

# **REQUEST FOR PROPOSAL**

**by**

**The University of Texas System,  
acting through The University of Texas System Supply Chain Alliance,**

**for**

**Selection of a Preferred Supplier  
to Provide**

## **MANAGED PRINT SERVICES**

**RFP No. UTS/A20**

**Submittal Deadline: April 25, 2011,  
@ 3:00 PM, CST**

Issued: March 23, 2011

## **TABLE OF CONTENTS**

|  |    |
|--|----|
| SECTION 1: INTRODUCTION .....  | 3  |
| SECTION 2: NOTICE TO PROPOSER .....                                    | 5  |
| SECTION 3: SUBMISSION OF PROPOSAL .....                                | 8  |
| SECTION 4: GENERAL TERMS AND CONDITIONS.....                           | 10 |
| SECTION 5: SPECIFICATIONS, ADDITIONAL QUESTIONS AND SCOPE OF WORK..... | 10 |
| SECTION 6: PRICING AND SERVICE AFFIRMATION .....                       | 13 |

## **APPENDICES AND ATTACHMENTS**

|                |   |    |
|----------------|---|----|
| APPENDIX ONE   | PROPOSAL REQUIREMENTS.....  | 15 |
| APPENDIX TWO   | UT SYSTEM POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES..... | 23 |
| APPENDIX THREE | ACCESS BY INDIVIDUALS WITH DISABILITIES.....                                  | 24 |
| APPENDIX FOUR  | ELECTRONIC AND INFORMATION RESOURCES ENVIRONMENT SPECIFICATIONS .....         | 25 |
| APPENDIX FIVE  | SAMPLE PREFERRED SUPPLIER AGREEMENT .....                                     | 28 |
| ATTACHMENT A   | PRICE SCHEDULE (ref. Sect. 6.1 of this RFP) .....                             | 49 |

## **SECTION 1**

### **INTRODUCTION**

#### **1.1 Description of The University of Texas System**

The University of Texas System is comprised of 15 institutions of higher education with campuses across the State of Texas whose missions are devoted to world class healthcare, teaching, research, and public service (collectively, “**UT System**”). UT System currently has six health institutions and nine academic facilities, making it one of the larger education systems in the United States. With an operating budget of \$12.8 billion, UT System has a current student enrollment exceeding 202,000. UT System employs more than 84,000 faculty and staff, making UT System one of the largest employers in the State of Texas.

UT System is comprised of the following institutions:

- The University of Texas Medical Branch at Galveston (UTMB)
- The University of Texas Southwestern Medical Center (UTSW)
- The University of Texas Health Science Center at Tyler (UTHSCT)
- The University of Texas Health Science Center at Houston (UTHSCH)
- The University of Texas Health Science Center at San Antonio (UTHSCSA)
- The University of Texas M.D. Anderson Cancer Center (UTMDACC)
- The University of Texas at Austin (UT Austin)
- The University of Texas at Arlington (UT Arlington)
- The University of Texas at San Antonio (UTSA)
- The University of Texas at Dallas (UTD)
- The University of Texas – Pan American (UTPA)
- The University of Texas of the Permian Basin (UTPB)
- The University of Texas at El Paso (UTEP)
- The University of Texas at Brownsville (UTB)
- The University of Texas at Tyler (UTTY)

UT System has established the University of Texas System Supply Chain Alliance (the “**Alliance**”) to conduct and coordinate strategic purchasing initiatives across UT System. UTMB, UTSW, UTHSCT, UTHSCH, UTHSCSA and UTMDACC are members of the Alliance. The Alliance is also affiliated with UT System academic campuses and Baylor College of Medicine, Texas Tech University, and Texas Tech University Health Sciences Center. Through a collaborative relationship, the Alliance seeks to combine the supply chain and contracting activities and efforts to obtain best value goods, services, and equipment, while reducing total acquisition costs.

