



STATE OF TENNESSEE
TREASURY DEPARTMENT

**REQUEST FOR PROPOSALS # 30901-62826
AMENDMENT # 1
FOR INVESTMENT MASTER CUSTODY AND
RELATED SERVICES**

DATE: APRIL 17, 2025

RFP # 30901-62826 IS AMENDED AS FOLLOWS:

1. **This RFP Schedule of Events updates and confirms scheduled RFP dates.** Any event, time, or date containing revised or new text is highlighted.

EVENT	TIME (central time zone)	DATE	UPDATED OR CONFIRMED
1. RFP Issued		March 10, 2025	CONFIRMED
2. Disability Accommodation Request Deadline	2:00 p.m.	March 13, 2025	CONFIRMED
3. Pre-response Teleconference	10:00 a.m.	March 14, 2025	CONFIRMED
4. Notice of Intent to Respond Deadline	2:00 p.m.	March 17, 2025	CONFIRMED
5. Written "Questions & Comments" Deadline	2:00 p.m.	April 7, 2025	CONFIRMED
6. State Response to Written "Questions & Comments"		April 17, 2025	CONFIRMED
7. Second & Final Round of Written "Questions & Comments" (Follow-Up Questions & Comments Deadline. See RFP Section 1.4.4.)	2:00 p.m.	April 25, 2025	CONFIRMED
8. State Response to Second & Final Round of Written "Questions & Comments"		May 2, 2025	CONFIRMED
9. Technical Response and Cost Proposal Deadline	2:00 p.m.	May 8, 2025	CONFIRMED
10. State Completion of Technical Response Evaluations		May 22, 2025	CONFIRMED
11. State Schedules Respondent Oral Presentations (Respondent Finalists Only)		May 27, 2025 – May 28, 2025	CONFIRMED
12. Respondent Oral Presentations (Respondent Finalists Only)	8:00a.m. – 4:30 p.m.	June 2, 2025 – June 3, 2025	CONFIRMED
13. State Opening & Scoring of Cost Proposals (Finalists Only)		June 4, 2025	CONFIRMED

14. State Notice of Intent to Award Released <u>and</u> RFP Files Opened for Public Inspection		June 11, 2025	CONFIRMED
15. End of Protest Period		June 18, 2025	CONFIRMED
16. State sends contract to Contractor for signature		June 19, 2025	CONFIRMED
17. Contractor Signature Deadline	2:00 p.m.	June 24, 2025	CONFIRMED

2. State responses to questions and comments in the table below amend and clarify this RFP.

Any restatement of RFP text in the Question/Comment column shall NOT be construed as a change in the actual wording of the RFP document.

QUESTION / COMMENT	STATE RESPONSE
<p>1. In RFP Section: Contract Section 4.4.1 Page 12 Assignment</p> <p>Contractor requires flexibility to assign to any of its affiliates in the event of a corporate restructuring. We would propose the following language: <u><i>This Agreement is not assignable by either party without the prior written consent of the other, except that (i) the Contractor may assign this Agreement to any Contractor Affiliate, and (ii) any entity, that shall by merger, consolidation, purchase, or otherwise, succeed to substantially all the institutional custody business of the Contractor shall, upon such succession and without any appointment or other action by the State, be and become successor custodian hereunder. The Contractor agrees to provide notice of such successor custodian to the State. Any assignment in violation of this provision shall be voidable at the option of the non-assigning party. This Agreement shall be binding upon, and inure to the benefit of, the State and the Contractor and their respective successors and permitted assigns.</i></u></p> <p>Would this be acceptable to the State?</p>	<p>The State respectfully declines in as much as this would violate Tennessee state law; specifically, Tenn. Code Ann. § 4-56-107(b)(1)(B), which requires a contract amendment if the entity or the name of the entity with which the State is contracting changes.</p>
<p>2. Section 4.4.2 – 4.4.5 of the RFP Page 12 SubContractors</p> <p>Would the State consider to have the term “Subcontractor” or “subcontractor” mean and only be deemed to be those third parties, if any, hired by Contractor to provide services specifically for the State pursuant to the custody agreement and not service to or for all or a substantial portion of similarly situated clients of Contractor and that for avoidance of doubt, Subcustody, Depositories, Book-Entry Systems, Data Providers and Contractor</p>	<p>See Item 3 below for an amendment to Section D.7 of the <i>Pro Forma</i> Contract (RFP Attachment 6.5).</p>

QUESTION / COMMENT	STATE RESPONSE
<p>Affiliates shall not be deemed to constitute “subcontractors” of Contractor. Could you please confirm that the State will not consider our subcontractors any service provider that may be engaged by Contractor unless contracted exclusively for the provision of services to the State?</p>	
<p>3. In RFP Section: Contract Section 4.8 Page 13 Disclosure of Response Contents</p> <p>Contractor will provide, as part of its Response to the RFP, information on the pricing structure it proposes to provide to the State. Would the State consider redacting this information in the event of a request for disclosure under public records statute?</p>	<p>No. Tennessee state law (Tenn. Code Ann. § 10-7-504(a)(7)) provides that all proposals received in response to an RFP, including evaluations, <u>must be</u> available for public inspection after the completion of the evaluation of the same by the State.</p>
<p>4. RFP Section 4.11, relative to Contract Amendment on Page 14:</p> <p>Would the State consider allowing for flexibility in the addition of services that may be requested by the State to be also agreed to by the Contractor?</p>	<p>It is not clear what is being requested that is not already contained in Section 4.11. Section 4.11 states in general that after the contract is awarded the State may request the Contractor to perform additional services within the general scope of the Contract and this RFP, but beyond the specified Scope, and for which the Contractor may be compensated. <u>If the State and the Contractor reach an agreement</u> regarding the services and associated compensation, such agreement <u>must</u> be effected by means of a contract amendment.</p>
<p>5. Would the State consider the following modification Attachment 6.1, Statement of Certifications and Assurances?</p> <p>Contractor proposes to revise the certifications to qualify Contractor’s agreement to comply with the provisions of the RFP as qualified by Contractor’s response and that Contractor only commits to comply with the listed statutes to the extent applicable to Contractor.</p> <ol style="list-style-type: none"> <i>The Respondent will comply with all of the provisions and requirements of the RFP, <u>as qualified by Contractor’s response</u>.</i> <i>The Respondent will provide all services as defined in the Scope of the RFP Attachment 6.5., Pro Forma Contract <u>as definitely negotiated by the Contractor and the State</u> for the total Contract Term.</i> <i>The Respondent, except as otherwise provided in this RFP <u>and qualified the Response</u>, accepts and agrees to all terms and conditions set out in the RFP Attachment 6.5., Pro Forma Contract.</i> <i>The Respondent acknowledges and agrees that a contract resulting from the RFP shall</i> 	<p>No. As provided in Sections 1.6.1 and 1.6.2 of the RFP and as was explained during the pre-response teleconference, each potential respondent to the RFP must carefully review not only the general RFP for any comments or questions, but also the contract that is included as Attachment 6.6 of the RFP. That is the contract the State expects the successful bank to sign, <u>unless it is amended during the written comments period</u>. Consequently, any proposed changes had to be requested and delineated by no later than the Written Comments Deadline. Further, Section 3.3.1. of the RFP states that “(a) response must <u>not</u> include alternate contract terms and conditions. If a response contains such terms and conditions, the State, at its sole discretion, may determine the response to be a non-responsive counteroffer and reject it”.</p> <p>Mandatory requirement Item A.1 states that the Statement of Certifications and Assurances must be signed without exception or qualification.</p>

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<p>incorporate, by reference, all proposal responses as a part of the Contract.</p> <p>5. <u>To the extent applicable to the Respondent,</u> the Respondent will comply with:</p> <p>(a) the laws of the State of Tennessee <u>relevant to the provision of investment master custody and related services;</u></p> <p>(b) Title VI of the federal Civil Rights Act of 1964;</p> <p>(c) Title IX of the federal Education Amendments Act of 1972;</p> <p>(d) the Equal Employment Opportunity Act and the regulations issued there under by the federal government; and,</p> <p>(e) the Americans with Disabilities Act of 1990 and the regulations issued there under by the federal government.</p>	
<p>6. Attachment 6.5 Page 43</p> <p>A.2.c Maintenance of Accounts</p> <p>Contractor proposes to revise paragraph (c) in its entirety to reflect the manner in which the Contractor utilizes Subcontractors and Depositories in the provision of custody services. Would the State consider the following language as paragraph c?</p> <p>Maintenance of Accounts. Except as provided in this Subsection c. and in Subsection d. of this Section, the Contractor shall hold all Securities and cash at its premises at [ADDRESS]; or at such other affiliate of the Contractor as may be authorized by the State in writing. The Contractor shall operate as a direct participant in the Depository Trust Company of New York (DTC), the Federal Reserve Bank (FRB) and the Mortgage-Backed Securities Clearing Corporation (MBSCC), and utilize the services of DTC, FRB AND MBSCC to the fullest extent possible to fulfill its responsibilities under this Contract. The Contractor's use of DTC, FRB and MBSCC shall not relieve it of any liability under this Contract. Subject to the terms hereof, the State hereby authorizes the Contractor to utilize Subcustodians and Depositories in connection with its performance hereunder.</p> <p>The Contractor will only utilize Subcustodians that have entered into an agreement with Contractor or a Contractor Affiliate, and Assets held through a Subcustodian will be held subject to the terms and conditions of such Subcustodian's respective agreement.</p>	<p>See Item 11 below for an amendment to Section A.2.c. of the <i>Pro Forma</i> Contract. See also Item 4 below for an amendment to Section D.19 of the <i>Pro Forma</i> Contract and Item 5 below for an amendment to Section A.21 of the <i>Pro Forma</i> Contract.</p>

