliverables to the State:
- a. Criteria and Quasi-Experimental Design Document. This document shall include from three (3) to five (5) drug court programs. (See Contract Sections A.3 and A.4)
 - b. Cost Benefit Tool and Template. (See Contract Section A.9)
 - c. Drug Court Program Area Training Based on Outcome Evaluation Feedback. (See Contract Section A.8)

- d. State Administrator and Drug Court Program Area Training on the Cost Benefit Analysis Tool. (See Contract Section A.10)
- e. Final Report of Outcome Findings. (See Contract Section A.7)

B. CONTRACT TERM:

This Contract shall be effective for the period commencing on March 1, 2009 and ending on February 28, 2012. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed One Hundred Seventy-Three Thousand Four Hundred Twenty-Two Dollars (\$173,422.00). The payment rates in Section C.3 shall constitute the entire compensation due the Contractor for the Service and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

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

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

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

- a. The Contractor's compensation shall be contingent upon the satisfactory completion of units, milestones, or increments of service defined in Section A.
- b. The Contractor shall be compensated for said units, milestones, or increments of service based upon the following payment rates:

Service Description	Year 1 Maximum Service Rate Per Hour* (3/01/2009 – 2/28/2010)	Year 2 Maximum Service Rate Per Hour* (3/01/2010 – 2/28/2011)	Year 3 Maximum Service Rate Per Hour* (3/01/2011 – 2/28/2012)
Drug Court Consultant Rate	\$ RATE per hour	\$ RATE per hour	\$ RATE per hour

c. * The Maximum Service Rate Per Hour is to establish the rates for each defined yearly time period. However, the State cannot predict the actual length of time required to complete the deliverables under the term of this contract. Therefore, the State makes no guarantees, either stated or implied, regarding the contract term for this procurement.

d. The Contractor shall not be compensated for travel time to the primary location of service provision.

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

C.5. Invoice Requirements. The Contractor shall invoice the State only for completed increments of service and for the amount stipulated in Section C.3, above, and as required below prior to any payment.

- a. The Contractor shall submit invoices no more often than monthly, with all necessary supporting documentation, to:

Attn: Marie Crosson, Drug Court Coordinator
Office of Criminal Justice Programs
William Snodgrass Tennessee Tower
312 Rosa L. Parks, Suite 1200
Nashville, TN. 37243-1102
Marie.Crosson@state.tn.us
Office: 615-253-2037
Fax: 615-532-2989

- b. The Contractor agrees that each invoice submitted shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.

- (1) Invoice/Reference Number (assigned by the Contractor);
- (2) Invoice Date;
- (3) Invoice Period (period to which all invoiced charges are applicable);
- (4) Contract Number (assigned by the State to this Contract);
- (5) Account Name: Department of Finance and Administration, Office of Criminal Justice Programs;
- (6) Account/Customer Number (uniquely assigned by the Contractor to the above-referenced Account Name);
- (7) Contractor Name;
- (8) Contractor Federal Employer Identification Number or Social Security Number (as referenced in this Contract);
- (9) Contractor Contact (name, phone, and/or fax for the individual to contact with billing questions);
- (10) Contractor Remittance Address;
- (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service or Milestone Description (including name /title as applicable) of each service invoiced;
 - ii. Number of Completed Units, Increments, Hours, or Days as applicable, of each service invoiced;
 - iii. Applicable Payment Rate (as stipulated in Section C.3.) of each service invoiced;
 - iv. Amount Due by Service; and
 - v. Total Amount Due for the invoice period.

- c. The Contractor understands and agrees that an invoice to the State under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) not include any future work but will only be submitted for completed service; and
- (3) not include sales tax or shipping charges.

- d. The Contractor agrees that timeframe for payment (and any discounts) begins when the State is in receipt of each invoice meeting the minimum requirements above.

- e. The Contractor shall complete and sign a "Substitute W-9 Form" provided to the Contractor by the State. The taxpayer identification number contained in the Substitute W-9 submitted to the State shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor. The Contractor shall not invoice the State for services until the State has received this completed form.

- C.6. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.7. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.
- C.8. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any Contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.9. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other Contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The State is not bound by this Contract until it is approved by the appropriate State officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract below pertaining to "Conflicts of Interest," "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race,