The Alliance has created a team of supply chain professionals (the “**Strategic Sourcing Team**”) that has been tasked with executing Alliance purchasing initiatives. The Strategic Sourcing Team assembles a team of subject matter experts (“**SMEs**”) from each participating institution to assist in the development of each sourcing event and the evaluation of suppliers during the procurement process. SMEs are involved from the sourcing event’s initial inception and work with the Alliance and UT System to select the best value supplier(s).

By participating in this Request for Proposal (“**RFP**”), proposer(s) (collectively, “**Proposer**”) agrees to extend all goods, services and pricing to any Alliance member or affiliate (collectively, “**Institutional Participants**”) that wishes to participate in any contract entered into with Proposer.

## 1.2 Objective of this Request for Proposal

UT System, acting through the Alliance, is soliciting proposals in response to this Request for Proposal, RFP No. UTS/A20 (this “**RFP**”), for Selection of a Preferred Supplier to provide managed print services, including the hardware and services more specifically described in **Section 5.4** (Scope of Work) of this RFP (collectively, the “**Services**”).

UT System, acting through the Alliance, seeks to identify a potential supplier or suppliers that will provide the most practical and cost effective business model to serve the needs of Institutional Participants. The successful Proposer will be referred to and designated as “**Preferred Supplier.**”

The goal of this RFP is to work toward solutions that will minimize cost, while maintaining or improving current service levels for all participating UT System institutions. Proposers should provide solutions involving HUB suppliers, where possible. UT System will work through the Alliance to team with one or more Preferred Suppliers and develop a relationship that will produce a win-win for all parties and establish practical business processes and procedures that will foster a strong working relationship.

Proposer is invited to submit a proposal to establish a strategic business alliance with UT System that will maximize the resources of both organizations to most effectively meet the requirements specified in this RFP document. Specifically this RFP process should:

- Provide a comprehensive and guaranteed pricing structure for the Services;
- Leverage the aggregate purchasing volumes of Institutional Participants;
- Achieve cost savings for Institutional Participants;
- Improve overall customer satisfaction; and
- Enhance relationships between Preferred Supplier and Institutional Participants.

UT System is seeking to reduce the total acquisition cost of Managed Print Services while creating synergies between Institutional Participants and Preferred Supplier(s).

## 1.3 Background

A number of institutions (UTMDACC, UTMB, UTHSCH, UTHSCSA, UT Arlington, UTPA, UTEP and UTD) have tentatively expressed their intention to participate in this sourcing event. Based on data provided by these particular institutions, the estimated value of this RFP is approximately \$8 million annually, with the following particulars:

|   |                  |
|---|------------------|
| Total number of multi-functional devices  | 1,700            |
| Total annual black-and-white print volume | 40 million pages |
| Total annual color print volume           | 5 million pages  |

Other institutions ultimately may join in the sourcing event, which would increase the estimates above.

THE ABOVE FIGURES ARE ESTIMATES ONLY. SERVICES PURCHASED UNDER ANY AGREEMENT RESULTING FROM THIS RFP MAY INVOLVE MORE OR LESS THAN THE ESTIMATES PROVIDED. UT SYSTEM DOES NOT REPRESENT, WARRANT OR GUARANTY THAT UT SYSTEM WILL PROCURE ANY PARTICULAR DOLLAR VALUE OR ANY PARTICULAR QUANTITY OF SERVICES UNDER ANY AGREEMENT RESULTING FROM THIS RFP, AND UT

SYSTEM SPECIFICALLY DISCLAIMS ANY SUCH REPRESENTATIONS, WARRANTIES AND GUARANTIES.

## **SECTION 2** **NOTICE TO PROPOSER**

### **2.1 Submittal Deadline**

UT System will accept proposals submitted in response to this RFP until **3:00 PM**, Central Standard Time on **April 25, 2011** (the "**Submittal Deadline**").

### **2.2 UT System Contact Person**

Proposers will direct all questions or concerns regarding this RFP to the following UT System contact person (the "**UT System Contact**"):

Casey Battenfield, Sourcing Specialist  
UT System Supply Chain Alliance  
Strategic Sourcing Team  
Phone: 713.745.8339  
Email: cmlazari@mdanderson.org

UT System specifically instructs all interested parties to restrict all contact and questions regarding this RFP to written communications forwarded to the UT System Contact. The UT System Contact must receive all questions or concerns no later than **April 18, 2011**. UT System will use a reasonable amount of time to respond to questions or concerns. It is UT System's intent to respond to all appropriate questions and concerns; however, UT System reserves the right to decline to respond to any question or concern.