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<p>Assets deposited in a Depository will be held subject to the rules, procedures, terms and conditions of such Depository. Subcustodians may hold Assets in Depositories in which such Subcustodians participate.</p> <p>Unless otherwise required by local law or practice or a particular Subcustodian agreement, Assets deposited with Subcustodians or Depositories may be held in a commingled account in the name of, as applicable, Contractor, a Contractor Affiliate or the applicable Subcustodian, for its clients.</p> <p>The term "Depository" means the Depository Trust Company, Euroclear, Clearstream Banking S.A., the Canadian Depository System, CLS Bank and any other securities depository, book-entry system or clearing agency authorized to act as a system for the central handling of securities pursuant to the laws of the applicable jurisdiction, and any successors to, and/or nominees of, any of the foregoing.</p> <p>The term "Subcustodian" means a bank or other financial institution (other than a Depository) that is selected and used by Contractor or a Contractor Affiliate (acting as subcustodian) in connection with the settlement of transactions and/or custody of Assets hereunder, and any successors to, and/or nominees of, any of the foregoing.</p>	
<p>7. Given the extensive network of Subcustodians and Depositories, we cannot assure (without reviewing every single contract), that each and every Subcustodian and Depository is today, and will be into the future, subject to a foreign government agency or regulatory authority. Given this, we cannot be liable for any Losses attributable to our use of Subcustodians (other than Contractor Affiliates) unless such Losses are directly caused by our failure to exercise the Standard of Care. As such, we propose to revise paragraph (d), by revising the subparagraphs listed below, as follows:</p> <p>A.2.d.4 Foreign Bank</p> <p>(4) Foreign Bank. If a foreign bank is selected to act as the Contractor's subcustodian to hold such Securities, the bank is authorized to hold the Securities in any foreign securities depository in which it participates and to hold any cash received</p>	<p>The State respectfully declines in as much as the successful respondent chooses who the subcustodians will be, has the contractual relationship with the subcustodian and, therefore, has control.</p> <p>The State respectfully declines. See response above.</p>

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<p>with respect to those Securities in its account with such foreign securities depository. In the event that a foreign bank permits any of the Securities and cash entrusted to its care to be held in a foreign securities depository, such foreign bank will be required by its agreement with the Contractor to identify on its books such Securities and cash as being held for the account of the Contractor for its customers.</p> <p>A.2.d.5 Contractor Responsibility</p> <p>Contractor proposes to revise this provision to clearly establish that Contractor will only be liable for the actions of subcustodians that are its Affiliates. The responsibility of Contractor with respect to the actions of third-party subcustodians to be limited to instances where Contractor breaches its standard of care in the selection of subcustodians. Would the State consider the following language in lieu this provision?</p> <p>(a) <u>Contractor will exercise the Standard of Care in selecting, retaining and monitoring Subcustodians.</u></p> <p>(b) <u>With respect to Assets held by a Subcustodian, Contractor will be liable to the State for the activities of such Subcustodian under this Agreement to the extent that Contractor would have been liable to the State under this Agreement if Contractor had performed such activities itself in the relevant market in which such Subcustodian is located; provided, however, that with respect to Securities held by a Subcustodian that is not a Contractor Affiliate:</u></p> <p>(i) <u>Contractor's liability will be limited solely to the extent resulting directly from the Contractor's failure to exercise the Standard of Care in selecting, retaining, and monitoring such Subcustodian; and</u></p> <p>(ii) <u>To the extent that Contractor is not liable pursuant to Section A.2.d.5(b)(i), Contractor's sole responsibility to the State will be to: (A) take reasonable and appropriate action to recover from such Subcustodian, and (B) forward to State any amounts so recovered (exclusive of costs and expenses incurred by Contractor in connection therewith).</u></p> <p>A.2.d.7 Subcustodian</p> <p>Would State consider revising this provision as follows? The added language is a statement of fact on the rights of our Subcustodians.</p>	<p>No. Except for the Optional Services described in Section A.13 of the <i>Pro Forma</i> Contract, the only fee the State will pay for the services rendered under this Contract will be the flat fee amount that is entered on the Cost Proposal</p>

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<p><u>Conditions.</u> The Contractor will authorize the holding of Securities and/or cash by a foreign bank or foreign securities depository (in which Securities are held for the account of either the Contractor or a foreign bank acting as its subcustodian) only (i) to the extent that Securities and cash are not subject to any right, charge, security interest, lien or claim of any kind in favor of such bank or securities depository, <u>or its creditors, except a claim for payment for their safe custody or administration, or, in the case of cash deposits, except for liens or rights in favor of its creditors arising under bankruptcy, insolvency or similar law</u> and (ii) to the extent that beneficial ownership of such Securities and cash is freely transferable without the payment of money or value. Any costs, fees or expenses associated with the safekeeping and servicing of the Securities and/or cash by a foreign bank or foreign securities depository, other than those expenses specifically set forth in Section C.3.c. below, shall be the responsibility of the Contractor.</p>	<p>(RFP Attachment 6.3.) by the successful respondent. It will be the successful respondent's responsibility to pay for any custody or administration services performed by its subcustodians.</p>
<p>8. Would the State consider the following modification to the Pro Forma Contract: Attachment 6.5 Page 45 A.2.f.3 Contractor proposes to revise this provision so that the withdrawal process be accomplished at a time as mutually agreed to by the parties.</p>	<p>Our ability to withdraw cannot be restricted. However, and as is stated in Section A.2.f.3. of the <i>Pro Forma</i> contract, the "process shall be accomplished through the use of a daily net wire sent <u>at a mutually agreed upon time</u> during the course of the State's normal business hours that day. The net investable balance which will be held in the Custody Accounts on any given day shall be confirmed with the State by the Contractor at approximately 9:00 a.m. on such day. Based upon the balance, the State shall determine the value of a net wire to be received from or sent to the Contractor".</p>
<p>9. A.2.h Daily Account Balances. Would the State consider the following revisions to this paragraph to clarify that such credit will apply only with respect to "swept" cash, and not to "unswept" deposits, as follows:</p> <p><u>Daily Cash Account Balances.</u> The Contractor agrees the State shall receive a credit monthly, <u>with respect to cash that has been swept as directed by the State or an Investment Manager to investment vehicles offered by the Contractor or to other investment vehicles.</u> for its daily account balances in the Custody Accounts which are in excess of applicable reserve requirements based on the rates applicable to the</p>	<p>The State intends that all cash will be invested at all times. The State will manage cash investments directly or will designate an investment vehicle offered by the custodian for specific portfolios. All excess cash will be swept to these vehicles daily either directly or by the custodian automatically by instruction to the extent that there will be no 'unswept' cash in any portfolios.</p>

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<p>investment vehicles that are mutually agreed to in writing by the State and the Contractor from time to time. The State acknowledges (i) that the rates associated with the investment vehicles may fluctuate on a daily basis, but the earnings credit shall be posted to the Custody Accounts on a monthly basis <u>and (ii) that, as part of the Contractor's compensation, the Contractor will earn interest on unswept cash balances held by the Contractor, including disbursement balances and balances arising from purchase and sale transactions, as disclosed in the Contractor's indirect compensation disclosures.</u></p>	
<p>10. Would the State consider the following modification to the Pro Forma Contract:</p> <p>A.4.b Daily Valuation Services Contractor proposes to revise this provision and replace it with Contractors Asset Calculation Service Appendix [to be provided with the Response]</p>	<p>The State respectfully declines to revising the language. Note: The manner by which the successful respondent will perform the NAV calculation services described in Section A.4.b will be as described in the successful respondent's response to Section C.8 of the RFP, which is specifically incorporated into the contract through Section A.4.b.</p>
<p>11. A.5.d Accounting Records Audit</p> <p>Contractor proposes to revise paragraph (d) to clarify the records to which the State, or its agents, would have access, to read as follows (with the added language in blue and underlined and the deleted language in red with a strike through):</p> <p><i>d. Accounting Record Audits. The Contractor shall permit the State, or the State's duly authorized agents, to perform audits of the <u>material records maintained by the Contractor in the regular and ordinary course of its business relating directly and exclusively to the accounts established under this Contract (the "Account Records")</u> accounting records maintained by the Contractor for the State at any reasonable time and upon reasonable notice.</i></p>	<p>The State respectfully declines in as much as the State must be able to audit all of its accounting records maintained by the Contractor, regardless of whether the Contractor believes the records are material (crucial) or not.</p>
<p>12. A.5.e Record Maintenance</p> <p>Contractor proposes to revise paragraph (e) to conform with the immediately preceding change, as follows:</p> <p><i>e. Record Maintenance. The Contractor shall maintain the ability for the State to access all <u>relevant Account Records</u> transaction activity of the State through the web-based information reporting system described in Section A.5.d. above <u>in accordance with Contractor's record retention</u></i></p>	<p>The State respectfully declines.</p>