color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

- D.8. Prohibition of Illegal Immigrants. The requirements of Public Acts of 2006, Chapter Number 878, of the state of Tennessee, 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 hereby attests, certifies, warrants, and assures that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performance of this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the performance of this Contract. The Contractor shall reaffirm this attestation, in writing, by submitting to the State a completed and signed copy of the document at Attachment A, hereto, semi-annually during the period of this Contract. Such attestations shall be maintained by the Contractor and made available to state officials upon request.
 - b. Prior to the use of any subcontractor in the performance of this Contract, and semi-annually thereafter, during the period of this Contract, the Contractor shall obtain and retain a current, written attestation that the subcontractor shall not knowingly utilize the services of an illegal immigrant to perform work relative to this Contract and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant to perform work relative to this Contract. Attestations obtained from such subcontractors shall be maintained by the Contractor and made available to state officials upon request.
 - c. The Contractor shall maintain records for all personnel used in the performance of this Contract. Said records shall be subject to review and random inspection at any reasonable time upon reasonable notice by the State.
 - d. The Contractor understands and agrees that failure to comply with this section will be subject to the sanctions of Public Chapter 878 of 2006 for acts or omissions occurring after its effective date. This law requires the Commissioner of Finance and Administration to prohibit a contractor from contracting with, or submitting an offer, proposal, or bid to contract with the State of Tennessee to supply goods or services for a period of one year after a contractor is discovered to have knowingly used the services of illegal immigrants during the performance of this Contract.
 - e. For purposes of this Contract, "illegal immigrant" shall be defined as any person who is not either a United States citizen, a Lawful Permanent Resident, or a person whose physical presence in the United States is authorized or allowed by the federal Department of Homeland Security and who, under federal immigration laws and/or regulations, is authorized to be employed in the U.S. or is otherwise authorized to provide services under the Contract.
- D.9. Records. The Contractor shall maintain documentation for all charges under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.10. 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.11. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.12. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or

condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.

- D.13. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.

- D.14. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.15. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, natural disasters, riots, wars, epidemics or any other similar cause.
- D.16. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.17. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under *Tennessee Code Annotated*, Sections 9-8-101 through 9-8-407.
- D.18. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.19. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.
- D.20. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The State:

Marie Crosson, State Drug Court Coordinator
Office of Criminal Justice Programs
William Snodgrass Tennessee Tower
312 Rosa L. Parks Avenue, Suite 1200
Nashville, TN. 37243-1102
Marie.Crosson@state.tn.us
Telephone # 615-253-2037
FAX # 615-532-2989

The Contractor:

NAME & TITLE OF CONTRACTOR CONTACT PERSON
CONTRACTOR NAME
ADDRESS
EMAIL ADDRESS
Telephone # **NUMBER**
FAX # **NUMBER**

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

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- E.4. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in *Tennessee Code Annotated*, Section 8-36-801, *et. seq.*, the law governing the Tennessee Consolidated Retirement System (TCRS), provides that if a retired member of TCRS, or of any superseded system administered by TCRS, or of any local retirement fund established pursuant to *Tennessee Code Annotated*, Title 8, Chapter 35, Part 3 accepts state employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to TCRS the amount of retirement benefits the Contractor received from TCRS during the period of this Contract.
- E.5. Voluntary Buyout Program. The Contractor acknowledges and understands that, for a period of two years beginning August 16, 2008, restrictions are imposed on former state employees who received a State of Tennessee Voluntary Buyout Program (VBP) severance payment with regard to contracts with state agencies that participated in the VBP.
- a. The State will not contract with either a former state employee who received a VBP severance payment or an entity in which a former state employee who received a VBP severance payment or the spouse of such an individual holds a controlling financial interest.
 - b. The State may contract with an entity with which a former state employee who received a VBP severance payment is an employee or an independent contractor. Notwithstanding the foregoing, the Contractor understands and agrees that there may be unique business circumstances under which a return to work by a former state employee who received a VBP severance payment as an employee or an independent contractor of a State contractor would not be appropriate, and in such cases the State may refuse Contractor personnel. Inasmuch, it shall be the responsibility of the State to review Contractor personnel to identify any such issues.

- c. With reference to either subsection a. or b. above, a contractor may submit a written request for a waiver of the VBP restrictions regarding a former state employee and a contract with a state agency that participated in the VBP. Any such request must be submitted to the State in the form of the *VBP Contracting Restriction Waiver Request* format available from the State and the Internet at: www.state.tn.us/finance/rds/ocr/waiver.html. The determination on such a request shall be at the sole discretion of the head of the state agency that is a Party to this Contract, the Commissioner of Finance and Administration, and the Commissioner of Human Resources.

E.6. Insurance. The Contractor shall carry adequate liability and other appropriate forms of insurance.

- a. The Contractor shall maintain, at minimum, the following insurance coverage:
 - (1) Workers' Compensation/ Employers' Liability (including all states coverage) with a limit not less than the relevant statutory amount or one million dollars (\$1,000,000) per occurrence for employers' liability whichever is greater.
 - (2) Comprehensive Commercial General Liability (including personal injury & property damage, premises/operations, independent contractor, contractual liability and completed operations/products) with a bodily injury/property damage combined single limit not less than one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate.
- b. At any time State may require the Contractor to provide a valid Certificate of Insurance detailing Coverage Description; Insurance Company & Policy Number; Exceptions and Exclusions; Policy Effective Date; Policy Expiration Date; Limit(s) of Liability; and Name and Address of Insured. Failure to provide required evidence of insurance coverage shall be a material breach of this Contract.