### **2.3 Criteria for Selection**

Successful Proposer, if any, selected by UT System in accordance with the requirements and specifications set forth in this RFP, will be the Proposer that submits a proposal in response to this RFP, on or before the Submittal Deadline, that is most advantageous to UT System.

Proposer is encouraged to propose terms and conditions offering the maximum benefit to UT System in terms of (1) hardware and services provided to UT System, (2) total overall cost to UT System, and (3) project management expertise. Proposers should describe all educational, state and local government discounts, as well as any other applicable discounts that may be available to UT System in a contract for the Services.

An evaluation team from UT System will evaluate proposals. The evaluation of proposals and the selection of Preferred Supplier will be based on the information provided by Proposer in its proposal. UT System may give consideration to additional information if UT System deems such information relevant.

The criteria to be considered by UT System in evaluating proposals and selecting Preferred Supplier, will be those factors listed below:

### 2.3.1 Threshold Criteria Not Scored

- 2.3.1.1 Ability of UT System to comply with laws regarding Historically Underutilized Businesses; and
- 2.3.1.2 Ability of UT System to comply with laws regarding purchases from persons with disabilities.

### 2.3.1 Scored Criteria

- 2.3.2.1 cost of the goods and services;
- 2.3.2.2 reputation of Proposer and of Proposer's goods or services;
- 2.3.2.3 quality of Proposer's goods or services;
- 2.3.2.4 extent to which the goods or services meet UT System's needs;
- 2.3.2.5 Proposer's past relationship with UT System;
- 2.3.2.6 the total long-term cost to UT System of acquiring Proposer's goods or services ; and
- 2.3.2.7 Proposer's exceptions to the terms and conditions set forth in **Section 4** of this RFP.

## 2.4 Key Events Schedule

|  |   |
|--|---|
| Issuance of RFP  | March 23, 2011                                      |
| Pre-Proposal Conference<br>(ref. <b>Section 2.6</b> of this RFP)         | March 30, 2011<br>10:00 AM, Central Standard Time   |
| Deadline for Questions/Concerns<br>(ref. <b>Section 2.2</b> of this RFP) | April 18, 2011                                      |
| Submittal Deadline<br>(ref. <b>Section 2.1</b> of this RFP)              | 3:00 PM, Central Standard<br>Time on April 25, 2011 |
| Selection of Finalists   | Early June 2011                                     |
| Finalists Interviews and<br>Product Demonstrations                       | Mid to Late June 2011                               |
| Anticipated Contract Award(s)  | July/August 2011                                    |

**IMPORTANT NOTICE:** The Key Events Schedule represents many sourcing and contracting activities occurring within a short period of time. Proposer is asked in advance to make the following resources available to expedite the selection and contracting process:

1. If selected as a finalist, Proposer may be required to attend an interview session that includes a face-to-face meeting with an advance notice of no more than one week. The anticipated location of this activity is Houston, Texas.
2. If selected for contract award, Proposer should have its chief legal and business officers available for commencement of contract negotiations with 72 hours of notice of award. Such negotiations may take place face-to-face in order to expedite the contracting phase. The

anticipated location of this activity is Austin, Texas. Proposer is requested to reference **Section 5.3** of this RFP and provide any exceptions as part of Proposer's RFP response.