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<i>schedule for a period of at least two (2) years after the close of the State's fiscal year.</i>	
<p>13. A.5.f Service Organization Control (SOC) Report</p> <p>Contractor proposes to delete the following language from this section: "...without requiring the State to execute any other agreements or agree to any additional confidentiality obligations."</p>	<p>The State respectfully declines.</p>
<p>14. A.6 Performance Measurement and Risk Reporting and Analysis Services</p> <p>Contractor proposes to revise the last sentence of this Section as follows:</p> <p><i>The package(s) shall also provide the State with monthly audited performance reports on-line and in hardcopy with attribution analysis and drill-down capabilities.</i></p> <p>Contractor also proposes to add the following provision to the end of the Section:</p> <p><i>Contractor shall provide these services through its affiliate pursuant to the terms of a stand-alone contract with that entity, the terms of which will be included with our Response.</i></p>	<p>See Item 10 below for an amendment to Section A.6 of the <i>Pro Forma</i> Contract.</p> <p>No. The State will not entertain entering into a contract with the successful respondent's subcontractor. If the successful respondent proposes to use a subcontractor in fulfilling the respondent's obligations under the contract, the respondent will be the prime contractor and will be responsible for all work performed by that subcontractor. Please see Item 3 below for the definition of a subcontractor.</p>
<p>15. A.17 Authorized Individuals</p> <p>Contractor will provide the State a written list with the names and titles of Persons who have been assigned as the main contacts with respect to Contractor under this Agreement, including any changes to such contacts.</p>	<p>This is what Section A.17 of the <i>Pro Forma</i> Contract envisions. The successful respondent's contacts will be inserted in Contract Attachment 2 prior to execution of the contract.</p>
<p>16. A.19 Changes in Ownership</p> <p>Contractor's contract standards relating to assignability require flexibility to assign contracts to affiliates in the event of a corporate restructuring of the group. Would the State consider the following language? <i>This Agreement is not assignable by either party without the prior written consent of the other, except that (i) the Contractor may assign this Agreement to any Contractor Affiliate, and (ii) any entity, that shall by merger, consolidation, purchase, or otherwise, succeed to substantially all the institutional custody business of the Contractor shall, upon such succession and without any appointment or other action by the State, be and become successor custodian hereunder. The Contractor agrees to provide notice of such successor</i></p>	<p>See response to Question 1 above.</p>

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<p><i>custodian to the State. Any assignment in violation of this provision shall be voidable at the option of the non-assigning party. This Agreement shall be binding upon, and inure to the benefit of, the State and the Contractor and their respective successors and permitted assigns.</i></p>	
<p>17. A.21 General Liability</p> <p>Contractor's contracting standards provide that the liability of Contractor is limited to those direct damages suffered by the State as a result of Contractor's failure to act in accordance with the Standard of Care (i.e. negligence). Would the State consider negotiating this language to provide for this?</p>	<p>See Item 5 below for an amendment to Section A.21 of the <i>Pro Forma</i> Contract.</p>
<p>18. A.22 Transition of Services</p> <p>Contractor proposes that the last sentence of this section be revised to read as follows:</p> <p><i>The Contractor shall remain liable to the State under this Contract for any breaches to the Standard of Care defined in Section A.20 hereof, on or prior to the date on which all property of the State and all services hereunder have been successfully transferred or converted in accordance with this Section.</i></p>	<p>See Item 6 below for an amendment to Section A.22 of the <i>Pro Forma</i> Contract.</p>
<p>19. A.23 Advancements</p> <p>Would the State consider including in this provision customary lien and set off rights to secure the advances described in this provision? See below language the Contractor proposes to add:</p> <p>If: (a) Contractor has advanced funds to an Account; (b) an overdraft has occurred in an Account (including overdrafts incurred in connection with the settlement of securities transactions, funds transfers or foreign exchange transactions) or (c) the State is for any other reason indebted to Contractor, the State agrees to pay Contractor (on demand or upon becoming aware thereof) the amount of such advance, overdraft or indebtedness, plus accrued interest at a rate then charged by Contractor to its institutional custody clients in the relevant currency.</p> <p>In order to secure payment of the State's obligations (whether or not matured) to Contractor or any Contractor Affiliate, relating to or arising under this Agreement or any other agreement with Contractor or any Contractor Affiliate, and in addition to any preference, lien or other rights and security</p>	<p>The State respectfully declines. Instead, and as provided in Section A.23, the State will repay the contractor along with the interest described in Section A.23.</p>

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<p>interest to which Contractor or such Contractor Affiliate may be entitled under applicable law or any other agreement, the State hereby pledges and grants to Contractor and such Contractor Affiliate, and agrees Contractor and such Contractor Affiliate will have to the maximum extent permitted by law, a continuing first lien and security interest in: (a) all of the State's right, title and interest in and to all Accounts in the State's name and the Assets now or hereafter held in such Accounts (including proceeds thereof) and (b) any other property at any time held by Contractor or any Contractor Affiliate for the State; provided that the State does not hereby grant a security interest in any Securities issued by an affiliate (as defined in Section 23A of the U.S. Federal Reserve Act and related implementing regulations (Regulation W, 12 C.F.R. part 223)) of Contractor (such securities, "Affiliate Securities") with the exception of Affiliate Securities that (i) constitute "eligible affiliated mutual fund securities" as defined in Section 223.24(c) of Regulation W (12 C.F.R. 223.24(c)) and (ii) meet the requirements in Section 223.24(c) of Regulation W (12 C.F.R. 223.24(c)). The State represents, warrants and covenants that it owns the Assets in the Accounts, and such other property at any time held by Contractor or any Contractor Affiliate for the State, free and clear of all liens, claims and security interests (except for those granted in accordance with this Agreement or as otherwise acknowledged in writing by Contractor), and that the first lien and security interest granted herein will be subject to no setoffs, counterclaims or other liens prior to or on a parity with it in favor of any third party (other than specific liens granted preferred status by statute). The State will take any additional steps required to assure Contractor of such priority security interest, including notifying third parties or obtaining their consent. Contractor will be entitled to collect from the Accounts sufficient Cash for reimbursement, and if such Cash is insufficient, to sell Securities to the extent necessary to obtain reimbursement. In this regard, Contractor will be entitled to all the rights and remedies of a pledgee, secured creditor and/or securities intermediary under applicable laws, rules and regulations as then in effect as if the State is in default.</p>	

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<p>20. A.25 Warranty</p> <p>Contractor is not able to include Most Favored Nation provisions in our contracts. As such, would the State agree to deleting the first sentence of this provision?</p> <p>Materials may be owned by Contractor's or Contractor's suppliers and subject to intellectual property rights. As such Contractor is required to make any grant of this type of right subject to those intellectual property rights. Is this a revision the State would be willing to negotiate?</p> <p>Contractor proposes to delete the last paragraph of this provision as it does not seem to be applicable to the services to be provided.</p>	<p>See Item 7 below for an amendment to Section A.25 of the <i>Pro Forma</i> Contract (RFP Attachment 6.6).</p>
<p>21. Would the State consider the following modification to the Pro Forma Contract:</p> <p>Attachment 6.5 Page 56</p> <p>A.26 Inspection and Acceptance</p> <p>Contractor will issue monthly statements on the accounts opened under the contract, and the State will have a 90-day inspection period to review and notify Contractor of any objections. Would the State consider revising this provision to align with Contractor's standards?</p>	<p>The State respectfully declines.</p>
<p>22. Section B. Term of Contract – Page 56</p> <p>Could the State please confirm what is the proposed term for this contract?</p>	<p>If the State's current vendor is not the successful respondent, the contract will commence on July 1, 2025 for the purpose of asset conversion and services implementation. As provided in Section A.12 of the <i>Pro Forma</i> Contract, the Contractor will not be paid the fees described in its cost proposal during the implementation period. The fees will be payable beginning the month the State acknowledges in writing to the Contractor that implementation is complete and authorizes the Contractor to begin performing the services contemplated under the Contract. If the State's current vendor is the successful respondent, the contract will commence on December 1, 2025.</p>
<p>23. Section C.1 Maximum Liability – Page 56</p> <p>Could the State please indicate what is the State's proposed Maximum Liability?</p>	<p>Section C.1 is an appropriation provision that sets forth the amount of compensation the State will pay the successful respondent. It will be based on the successful respondent's cost proposal.</p>
<p>24. Section C.8 Deductions</p> <p>We propose to revise Section C.9 as set forth below so as to limit the right of "setoff" to any obligations under this contract:</p> <p><i>The State reserves the right to deduct from amounts, which are or shall become due and</i></p>	<p>The State respectfully declines.</p>