E.7. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

E.8. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA 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 HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
 - c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.
- E.9. Printing Authorization. The Contractor agrees that no publication coming within the jurisdiction of *Tennessee Code Annotated*, Section 12-7-101, *et. seq.*, shall be printed unless a printing authorization number has been obtained and affixed as required by *Tennessee Code Annotated*, Section 12-7-103 (d).
- E.10. State Ownership of Work Products. The State shall have ownership, right, title, and interest, including ownership of copyright, in all work products, including computer source code, created, designed, developed, derived, documented, installed, or delivered under this Contract subject to the next subsection and full and final payment for each "Work Product." The State shall have royalty-free and unlimited rights and license to use, disclose, reproduce, publish, distribute, modify, maintain, or create derivative works from, for any purpose whatsoever, all said Work Products.
- a. To the extent that the Contractor uses any of its pre-existing, proprietary or independently developed tools, materials or information ("Contractor Materials"), the Contractor shall retain all right, title and interest in and to such Contractor Materials, and the State shall acquire no right, title or interest in or to such Contractor Materials EXCEPT the Contractor grants to the State an unlimited, non-transferable license to use, copy and distribute internally, solely for the State's internal purposes, any Contractor Materials reasonably associated with any Work Product provided under the Contract.
 - b. The Contractor shall furnish such information and data as the State may request, including but not limited to computer code, that is applicable, essential, fundamental, or intrinsic to any Work Product and Contractor Materials reasonably associated with any Work Product, in accordance with this Contract and applicable state law.
 - c. Nothing in this Contract shall prohibit the Contractor's use for its own purposes of the general knowledge, skills, experience, ideas, concepts, know-how, and techniques obtained and used during the course of providing the services requested under this Contract.
 - d. Nothing in the Contract shall prohibit the Contractor from developing for itself, or for others, materials which are similar to and/or competitive with those that are produced under this Contract.
- E.11. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed. It is expressly understood and agreed that the obligations set forth in this section shall survive the termination of this Contract in perpetuity.
- E.12. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:
- a. No federally appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of

Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- c. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

IN WITNESS WHEREOF:

CONTRACTOR LEGAL ENTITY NAME:

CONTRACTOR SIGNATURE

DATE

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. GOETZ, JR., COMMISSIONER

DATE

APPROVED:

**M. D. GOETZ, JR., COMMISSIONER
DEPARTMENT OF FINANCE AND ADMINISTRATION**

DATE

**DEBORAH E. STORY, COMMISSIONER
DEPARTMENT OF HUMAN RESOURCES**

DATE

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY DATE

ATTESTATION RE PERSONNEL USED IN CONTRACT PERFORMANCE

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

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

CONTRACTOR SIGNATURE

NOTICE: This attestation MUST be signed by an individual empowered to contractually bind the Contractor. If said individual is not the chief executive or president, this document shall attach evidence showing the individual's authority to contractually bind the Contractor.

PRINTED NAME AND TITLE OF SIGNATORY

DATE OF ATTESTATION

ATTACHMENT 2 – COST PROPOSAL

NOTICE TO PROPOSER: This Cost Proposal MUST be completed EXACTLY as required.

SOLICITATION # 317.06-011-01						
COST PROPOSAL						
PROPOSER NAME:						
SIGNATURE & DATE:						
COST PROPOSAL SCHEDULE						
<p>The proposed cost proposal, detailed below, shall indicate the proposed price for providing all services as defined in the <i>Pro Forma</i> Contract Scope of Services for the total contract period.</p> <p>NOTE: This contract will require an estimated one thousand six hundred (1600) hours of service through its duration. Based on funding availability, the hourly rate proposed multiplied by the estimated 1600 hours cannot exceed \$173,422.00. The State shall deem a Cost Proposal with the PROPOSAL EVALUATION AMOUNT greater than \$173,422.00 as non-responsive and the State shall reject it.</p>						
Proposal Item Description	Proposed Cost			State Use ONLY		
	Year 1 Maximum Service Rate Per Hour** <small>(3/01/2009 – 2/28/2010)</small>	Year 2 Maximum Service Rate Per Hour** <small>(3/01/2010 – 2/28/2011)</small>	Year 3 Maximum Service Rate Per Hour** <small>(3/01/2011 – 2/28/2012)</small>	Sum	Weight	Weighted Cost
Drug Court Consultant Rate					1600	
– STATE USE ONLY –						
PROPOSAL EVALUATION AMOUNT * : <i>(sum of all proposal cost amounts above)</i>						

* The state will use the *PROPOSAL EVALUATION AMOUNT* derived from the proposed cost amounts above to determine the Proposer offering the lowest cost to the state.

** The Maximum Service Rate Per Hour is to establish the rates for each defined yearly time period. However, the State cannot predict the actual length of time required to complete the deliverables under the term of this contract. Therefore, the State makes no guarantees, either stated or implied, regarding the contract term for this procurement.