**Proposer should not underestimate the necessity of complying with the Key Events Schedule and critical activities listed above. UT System reserves the right to revise the Key Events Schedule at any time.**

## **2.5 Historically Underutilized Businesses**

2.5.1 All agencies of the State of Texas are required to make a good faith effort to assist historically underutilized businesses (each a "**HUB**") in receiving contract awards. The goal of the HUB program is to promote full and equal business opportunity for all businesses in contracting with state agencies. Pursuant to the HUB program, if under the terms of any agreement or contractual arrangement resulting from this RFP, Preferred Supplier subcontracts any of the Services, Preferred Supplier must make a good faith effort to utilize HUBs certified by the Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts or any successor agency. Proposals that fail to comply with the requirements contained in this **Section 2.5** will constitute a material failure to comply with advertised specifications and will be rejected by UT System as non-responsive. Additionally, compliance with good faith effort guidelines is a condition precedent to awarding any agreement or contractual arrangement resulting from this RFP. Proposer acknowledges that, if selected by UT System, its obligation to make a good faith effort to utilize HUBs when subcontracting any of the Services will continue throughout the term of all agreements and contractual arrangements resulting from this RFP. Furthermore, any subcontracting of the Services by Proposer is subject to review by UT System to ensure compliance with the HUB program.

2.5.2 UT System has reviewed this RFP in accordance with Title 34, *Texas Administrative Code*, Section 20.13 (a), and has determined that subcontracting opportunities are probable under this RFP.

2.5.3 A HUB Subcontracting Plan ("**HSP**") is required as part of Proposer's proposal. The HSP will be developed and administered in accordance with UT System's Policy on Utilization of Historically Underutilized Businesses attached as **APPENDIX TWO** and incorporated herein for all purposes.

*Each Proposer must complete and return the HSP in accordance with the terms and conditions of this RFP, including **APPENDIX TWO**. Proposals that fail to do so will be considered non-responsive to this RFP in accordance with Section 2161.252, Texas Government Code.*

Preferred Supplier will not be permitted to change its HSP unless: (1) Preferred Supplier completes a newly modified version of the HSP in accordance with the terms of **APPENDIX TWO** that sets forth all changes requested by Preferred Supplier, (2) Preferred Supplier provides UT System with such modified version of the HSP, (3) UT System approves the modified HSP in writing, and (4) all agreements or contractual arrangements resulting from this RFP are amended in writing by UT System and Preferred Supplier to conform to the modified HSP.

2.5.4 Proposer must submit one (1) signed copy of the HSP to UT System at the same time as it submits its proposal to UT System (ref. **Section 3.1** of this RFP). The signed copy of the HSP (the "**HSP Packet**") must be submitted electronically utilizing the Ariba® e-sourcing tool

as more particularly described in **Section 3.1** of this RFP. Proposer must ensure that the HSP Packet is submitted according to the electronic instructions provided in this RFP.

Any proposal submitted in response to this RFP that is not accompanied by an HSP Packet meeting the above requirements will be rejected by UT System and remain unopened, as that proposal will be considered non-responsive due to material failure to comply with advertised specifications. Furthermore, UT System will open a Proposer's HSP Packet prior to opening the proposal submitted by Proposer, in order to ensure that Proposer has submitted a signed copy of the Proposer's HSP Packet as required by this RFP. A Proposer's failure to submit a signed copy of the completed HSP Packet as required by this RFP will result in UT System's rejection of the proposal submitted by that Proposer as non-responsive, due to material failure to comply with advertised specifications; such a proposal will remain unopened and will be disqualified and not reviewed by UT System (ref. **Section 1.5 of Appendix One** to this RFP).

**Note:** The requirement that Proposer provide a signed and completed HSP Packet under this **Section 2.5.4** is separate from and does not affect Proposer's obligation to provide UT System with its proposal as specified in **Section 3.1** of this RFP.

## 2.6 Pre-Proposal Conference

UT System will hold a pre-proposal conference at 10:00 AM, Central Standard Time, on March 30, 2011. Proposers may attend the conference in one of the following two formats:

in person attendance located in the Bank of America Building at 1020 Holcombe Blvd. Suite 1450, Houston, TX, 77030 (located in the Texas Medical Center); or

webinar broadcast via the Internet utilizing the "Go-to-Meeting" webinar conference service.