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<p><i>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.</i></p>	
<p>25. Section D.2 Communications and Contacts – Page 59</p> <p>Would the State consider revising this provision to provide that only notices other than routine communications in the ordinary course of providing or receiving services under the Contract (including Instructions) will be subject to these requirements (delivered either (i) by hand delivery, by certified mail, or by overnight delivery service, in each case with receipt acknowledged and postage or charges prepaid, or (ii) by email)?</p>	<p>This can be addressed in the Operating Procedures described in Section A.14 of the <i>Pro Forma</i> contract to address what is considered routine communications.</p>
<p>26. Section D.4 Subject to Funds Availability – page 59</p> <p>Would the State consider revising this clause to provide that in the event of termination due to unavailability of funds, Contractor be compensated for any services provided up to the date of termination?</p>	<p>Section D.4 already provides for payment to the Contractor for services provided up to the termination date.</p>
<p>27. Section D.5 Termination for convenience – Page 59</p> <p>Would the State consider a mutual termination for convenience provision, requiring the terminating party to provide 90 days advance notice?</p>	<p>The State respectfully declines in as much as it would take a considerably longer time to draft, issue, evaluate and award a contract to a new master custodian.</p>
<p>28. Section D.7 Assignment and Subcontracting – Page 60</p> <p>Contractor requires flexibility to assign the contract to any of its affiliates in the event of a corporate restructuring. Would the State be open to revising this provision as indicated below to allow for this flexibility in alignment with the Contractor's standards? See comments to Section A.19 of the Pro Forma Contract and to Sections 4.4.2-4.4.5 of the RFP included herein.</p> <p><u><i>Assignment and Subcontracting. The Contractor shall not assign this Contract (except that the Contractor may assign this Contract to (i) any Contractor Affiliate, and (ii) any entity, that shall by merger, consolidation, purchase, or otherwise, succeed to substantially all the institutional custody business of the Contractor shall, upon such succession and without any appointment or other action by the State, be and become successor custodian hereunder) or enter into a subcontract for any of the services performed under this Contract</i></u></p>	<p>See response to Question 1 above. See also Item 3 below for an amendment to Section D.7 of the <i>Pro Forma</i> Contract (RFP Attachment 6.5).</p>

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<p>without obtaining the prior written approval of the State. If such subcontracts are approved by the State, each 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. <u>Notwithstanding the foregoing, it is expressly acknowledged and agreed by the parties hereto that Subcustodians, Depositories and Market Data Providers (as defined herein) utilized by Contractor shall not, for any purpose under this Contract, constitute subcontractors.</u></p>	
<p>29. Section D.11 Records – Page 61</p> <p>Contractor’s has a standard retention schedule for records, based on type of record and date of creation. Would the State consider revising this provision to align with Contractor’s internal practices? See below:</p> <p><i>Records. The Contractor shall maintain documentation for all charges under this Contract. The Account Records books, records, and documents of the Contractor, for work performed or money received under this Contract, shall be maintained in accordance with Contractor’s retention schedule 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.</i></p>	<p>The State respectfully declines. This is the State’s required retention period for these type records. If the Contractor’s retention period is longer, than the Contractor’s retention period would be acceptable.</p>
<p>30. Section D.13 Progress Reports – Page 61</p> <p>Could the State please confirm what the expected format of these reports would be?</p>	<p>If there will be any expected format for reports that are not otherwise specified in the contract, the format will be mutually agreed to by the parties in the Operating Procedures described in Section A.14 of the contract.</p>
<p>31. Section D.16 Patient Protection and Affordable Care Act – Page 61</p> <p>Would the State consider deleting this provision as the PPACA would not be applicable to the services to be provided by Contractor?</p>	<p>The State respectfully declines. Section D.16 is a Tennessee state standard provision included in all Tennessee State contracts.</p>
<p>32. Section D.17 Limitation of State’s Liability – Page 61</p> <p>Would the State consider making this limitation of liability clause (waiver of consequential damages)</p>	<p>See Item 5 below for an amendment to Section A.21 of the <i>Pro Forma</i> Contract.</p>

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mutual so that Contractor's liability towards the State is also limited in this manner?	
<p>33. Section D.18 Limitation of Contractor's Liability – Page 62</p> <p>Contractor's contracting standards provide that the liability of Contractor is limited to those direct damages suffered by the State as a result of Contractor's failure to act in accordance with the Standard of Care (i.e. negligence). Would the State consider negotiating this language to provide for this? See comment to Section A.21 included herein.</p>	See response to Question 17 above.
<p>34. Section D.19 Hold Harmless – Page 62</p> <p>Would the State consider limiting Contractor's indemnity obligations to those direct losses arising of Contractor's failure to act in accordance with the Standard of Care (i.e. Negligence)?</p>	See Item 4 below for an amendment to Section D.19 of the <i>Pro Forma</i> Contract.
<p>35. Section D.20 HIPAA Compliance – Page 62</p> <p>Services that would be provided by Contractor are not subject to HIPAA. In the negotiation of a definitive contract, Contractor would request that this provision be deleted.</p>	This modification is not necessary since Section D.20 does not apply to the services being provided under the contract. As stated in Section D.20, the provision applies only "if applicable". This provision is a Tennessee state standard provision included in all Tennessee State contracts.
<p>36. Section D.21 Tennessee Consolidated Retirement System – Page 62</p> <p>Could the State please provide more detail as to how is the statutory provision cited in this clause applicable to the services to be provided by Contractor?</p>	The provision does not apply due to the nature of the services being sought. The provision applies only if applicable. Section D.21 is a Tennessee state standard provision included in all Tennessee State contracts.
<p>37. Section D.24 Force Majeure – Page 63</p> <p>Would the State consider the following language in lieu of this provision?</p> <p><i>The Contractor will not be responsible or liable for any failure or delay in the performance of its obligations under this Agreement to the extent caused, directly or indirectly, by natural disasters, fire, acts of God, strikes or other labor disputes, work stoppages, acts of war or terrorism, general civil unrest, actual or threatened epidemics, disease, act of any government, governmental authority or police or military authority, declared or threatened state of emergency, legal constraint, the interruption, loss or malfunction of utilities or transportation, communications or computer systems, or any other similar events beyond its reasonable control. Contractor will use commercially reasonable efforts to minimize the effect of any such events.</i></p>	The State respectfully declines.

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<p>38. Section D.26 Governing Law – Page 64</p> <p>Contractor proposes in adding the following sentence to Section D.26 to clarify that the parties waive any right to a jury trial:</p> <p><i>The parties hereby expressly waive, to the full extent permitted by applicable law, any right to trial by jury with respect to any judicial proceeding arising from or related to this Agreement.</i></p>	<p>The State respectfully declines.</p>
<p>39. Section D.30 Incorporation of Additional Documents – Page 64</p> <p>Would the State consider the following revisions to this clause?</p> <p>a. <i>any amendment to this Contract, with the latter in time controlling over any earlier amendments;</i></p> <p>b. <i>this Contract with any attachments or exhibits (excluding the items listed at subsections c. through f., below), which includes Contract Attachments 1-5.1 – 4;</i></p> <p>c. <i>any clarifications of or addenda to the Contractor's proposal seeking this Contract;</i></p> <p>d. the State solicitation, as may be amended, requesting responses in competition for this Contract; <u>the Contractor's proposal seeking this Contract;</u></p> <p>e. any technical specifications provided to proposers during the procurement process to award this Contract <u>the State solicitation, as may be amended, requesting proposals in competition for this Contract;</u> and</p> <p>f. the Contractor's response seeking this Contract. <u>any technical specifications provided to proposers during the procurement process to award this Contract.</u></p>	<p>The State respectfully declines. This is a required Tennessee state contract provision.</p>
<p>40. D.32 Insurance – Page 64-68. Would the State be amendable to the following revisions?</p> <p>Contractor holds the right to amend its insurance coverage as it deems appropriate and does not grant this right to third parties. Contractor does not provide copies of its insurance policies but will provide relevant certificates of insurance within 10 days following renewal. Lastly, Contractor makes no representation or covenant regarding insurance coverage of our subcontractors.</p> <p>As a result, Contractor proposes to revise this provision as indicated below:</p>	<p>The State respectfully declines.</p>

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<p>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 include the State as an additional insured on any insurance policy with the exception of workers' compensation (employer liability), professional liability (errors and omissions), or crime insurance. All policies, except cyber, must contain an endorsement or policy wording for a waiver of subrogation in favor of the State. However, the State shall be named a loss payee on the Contractor's crime policy. Any deductible or self-insured retention ("SIR") over fifty thousand dollars (\$50,000) must be disclosed to 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.</p> <p>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 advise the State and allow the State to view 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</p>	

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<p>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")</p> <p>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., 3rd 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 shall endeavor to provide it again on the date of renewal or replacement of coverage, but no later than ten (10) <u>seven (7)</u> business days after the renewal or replacement of coverage; provided, however, in cases where professional lines are purchased in layers, it shall be provided by no later than fourteen (14) calendar days after the renewal or replacement of coverage if the Contractor provides to the State a renewal confirmation from the Contractor's insurance broker on the effective date of the new policies. 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 Contractor shall permit the State to review complete copies of all required insurance policies, including endorsements required by these specifications, at any time.</p>	
<p>41. Section D.32.d Professional Liability Insurance – Page 68</p> <p>Contractor proposes to revise subsection 1.ii and 1.iii as indicated below:</p> <p><i>i. Insurance must be maintained, and evidence of insurance must be provided for <u>at least five</u></i></p>	<p>The State respectfully declines.</p>

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<p>(5) <u>three (3)</u> full years from the date of the final Contract payment; and</p> <p>ii. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date on or prior to the Contract Effective Date, the Contractor must purchase “extended reporting” or “tail coverage” for <u>three (3)</u> a minimum of five (5) full years from the date of the final Contract payment.</p>	
<p>42. Section D.32.e - Page 69</p> <p>Contractor proposes to revise paragraph 1 of this section, as indicated below:</p> <p>e. Technology Professional Liability (Errors & Omissions)/Cyber Liability Insurance</p> <p>1) The Contractor shall maintain technology professional liability (errors & omissions)/cyber liability insurance appropriate to the Contractor’s profession in an amount not less than ten million dollars (\$10,000,000) per occurrence or claim and ten million dollars (\$10,000,000) annual aggregate, covering all acts, claims, errors, omissions, negligence, infringement of intellectual property (including copyright, patent and trade secret); network security and privacy risks, including but not limited to unauthorized access, failure of security, information theft, damage to destruction of or alteration of electronic information, breach of privacy perils, wrongful disclosure and release of private information, collection, or other negligence in the handling of confidential information, and including coverage for related regulatory fines, defenses, and penalties.</p>	<p>The State respectfully decline</p>
<p>43. Section D.33 Major Procurement Contract Sales and Use Tax – Page 68</p> <p>This provision does not seem to be applicable to the services in scope for this RFP. As such, Contractor proposes to delete this provision.</p>	<p>Section D.33 states that it applies only “to the extent applicable”. Consequently, and since this is a standard contract provision that is included in all Tennessee State Government personal services contracts, the State respectfully declines.</p>
<p>44. Section D.34 Confidentiality of Records – Page 68</p> <p>Would the State be open to negotiating this provision so that it is revised to allow for disclosures as requested to be disclosed by any regulatory authority having jurisdiction over Contractor, and to allow for Contractor to share Confidential Information with its Affiliates, joint ventures and suppliers as needed for Contractor’s</p>	<p>See Item 8 below for an amendment to Section D.34 of the <i>Pro Forma</i> Contract (RFP Attachment 5.5).</p>

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<p>performance under the Contract and for regulatory, accounting, marketing and other centralized functions performed by Contractor? See proposed revisions below:</p> <p><i>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. <u>Notwithstanding the foregoing, the Contractor may: (a) disclose information regarding the State and its accounts as required by law or at the request of any governmental or regulatory authority whose request must be honored pursuant to law or regulation; (b) use the State's Confidential Information in connection with certain functions performed on a centralized basis by the Contractor, its Affiliates and joint ventures and their service providers (including audit, accounting, risk, legal, compliance, sales, administration, product communication, relationship management, compilation and analysis of customer-related data and storage); (b) disclose such information to its Affiliates and joint ventures and to its and their service providers who are subject to confidentiality obligations and (c) store the names and business contact information of the State's employees and representatives relating to this Agreement on the systems or in the records of its Affiliates and joint ventures and its and their service providers. In addition, Contractor may aggregate information regarding the State and the Accounts on an anonymized basis with other similar client data for the Contractor's and its Affiliates' reporting, research, product development and distribution, and marketing purposes. 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.</u></i></p>	

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<p>45. Additional provisions - Contractor proposes the following new provisions to read as indicated below:</p> <p>Section D.37 Third Party Data</p> <p>(a) <i>The State acknowledges that Contractor will be receiving, utilizing and relying on Market Data and other data provided by The State and/or by third parties in connection with its performance of the services hereunder (collectively, "Third Party Data"). Contractor is entitled to rely without inquiry on all Third Party Data provided to Contractor hereunder (and all Instructions related to Third Party Data), and Contractor makes no assurances or warranties in relation to the accuracy or completeness of Third Party Data and will not be responsible or liable for any losses or damages incurred as a result of any Third Party Data that is inaccurate or incomplete. Contractor may follow Instructions with respect to Third Party Data, even if such Instructions direct Contractor to override its usual procedures and data sources or if Contractor, in performing services for itself or others (including services similar to those performed for The State), receives different Third Party Data for the same or similar Securities.</i></p> <p>(b) <i>If the State does not elect to utilize the Optional Pricing Services, Contractor does not undertake any duty or responsibility under this Agreement to report values or pricing information even though statements and reports provided by Contractor hereunder with respect to the Accounts may contain values of, and pricing information in relation to, Securities held pursuant to this Agreement.</i></p> <p>(c) <i>If the State elects to utilize the Optional Pricing Services, to the extent that Contractor provides values of, and pricing information in relation to, Securities, The State acknowledges and agrees that:</i></p> <p>(i) <i>Contractor is authorized to use generally recognized pricing services including Market Data Providers, brokers, dealers and other market</i></p>	<p>See Item 9 below for an amendment to Section A of the <i>Pro Forma</i> Contract.</p>

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<p><i>makers. In the event that such pricing services are unable to provide a value of or pricing information in respect of Securities and Contractor provides values and pricing information, Contractor will so advise The State, but will have no other responsibility or liability in respect of such valuation or pricing information;</i></p> <p><i>(ii) Certain pricing or valuation information may be based on calculated amounts rather than actual market transactions and may not reflect actual market values, and the variance between such calculated amounts and actual market values may be material;</i></p> <p><i>(iii) Certain third party service providers may not permit The State's directed price to be used, which may result in differences between third party service provider reports and custodial reports;</i></p> <p><i>(iv) Performance measurement and analytic services may use different data sources than those used by Contractor to provide Market Data for an Account, which may result in differences between custodial reports and performance measurement and analytic reports; and</i></p> <p><i>(v) Contractor may require The State to execute supplemental documentation prior to providing pricing for certain Securities.</i></p> <p><i>(d) Certain Market Data may be the intellectual property of Market Data Providers, which impose additional terms and conditions upon The State's use of such Market Data. Such additional terms and conditions can be found on the Data Terms Website. The State agrees to those terms and conditions as they are posted on the Data Terms Website from time to time.</i></p>	
<p>46. Section D.38 Nonfiduciary Status</p> <p><i>The State hereby acknowledges and agrees that Contractor is not a fiduciary by virtue of accepting and carrying out its obligations under this Agreement and has not accepted any fiduciary duties, responsibilities or liabilities with respect to its services hereunder, including with respect to the management, investment advisory or sub-advisory functions of the State.</i></p>	<p>Investment advisory services are not included within the scope of this contract. See also Item 9 below for an amendment to Section A of the <i>Pro Forma</i> contract.</p>

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<p>47. Section E.2 Contractor Commitment to Diversity – Page 68</p> <p>Contractor is not able to make a supplier diversity commitment specific to the contract Contractor would enter into with the State for the services in scope under the RFP.</p>	<p>As gleaned from Section E.2., Section E.2 only applies if in response to Section B.12 of RFP Attachment 6.2, the respondent states that it will be using small business enterprises and businesses owned by minorities, women, service-disabled veterans, or persons with disabilities as a subcontractor in the performance of this contract.</p>
<p>48. Section E.3-E.4 Comptroller Audit Requirements and Information Security Credit Requirements – Page 68-72</p> <p>Contractor's description of information security processes and obligations is described in Contractor's information security rider to be provided with the Response. Would the State consider deleting these two provisions and replacing them with a reference to Contractor's Information Security Rider?</p>	<p>See response to Question 5 above.</p>
<p>49. Section E.4.a(1) Information Technology Security Requirements – Page 69</p> <p>Consistent with standard industry practice, we perform certain back-office functions offshore. While we store data in the U.S., data may be accessed and processed outside the U.S. Would the STO be willing to waive the onshore requirements in this section including the requirement that access to State data shall be limited to US-based (onshore) resources only?</p>	<p>The exception is needed for subcustodians outside the U.S., which is already included in the contract.</p>
<p>50. Section 1.1 Statement of Procurement Purpose – Page 2</p> <p>Please provide the following information broken down by plan: TCRS, COE, Tennessee Promise Endowment Fund, OPEB, QSCB, and the K-12 Mental Health Trust fund:</p> <ul style="list-style-type: none"> a. # of separate accounts, domestic vs. global b. # of commingled funds/mutual funds c. # of LPs, Hedge Funds, Real Estate Funds, etc broken down by type of fund d. # of cash accounts e. Market values for separately managed assets by country including the US 	<p>See attached document titled "Custodian RFP Question 50".</p>

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<ul style="list-style-type: none"> f. # of positions/holdings in the separately managed accounts by country including the US g. # of bank loans, market value of bank loans and annual transaction volumes h. Market values for the commingled funds/mutual funds, LPs, Hedge Funds and Real Estate Funds, etc. i. Annual transaction volumes (buys and sells only) by country including the US j. Any other transaction volumes, i.e. wires, paydowns, third party FX, etc. k. # of derivative positions/holdings by type of derivative l. Annual transaction volumes for derivatives by type m. Average cash balance in the custodian's short term cash vehicle n. All of the above information requested in items a-m for the additional participating plans in the Tennessee Retiree Group Trust (TRGT) – the defined contribution plans, City of Alcoa, City of Franklin, City of Brownsville, City of Covington, and the TCRS Stabilization Reserve Plan. 	
<p>51. Section 1.1 Statement of Procurement Purpose – Page 2</p> <p>Is the custodian performing the Plan Accounting for all of the 7 Plans invested in the Tennessee Retirement Group Trust (TRGT) - TCRS, the defined contribution plans, City of Alcoa, City of Franklin, City of Brownsville, City of Covington, and the TCRS Stabilization Reserve Plan? If so, how many defined contribution plans are we tracking?</p>	<p>Custodian will perform investment accounting for all accounts, funds and portfolios. The custodian will provide a daily NAV valuation for all accounts under the TRGT and maintain participant accounts (currently 10) for the purpose of daily income/expense distribution as well as contribution and withdrawal. The State will work with the custodian to validate outstanding participant shares each morning for TRGT. One of the 10 participants in TRGT is the State's Defined Contribution plan and the recordkeeper for that plan is Empower.</p> <ul style="list-style-type: none"> 1. TCRS DB Plan 2. City of Alcoa 3. City of Brownsville 4. City of Covington 5. City of Franklin