The Pre-Proposal Conference will allow all Proposers an opportunity to ask the Alliance, the Strategic Sourcing Team, and UT System HUB representatives relevant questions and clarify provisions of this RFP. Proposer should notify the UT System Contact no later than March 29, 2011, whether it will attend the Pre-Proposal Conference, by emailing the UT System Contact at [cmlazari@mdanderson.org](mailto:cmlazari@mdanderson.org). Proposer must clearly state in which format it will attend. If the Proposer elects to attend the Pre-Proposal Conference in the webinar format, UT System will provide complete details and instructions (including personal computer requirements). If Proposer elects to attend the Pre-Proposal Conference in person, there will be a strict limit of two (2) individuals per Proposer.

## **SECTION 3** **SUBMISSION OF PROPOSAL**

### 3.1 Electronic Submission Notice

Submittal of proposals in response to this RFP will be conducted entirely electronically, utilizing The University of Texas MD Anderson Cancer Center's Ariba® e-sourcing tool. To register for participation in this RFP, please email or call the UT System Contact for further instruction. An original signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. **Section 2 of APPENDIX ONE**) and electronically uploaded as instructed. Proposals must be completed and received by UT System on or before the Submittal Deadline (ref. **Section 2.1** of this RFP).

### 3.2 Proposal Validity Period

Each proposal must state that it will remain valid for UT System's acceptance for a minimum of one hundred eighty (180) days after the Submittal Deadline, to allow time for evaluation, selection, and any unforeseen delays.

### 3.3 Terms and Conditions

3.3.1 Proposer must comply with the requirements and specifications contained in this RFP, the General Terms and Conditions (ref. **Section 4** of this RFP), the Notice to Proposer (ref. **Section 2** of this RFP), Proposal Requirements (ref. **APPENDIX ONE**) and the Specifications, Additional Questions and Scope of Work (ref. **Section 5** of this RFP). If there is a conflict among the provisions in this RFP, the provision requiring Proposer to supply the better quality or greater quantity of goods and services will prevail, or if such conflict does not involve quality or quantity, then interpretation will be in the following order of precedence:

- 3.3.1.1 Specifications, Additional Questions and Scope of Work (ref. **Section 5** of this RFP);
- 3.3.1.2 General Terms and Conditions (ref. **Section 4** of this RFP);
- 3.3.1.3 Proposal Requirements (ref. **APPENDIX ONE**); and
- 3.3.1.4 Notice to Proposer (ref. **Section 2** of this RFP).

### 3.4 Submittal Checklist

Proposer is instructed to complete, sign, and upload into the Ariba® e-Sourcing tool, the following documents as a part of its proposal. If Proposer fails to return each of the following items with its proposal, UT System may reject the proposal:

- 3.4.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**).
- 3.4.2 Responses to questions and requests for information in the Specifications, Additional Questions and Scope of Work Section (ref. **Section 5** of this RFP).
- 3.4.3 Signed and Completed Pricing and Service Affirmation (ref. **Section 6** of this RFP).
- 3.4.4 Signed and completed copy of the HUB Subcontracting Plan or other applicable documents (ref. **Section 2.5** of this RFP and **APPENDIX TWO**).
- 3.4.5 Responses to Proposer's Survey (ref. **Section 5.5** of this RFP).
- 3.4.6 Proposer's Price Schedule (ref. **Section 6.1** and **Attachment A** of this RFP).

**SECTION 4**  
**GENERAL TERMS AND CONDITIONS**

**4.1 General Information regarding Structure of Transaction and Terms and Conditions**

The structure of the transaction UT System intends to enter into as a result of this RFP will be substantially similar to the following: (1) one Preferred Supplier Agreement (“**PSA**”) between UT System and Preferred Supplier; (2) several Institutional Participation Agreements (each an “**IPA**”) signed by participating Alliance members and affiliates; and (3) any other transaction-specific documents (collectively, the “**Agreement**”).