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	6. State DC Plan 7. Stabilization Reserve (State) 8. Stabilization Reserve (Higher Ed) 9. Stabilization Reserve (Teacher) 10. Stabilization Reserve (Local Gov)
52. Section 1.1 Statement of Procurement Purpose – Page 2 Is TCRS/TRGT the only plan receiving daily audited valuation ? Do the other plans (COE, Tennessee Promise Endowment Fund, OPEB, QSCB, and the K-12 Mental Health Trust fund) receive monthly audited valuation?	TCRS/TRGT is the only plan currently receiving a daily NAV/share price. However, all accounts, portfolios, and plans are valued daily for performance and accounting purposes.
53. Section 1.1 Statement of Procurement Purpose – Page 2 Please provide an account schematic for all Plans including the TRGT.	See attached document titled “Custodian RFP Question 50” referenced in the response to Question 50.
54. Section A.5, Scope, Accounting, Custody and Performance Reports – Page 49 What general ledger system do you use?	Oracle PeopleSoft (State Wide), MIP (internal Treasury).
55. Section A.6, Scope, Performance Measurement and Risk Reporting – Page 50 Is TCRS/TRGT the only plan receiving daily audited performance ? At what frequency are the other plans receiving performance?	In addition to TCRS/TRGT, we receive daily audited performance for the following plans: Chairs of Excellence, City of Franklin, K-12 Mental Health, Other Post-Employment Benefits (OPEB), Promise, Qualified School Construction Board (QSCB).
56. Section A.6, Scope, Performance Measurement and Risk Reporting – Page 50 Please provide your benchmarks and custom benchmarks required for performance measurement.	Refer to applicable benchmarks identified in sample performance reports as requested in Question 57 below.
57. Section A.6, Scope, Performance Measurement and Risk Reporting – Page 50 Please provide any sample performance reports and/or board reports.	Sample performance reports from March 2025 provided for all plans identified in the response to Question 55 above.
58. Section A.6, Scope, Performance Measurement and Risk Reporting – Page 50 What is the timing of delivery for accounting and performance reporting each month?	Reporting is expected to occur monthly and will be the reports for the performance as of the prior month end. Reports are expected to be provided within the first two weeks of the subsequent month (January reports provided within first two weeks of February).
59. Section A.6, Scope, Performance Measurement and Risk Reporting – Page 50	All plans receive attribution, etc. Universe comparisons are not required.

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Are all entities/plans receiving Attribution, Analytics, and Look Through on Commingled Funds? Is Universe Comparison required?	
60. Section A.6, Scope, Performance Measurement and Risk Reporting – Page 50 Please describe what is required in the Risk Measurement package referenced this section. Is an ex-ante risk service including VaR required? If so, which plans/entities require this service?	A description of risk measurement, analytics, and reporting included with the account service level being offered is sufficient. While we may utilize such functionality if available, we do not rely on our consultant for these services.
61. Section A.7, Scope, Compliance Reporting Services – Page 50 Which plans/entities require Compliance Monitoring on a daily basis?	All plans/entities require compliance monitoring on a daily basis.
62. What 3 rd party fintech providers do you use?	Please see attached document titled "2025.04.14_3 rd Party Investment Providers.
63. Do you use a third-party vendor to provide administration of your LPs/private equity funds? If so, please provide the name of the vendor. If not, are you looking for the Contractor to provide those services? Please specify the services required to support your LPs.	The successful respondent is expected to record, document, and facilitate capital calls, distributions, commitment levels, and other transactions with respect to drawdown-style investment vehicles (e.g. private equity limited partnerships). We rely on our custodian to maintain a cash flow dashboard and database for limited partnership transactions. Internal investment staff reviews and approves the custodian-populated transactions. A workflow rule then sends these transactions to a separate internal group (Investment Operations) to approve for transacting. Internal investment staff also uses data from the cash flow function to manually populate a daily cash flow model for TCRS. Any fee for providing these services must be included in the overall flat fee amount in the first cost line item on the Cost Proposal (RFP Attachment 6.3.).
64. What Trade Order Management System do you use?	Bloomberg's Order Management System.
65. Please provide FX volumes for 12 months, separately for Custody FX and Directly Negotiated. Please identify whether the volumes are in developed or emerging markets or provide volume by currency.	We only have had CAD for internally managed account (Canadian Account). We just direct the trade at market value. Small amount because Buys and Sell usually wash. In last 12 months, 160,829 CAD sold.
66. Please provide portfolio turnover.	We manage many portfolios in different asset classes, some of which are passive and some active. While we have no high-frequency turnover strategies, across all portfolios turnover is expected to be moderate-to-normal for a public pension fund portfolio.
67. Current FX pricing:	We must repatriate GBP or EUR incoming Distributions for Private Equity/ Strategic

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<ul style="list-style-type: none"> What comprises your current FX pricing arrangement? Are there any special FX pricing arrangements in place currently? If yes, please describe. 	Lending. For our Canadian fund, CAD dividends are repatriated to USD automatically. We don't have any special FX pricing arrangements in place. Outside managers handle their own FX transactions.
68. Do you plan to use a passive FX overlay program to hedge foreign currency/holding exposures, or a share class program?	No.
69. Section A.8, Scope, Collateral Management Services – Page 50 Please clarify the specific collateral management services required.	We need Collateral Management for MSFTA forward settlements. It is full coverage. Services include corresponding with our counterparties, sending and receiving collateral. A trade file is sent daily.
70. Section A.8, Scope, Collateral Management Services – Page 50 Please provide the following information on Collateral Management: Number of Active & Inactive Collateralized Agreements by Type of Agreement: Type of Collateralized Agreements include: Variation Margin CSAs, MSFTAs, MRAs, GMRAs, Cleared OTC, ETD, etc.	We currently have 34 MSFTA agreements with brokers.
71. Section A.8, Scope, Collateral Management Services – Page 50 Average number of collateral settlements per month by agreement & asset type.	We are not sure what is being asked here.
72. Section A.8, Scope, Collateral Management Services – Page 50 What percentage of your margin activity gets segregated under an ACA?	N/A
73. Section A.8, Scope, Collateral Management Services – Page 50 What types of eligible collateral are listed in your agreements? (cash, equities, securities, agency, foreign debt, etc.)	Cash and US Treasuries.
74. Section A.8, Scope, Collateral Management Services – Page 50 Number of In Scope Trades per Month by Product: Trade defined as: the opening of a position, increasing a position, decreasing a position, open position carried into next month. *Please be as specific as possible when defining types of Products.	Approximately 100 trades per month.

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<p>75. Section A.8, Scope, Collateral Management Services – Page 50</p> <p>Type (Third Party or TriParty) of Segregation Custodians you will be pledging to & receiving from.</p>	<p>Collateral is managed by the custodian, managed internally, or managed by the vendor Collateral Management.</p>
<p>76. Section A.11, Scope, Securities Lending – Page 52</p> <p>How many third-party securities lending agents do you use and who are they?</p>	<p>We have one securities lending agent, and it is Deutsche Bank AG acting through its New York branch, Deutsche Bank AG, Head Office.</p>
<p>77. Section A.11, Scope, Securities Lending – Page 52</p> <p>Please provide the following information related to third party lending support:</p> <ul style="list-style-type: none"> • Number of Funds participating in lending • Lending Markets • Single or Block Lending • USD free or vs payment • Any special reporting requirements • Communication method for lending activity • Reallocations activity • Wires/Mark to Market activity • Transaction volumes 	<p>There are 37 active lending funds. Lending markets are: Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany, Hong Kong, Italy, Japan, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Singapore, South Africa, Spain, Sweden, Switzerland, Thailand, Turkey, UK, US. Single Lending. USD Free. No special reporting requirements. Communication method for lending and reallocations activity is through SWIFT. No wires/mark to market activity. Transaction volume averages approximately 400 daily.</p>
<p>78. Attachment 4, Attestation Re Personnel Used in Contract Performance – Page 78</p> <p>Does Attachment 4, Attestation Re Personnel Used in Contract Performance need to be executed as part of our proposal response?</p>	<p>No. It will be signed by the successful respondent at the time of contract signing.</p>
<p>79. Regarding the below mandatory requirement, does this language below indicate that the State expects the assigned staff to only support the State and not be assigned to support other client concurrently?</p> <p>(a) Mandatory Requirements – Staffing: Provide a statement that, if awarded a contract pursuant to this RFP, the Respondent, as of the beginning of the term of the Contract, will provide a minimum of two (2) full time staff dedicated solely to the State’s account and responsible</p>	<p>Yes.</p>

QUESTION / COMMENT	STATE RESPONSE
for coordinating and/or delivering the services sought under this RFP for the duration of the Contract.	
80. Would you be amenable to receiving our response to the RFPs via our secure online portal?	No. It must be delivered to the Solicitation Coordinator via e-mail at dawn.rochelle@tn.gov. <u>Note:</u> As stated in Section 3.2.4. of the RFP, in the event the response with all attachments and supporting documentation will exceed 15 megabytes in total, the Respondent must place the documents in a zip file or make two or more submissions such that the documents per e-mail submission do not exceed 15 megabytes.
81. Can responses be provided in our firm's branding? Please provide any specific formatting requirements or restrictions for preparing our RFP response.	If "branding" means placing your firm's name, logo and other identifying information on the RFP response, then "yes". The specific formatting requirements and other similar type requirements for preparing your response are stated in Section 1.9, and Sections 3.1 through 3.7 of the RFP.
82. Is the State amenable to negotiating Section A.2.d(5) to align with the spirit of our comments? a. [BANK] would not accept this provision because [BANK] is not willing to be liable for losses for third parties EXCEPT for subcustodians, and even then [BANK] will not agree to be responsible for losses arising from a subcustodian's financial viability. The language required by the State in this section could subject [BANK] to the same responsibility as if [BANK] actually held the assets. The State would require here to assign its risks in investing in foreign jurisdictions and such risks should be born by the State and its investment managers. [BANK] accepts responsibility only for investments conducted in the United States markets. [BANK] cannot agree to this level of risk.	See response to Question 7 above. See also Item 4 below for an amendment to Section D.19 of the <i>Pro Forma</i> Contract and Item 5 below for an amendment to Section A.21 of the <i>Pro Forma</i> Contract.
83. Is the State amenable to negotiating Section A.2.d, D.18, and D.19 to align with the spirit of our comments? b. [BANK] would only agree to be liable for (and indemnify the State against) losses, , damages, etc. arising directly from [BANK]'s negligence, fraud, willful misconduct, bad	See Item 4 below for an amendment to Section D.19 of the <i>Pro Forma</i> Contract. See also Item 5 below for an amendment to Section A.21 of the <i>Pro Forma</i> Contract.

QUESTION / COMMENT	STATE RESPONSE
<p>faith, and material breach of the responsibilities allocated to [BANK] by the terms of the custody agreement. Would the State be willing to accept redlines to clarify that [BANK] would only be liable for direct damages? (This would apply to any other related provisions that covers liability and indemnification).</p>	
<p>84. Service in Scope Section</p> <p>What type of risk measurement analytics are required? For example, are ex-post and ex-ante needed?</p>	<p>See response to Question 60 above</p>
<p>85. Service in Scope Section</p> <p>Is there an interest in capital call management/execution services?</p>	<p>See response to Question 63 above.</p>
<p>86. Service in Scope Section</p> <p>Please confirm if Performance Measurements services should be priced in the RFP response. If so, please provide the following information:</p> <ul style="list-style-type: none"> a. Attribution analysis is needed? b. Benchmarks for each manager? Any custom indices? c. Stock level attribution is needed? Is there a need for comparative analytics and benchmarking on each of the individual holdings within a consolidated account? d. Do you need to be able to recategorize or regroup the holdings within a consolidated accounts by asset class or sub-asset class? 	<p>Yes, performance measurements services are a part of this contract. Any fee for providing these services must be included in the overall flat fee amount in the first cost line item on the Cost Proposal (RFP Attachment 6.3.)</p> <p>The answer to a, b, c, and d is “yes”.</p>
<p>87. Service in Scope Section</p> <p>Please confirm if Risk Services should be priced in the RFP response.</p>	<p>Yes, risk reporting and analysis services are a part of this contract. Any fee for providing these services must be included in the overall flat fee amount in the first cost line item on the Cost Proposal (RFP Attachment 6.3.).</p>
<p>88. Service in Scope Section</p> <p>Please confirm if capital call execution services should be priced in the RFP response.</p>	<p>See response to Question 63 above.</p>
<p>89. Securities Lending Section</p> <p>Would the State consider switching to a custodial lender for securities lending? If so:</p> <ul style="list-style-type: none"> a. Please provide an excel 	<p>The State is not currently considering switching from a third-party lending agent to a custodial lender for securities lending.</p>

QUESTION / COMMENT	STATE RESPONSE
<p>based asset list including security name, industry standard asset identifier (CUSIP/SEDOL/ISIN), shares/par value, price, market value.</p> <p>b. Please provide accepted cash collateral reinvestment guidelines.</p> <p>c. Please provide accepted non-cash collateral guidelines.</p> <p>d. Please provide any restrictions associated with securities lending, such as borrower restrictions, percentage on loan restrictions, asset classes or markets restricted from securities lending.</p> <p>e. Please advise if you have a policy on proxy voting.</p> <p>f. Please indicate your interest in discussing solutions to optimize cash and short-term investments through a AAA-rated Treasury repo facility.</p>	
<p>90. Derivatives Section</p> <p>How is the State managing Derivatives Life Cycle and Credit event management for internally managed accounts?</p>	<p>For derivatives, statements are provided from our FCM. Credit events are sent to us from the custodian.</p>
<p>91. Derivatives Section</p> <p>What support is needed from Middle Office support function for any Bilateral & Cleared OTC Confirmation & Clearing?</p>	<p>N/A</p>
<p>92. Derivatives Section</p> <p>What support is needed from Middle Office support function for ETD/Cleared OTC margin management?</p>	<p>N/A</p>
<p>93. Derivatives Section</p> <p>Is there any Regulatory Reporting service required (EMIS/ASIC/MiFiD)?</p>	<p>No.</p>
<p>94. Derivatives Section</p> <p>What products support are you looking for – ex. Over the counter, Exchange Traded Derivatives, Mortgage Backed Securities, Non-Deliverable Forwards (NDF's), Repo, etc.?</p>	<p>Exchange traded securities need a custodian recon team. All other things mentioned are "N/A".</p>
<p>95. Derivatives Section</p> <p>Is the State's total exposure under the previous of Uncleared Margin Regulations?</p>	<p>Yes.</p>

QUESTION / COMMENT	STATE RESPONSE
<p>96. Data Request :</p> <p>Please provide a complete holdings list for all separate managed, single line and cash accounts.</p>	See response to Question 50 above.
<p>97. Data Request :</p> <p>Please provide account volume by type (separately managed, single line and cash.)</p>	See response to Question 50 above.
<p>98. Data Request:</p> <p>Please provide Market Value and asset allocation (i.e. US Equity, US Fixed, Global Equity, Global Fixed), by separately managed account:</p> <p style="padding-left: 40px;">f. If there are any global SMAs, please provide by country allocation market value.</p> <p style="padding-left: 40px;">g. Please provide transactions by asset allocation and country.</p>	See response to Question 50 above.
<p>99. Data Request:</p> <p>Please provide the market value, holding volume and type by commingled fund, i.e. is it marketable securities (e.g. typical commingled fund or mutual fund), or is it an alternative fund (e.g. LP, hedge fund, real estate, etc.)?</p>	See response to Question 50 above.
<p>100. Data Request:</p> <p>Please provide the annual transaction volume by single line asset type.</p>	See response to Question 50 above.
<p>101. Data Request</p> <p>For the LPs in the portfolio:</p> <p style="padding-left: 40px;">h. How many holdings are held today?</p> <p style="padding-left: 40px;">i. Are they housed in their own custody account or grouped into accounts by category/type/year?</p>	See response to Question 50 above. We currently have approximately 300 limited partnerships across our private equity, strategic lending, and real estate platforms. We have structured accounts by strategy and currency (only for strategy/currency combinations in which we have active exposures). For example, we have one account for Growth Equity USD, one account for Growth Equity GBP, one account for Buyout EUR, etc.
<p>102. Data Request</p> <p>Please provide number of incoming and outgoing wires, annually.</p>	See response to Question 50 above.
<p>103. Data Request</p> <p>Is there any derivatives exposure? If so, please provide the type of position, how many open positions and the typical annual trade activity by position type.</p>	See response to Question 50 above.
<p>104. Data Request</p>	See response to Question 50 above.

QUESTION / COMMENT	STATE RESPONSE
<p>Provide the daily cash balance that would be swept into a STIF vehicle as well as the current basis point rate charged for the cash balance.</p>	
<p>105. Section Indemnity of State (D.19)</p> <p>Pro Forma provides that bank will. "...indemnify and hold harmless [State]... against any and all third-party 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 negligent or willful acts, or omissions on the part of the Contractor, its employees, or [agents]..."</p> <p>Contractor's preferred response:</p> <p>The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any direct losses, damages, claims, costs, expenses or other liabilities (including reasonable attorneys' fees and other litigation expenses)(the "Losses"), losses, damages, claims, costs, expenses or other liabilities incurred by the State, in each case, to the extent such Losses from the negligence, willful default or fraud of the Contractor, its employees, or any person acting for or on its or their behalf, in the discharge of its duties under this Contract.</p>	<p>See Item 4 below for an amendment to Section D.19 of the <i>Pro Forma</i> Contract.</p>
<p>106. Section Consequential Damages (D.17)</p> <p><i>"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 [indirect, special, consequential, etc. damages]..."</i></p> <p>Contractor's preferred response:</p> <p>Neither party shall have any liability except as specifically provided in this Contract. In no event will either party be liable to the other party hereto or any other party for any lost revenues [indirect, special, consequential, etc. damages]..."</p>	<p>See Item 5 below for an amendment to Section A.21 of the <i>Pro Forma</i> Contract. See also Item 9 below for an amendment to Section A of the <i>Pro Forma</i> Contract.</p>
<p>107. Confidentiality</p> <p><i>"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</i></p>	<p>See Item 8 below for an amendment to Section D.34 of the <i>Pro Forma</i> Contract (RFP Attachment 5.5).</p>