As indicated in **Section 1.2** of this RFP, the successful Proposer is referred to as the “**Preferred Supplier.**”

The terms and conditions contained in the attached Sample Preferred Supplier Agreement (ref. **APPENDIX FIVE**) or, in the sole discretion of UT System, terms and conditions substantially similar to those contained in **APPENDIX FIVE**, will constitute and govern any agreement that results from this RFP. If Proposer takes exception to any terms or conditions set forth in the Agreement, Proposer will submit a list of the exceptions as part of its proposal in accordance with **Section 5.3.3** of this RFP. Proposer’s exceptions will be reviewed by UT System and may result in disqualification of Proposer’s proposal as non-responsive to this RFP. If Proposer’s exceptions do not result in disqualification of Proposer’s proposal, UT System may consider Proposer’s exceptions when UT System evaluates the Proposer’s proposal.

**SECTION 5**  
**SPECIFICATIONS, ADDITIONAL QUESTIONS AND SCOPE OF WORK**

**5.1 General**

The minimum requirements and the specifications for the products and services, as well as certain requests for information to be provided by Proposer as part of its proposal, are set forth below. As indicated in **Section 1.2** of this RFP, the successful Proposer(s) is referred to as the “**Preferred Supplier.**”

**5.2 Minimum Requirements**

Each proposal must include information that clearly indicates that Proposer meets each of the following minimum qualification requirements:

- 5.2.1 Proposer must pay to the Alliance a quarterly administrative fee of 3% of the Total Net Sales made under the Agreement (ref. **Section 6.2** of this RFP).
- 5.2.2 Proposer must have a minimum of five (5) years experience in the healthcare and higher education settings.
- 5.2.3 Proposer must have managed a fleet size of a minimum of 750 devices across the State of Texas.
- 5.2.4 Proposer must have proven experience on-boarding and implementing the transition of a large volume of print services across multiple locations.

- 5.2.5 Proposer must conduct a pre-implementation assessment at each participating institution to establish an accurate baseline of current Total Cost of Ownership, involving multifunctional devices, desktop printers, fax machines, and scanners.
- 5.2.6 Proposer will provide management of maintenance support, including preventive maintenance, on-site repairs, break-fix, site inspection diagnostics, and supply management.
- 5.2.7 Proposer will provide fleet management to include **comprehensive service** installation, removal and salvage, automated service dispatch, and equipment reallocation and replacement.
- 5.2.8 Proposer must satisfy the following security requirements:
  - 5.2.8.1 **proven ability to erase hard drive data and certify/validate with necessary documentation**
  - 5.2.8.2 **provide option for Institutional Participant to keep hard drive for internal disposal**
  - 5.2.8.3 **web interface must be secured using SSL**
  - 5.2.8.4 **security options must be configurable to meet minimum security requirements as defined by Institutional Participant**
- 5.2.9 Proposer's equipment offering must comply with all federal, state, local and JCAHO regulations applicable to such products.

### 5.3 Additional Questions Specific to this RFP and Scope of Work

Proposer must submit the following information as part of Proposer's proposal:

- 5.3.1 In its proposal, Proposer must indicate whether it will consent to include in the Agreement the "Access by Individuals with Disabilities" language that is set forth in **APPENDIX THREE, Access by Individuals with Disabilities**. If Proposer objects to the inclusion of the "Access by Individuals with Disabilities" language in the Agreement, Proposer must, as part of its proposal, specifically identify and describe in detail all of the reasons for Proposer's objection. NOTE THAT A GENERAL OBJECTION IS NOT AN ACCEPTABLE RESPONSE TO THIS QUESTION.
- 5.3.2 Subchapter M, Chapter 2054, *Texas Government Code*, and 1 *Texas Administrative Code* Chapters 206 and 213, require UT institutions to develop, purchase, maintain, and use accessible electronic and information resources (EIR) that conform to the Texas Department of Information Resources (DIR) Accessibility Rules. EIR includes software applications and operating systems, web sites, telecommunications products, video and multimedia products, desktop and portable computers and self contained/closed equipment that includes EIR. For a more comprehensive listing of EIR see *UTS150 Access by Persons with Disabilities to Electronic and Information Resources Procured or Developed by The University of Texas System Administration and The University of Texas System Institutions* <http://www.utsystem.edu/policy/policies/uts150.html> . In addition to Proposer's submission of a completed Voluntary Accessibility Product Template <http://www.itic.org/index.php?submenu=resources&src=gendocs&ref=vpat&category=resour> ces, UT System reserves the right to perform real-world testing of a supplier's product or service in order to validate supplier's claims regarding conformance with DIR Accessibility

Rules. UT System, in its sole discretion, will determine the level of compliance with DIR Accessibility Rules on all products being reviewed.