QUESTION / COMMENT	STATE RESPONSE
<p><i>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."</i></p> <p>Contractor's preferred response:</p> <p>"(A) Strict standards...Subject to the provisions of this Section [], 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". "Confidential Information" shall not include material or information that (i) is publicly available when provided or thereafter becomes publicly available, other than through a breach of this Agreement: (ii) was known to the Contractor (without an obligation of confidentiality) prior to its disclosure; (iii) is independently developed by the Contractor without the use of other Confidential Information; (iv) is rightfully obtained on a non-confidential basis from a third party source. Confidential Information shall not be disclosed or used except as required or permitted under state or federal law, and as set forth in Sub-section (B). Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.</p> <p>(B) 1. The Contractor may disclose the Confidential Information without the State's consent to its attorneys, accountants, auditors, consultants, Service Providers (as defined below), affiliates and other similar advisors that have a reasonable need to know such Confidential Information ("Representatives"), provided such Confidential Information is disclosed under obligations of confidentiality that prohibit the disclosure or use of such Confidential Information by the Representatives for any purpose other than the specific engagement</p>	

QUESTION / COMMENT	STATE RESPONSE
<p>with the State for which the Representative has been retained and that are otherwise no less restrictive than the confidentiality obligations contained in this Agreement.</p> <p>2. Contractor may disclose and permit use (as applicable) of Confidential Information of the State without the State's consent:</p> <p style="padding-left: 40px;">(a) to its Affiliates and any of its third-party agents and service providers ("Service Providers") in connection with the provision of services, the discharge of its obligations under this Agreement or the carrying out of any Proper Instruction, including in accordance with the standard practices or requirements of any Financial Market Utility or in connection with the settlement, holding or administration of Cash, Securities or other instruments;</p> <p style="padding-left: 40px;">(b) its Affiliates in connection with the management of the businesses of the Contractor and its Affiliates, including, but not limited to, financial and operational management and reporting, risk management, legal and regulatory compliance and client service management. Where possible, such Confidential Information must be disclosed under obligations of confidentiality or in a manner consistent with industry practice.</p> <p>3. Contractor may store Confidential Information with third-party providers of information technology services, and permit access to Confidential Information by such providers as reasonably necessary for the receipt of cloud computing and storage services and related hardware and software maintenance and support. Such Confidential Information must be disclosed under obligations of confidentiality"</p>	

3. Delete Section D.7 of the *Pro Forma* Contract (RFP Attachment 6.5) in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):

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.

The Parties agree that all references in this Contract to subcontracts and subcontractors shall be deemed to mean subcontractors engaged by the Contractor specifically for the provision of services to the State hereunder, and not affiliates and third-party suppliers used generally by the Contractor in its business to perform certain components of the services ("third-party suppliers"). Notwithstanding the use of any third-party suppliers, the Contractor shall be responsible for compliance with all terms and conditions of this Contract. The Contractor shall provide reasonable information about third-party suppliers to the State upon request and discuss in good faith any concerns the State may have about any third-party supplier.

4. **Delete Section D.19 of the *Pro Forma Contract* (RFP Attachment 6.6) in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

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 third-party 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 negligent or willful acts, or omissions 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. Notwithstanding this section, the Contractor shall not be liable for remote or speculative damages or damages that the Parties could not reasonably have foreseen upon execution of this Contract, except as may otherwise be provided in Tenn. Code Ann. § 12-3-701(b), which prohibits a limitation of liability (i) for intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; and (ii) for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.

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.

5. **Delete Section A.21 of the *Pro Forma Contract* (RFP Attachment 6.6) in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.21. General Liability. The Contractor shall be liable to the State for any loss suffered by the State as a result of the Contractor's fraud, negligence, or willful misconduct in performing or failing to perform its duties as set out herein, including, but not limited to, any loss occasioned by reason of negligence of or robbery, burglary or theft by its employees. Notwithstanding the foregoing, the Contractor shall not be liable for any loss to the State which is due to a Force Majeure Event as defined in Section D.24 below that are outside the control of the Contractor, or the entity having possession or custody of the Securities or cash as provided in Section A.2. hereof, and which could not be avoided by the exercise of due care. Such causes shall also include losses resulting from the failure of any clearinghouse or depository if such clearinghouse or depository was the exclusive clearinghouse or depository for the particular Securities. Notwithstanding this section or any other section of this Contract to the contrary, the Contractor shall not be liable for remote or speculative damages or damages that the Parties could not reasonably have foreseen upon execution of this Contract, except as may otherwise be provided in Tenn.

Code Ann. § 12-3-701(b), which prohibits a limitation of liability (i) for intellectual property or any Contractor indemnity obligations for infringement for third-party intellectual property rights; and (ii) for intentional torts, criminal acts, fraudulent conduct, or acts or omissions that result in personal injuries or death.

6. **Delete Section A.22 of the *Pro Forma Contract* (RFP Attachment 6.6) in its entirety and insert the following in its place** (any sentence or paragraph containing revised or new text is highlighted):

A.22. Transition of Services Upon Termination. Upon the natural expiration of this Contract or in the event of its termination for any reason, the Contractor shall transfer in accordance with the State's instructions all Securities, cash, records, and other property of the State to whomever the State may designate in writing to the Contractor. The records shall be transferred in a format and media designated by the State and agreed to by the Contractor, provided that such agreement shall not be unreasonably withheld. The Contractor agrees to cooperate with the State, and any subsequent contractor selected by the State to perform the services hereunder, in the transition and conversion of such services. The Contractor shall remain liable to the State under this Contract for any negligent or willful acts or omissions on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract occurring on or prior to the date on which all property of the State and all services hereunder have been successfully transferred or converted in accordance with this Section.

7. **Delete Section A.25 of the *Pro Forma Contract* (RFP Attachment 6.6) in its entirety and insert the following in its place** (any sentence or paragraph containing revised or new text is highlighted):

A.25. [OMITTED] 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.

8. **Delete Section D.34. of the *Pro Forma Contract* (RFP Attachment 6.6) in its entirety and insert the following in its place** (any sentence or paragraph containing revised or new text is highlighted):

D.34. 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 **in connection with the provision of services hereunder, or as required or permitted under state or federal law, or as required by a court of competent jurisdiction or by an appropriately empowered governmental agency.** Contractor shall take all necessary steps to safeguard the confidentiality of such material or information in conformance with applicable state and federal law.

"Confidential Information" shall not include material or information that (i) is publicly available when provided or thereafter becomes publicly available, other than through a breach of this Contract; (ii) was known to the Contractor (without an obligation of confidentiality) prior to its disclosure; (iii) is independently developed by the Contractor without the use of other Confidential Information; or (iv) is rightfully obtained on a non-confidential basis from a third party source.

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

9. **Section A of the *Pro Forma* Contract (RFP Attachment 6.6) is amended by adding the following new Section A.27 (any sentence or paragraph containing revised or new text is highlighted):**

A.27. Instructions; Reliance by Contractor. In performing the services under this Contract, the Contractor shall be responsible for the performance of only such duties as are set forth herein or contained in express instructions given to the Contractor by the authorized individuals of the State which are not contrary to the provisions of this Contract ("Authorized Instructions"). The Contractor shall not be liable for any action it takes or any action it fails to take in good faith upon Authorized Instructions given pursuant to this Contract and may rely on the genuineness of any such documents which it may in good faith believe to have been executed by persons authorized to act for the State pursuant to this Contract. The manner and method by which such instructions may be given shall be mutually agreed to by the Parties in the Operating Procedures described in Section A.14 above.

10. **Delete Section A.6 of the *Pro Forma* Contract (RFP Attachment 6.6) in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

A.6. Performance Measurement and Risk Reporting and Analysis Services. The Contractor shall provide to the State the performance measurement, attribution analysis and risk measurement package(s) described in pages [PAGE NUMBERS FROM SUCCESSFUL PROPOSAL WHICH RESPOND TO SECTION C.13.8. of RFP ATTACHMENT 6.2] of the Contractor's Proposal. Such package shall provide daily performance calculations on all Accounts, Portfolios and Sub-Accounts, and shall be viewable by the State electronically with benchmark comparison data. The package(s) shall also provide the State with monthly audited performance reports on-line ~~and in hardcopy~~ with attribution analysis and drill-down capabilities.

11. **Delete Section A.2.c of the *Pro Forma* Contract (RFP Attachment 6.6) in its entirety and insert the following in its place (any sentence or paragraph containing revised or new text is highlighted):**

c. Maintenance of Accounts. Except as provided in this Subsection c. and in Subsection d. of this Section, the Contractor shall hold all Securities and cash at its premises at [ADDRESS]; or at such other affiliate of the Contractor as may be authorized by the State in writing. **The accounts must be held within the continental United States except as provided by Subsection**

d of this Section. The Contractor shall operate as a direct participant in the Depository Trust Company of New York (DTC), and the Federal Reserve Bank (FRB) and the Mortgage-Backed Securities Clearing Corporation (MBSCC), and utilize the services of DTC, and FRB AND MBSCC to the fullest extent possible to fulfill its responsibilities under this Contract. The Contractor's use of DTC, and FRB and MBSCC shall not relieve it of any liability under this Contract except as otherwise provided herein.

- 12. RFP Amendment Effective Date.** The revisions set forth herein shall be effective upon release. All other terms and conditions of this RFP not expressly amended herein shall remain in full force and effect.