In its proposal, Proposer must respond to each item listed in **APPENDIX FOUR, Electronic and Information Resources (“EIR”) Environment Specifications**. **APPENDIX FOUR** will establish specifications, representations, warranties and agreements related to the EIR that Proposer is offering to provide to University. Responses to **APPENDIX FOUR** will be incorporated into the Agreement and will be binding on Preferred Supplier.

- 5.3.3 If Proposer takes exception to any terms or conditions set forth in **Section 4** of this RFP, Proposer must submit a list of the exceptions.
- 5.3.4 Proposers will provide answers to the questions listed in the Proposer’s Survey (“**Proposer’s Survey**”) (ref. **Section 5.5** of this RFP) to the best of Proposer’s knowledge, as responses may be incorporated into the Preferred Supplier Agreement. The questions in the Proposer’s Survey will provide UT System with additional information about Proposer and various efficiencies and economies of scale that Proposer may provide to Institutional Participants.
- 5.3.5 Although Proposer may only offer a portion of the services listed in the Price Schedule (ref. **Attachment A** to this RFP) and within the Proposer’s Survey (ref. **Section 5.5** of this RFP), Proposer should submit pricing for as many of the identified items as possible.
- 5.3.6 Proposer should submit information regarding Proposer’s account management, service capabilities, competitive advantage, value-added offerings, and other information requested in the Proposer’s Survey (ref. **Section 5.5** of this RFP).

Note: as part of the final selection process, Proposer may be asked to provide a formal presentation and product demonstration mockup prior to final selection of Preferred Supplier and contract award. Proposer’s presentation and product demonstration mockup will allow UT System to clarify any technical, quality, or pricing questions that may arise in connection with Proposer’s proposal.

#### **5.4 Scope of Work**

UT System seeks to partner with manufacturer(s) and reseller(s) with strong manufacturer relationships for a solution that addresses UT System’s technical, functional and service needs through best-in-class cost and service. UT System intends to identify a Preferred Supplier(s) to standardize equipment makes and models, reduce device quantities and costs, manage programs for current and future print environments, and create financial and operational efficiencies for UT System.

The hardware included in the scope of this RFP includes Multifunctional Devices (black-and-white and color). UT System is pursuing multiple pricing solutions, including lease, cost per copy, and purchase for Multifunctional Devices, with an all-inclusive price to include hardware, all consumable supplies (excluding toner), service and maintenance.

In addition to the above, some Institutional Participants have a need for stand-alone fax machines, which will be priced by Proposer under a purchase structure.

The services within the scope of this RFP include the following:

- 5.4.1 Pre-implementation assessment at each participating institution to establish an accurate baseline of current Total Cost of Ownership involving multifunctional devices, desktop

printers, fax machines and scanners. Proposer will provide a recommendation following the assessment for optimization of the current environment.

5.4.2 Implementation and asset management services including site-by-site optimization of services and equipment, and management of assets in a central database with full control, to include:

5.4.2.1 implementation and transition services

5.4.2.2 asset management and control services including device management software, utilization tracking and physical inventories

5.4.3 Post-implementation management of service operations including help desk, full break-fix, preventative maintenance, replenishment of certain supplies, and end-user training.

5.4.4 Program management and services support, including reporting, monitoring and project management involving risk, quality and change management.

## 5.5 Proposer's Survey

The Proposer's Survey contains a list of additional questions the Proposer will answer when responding to this RFP. If Proposer needs to submit additional supporting information, refer to the supporting information in responses to the Proposer's Survey and attach supporting materials in a logical and clear manner. Any supporting information must be included in electronic form via the Ariba® e-Sourcing tool and must follow the following naming convention: (<Proposer Name> - <Question Number> - Response - <File Name>).

## **SECTION 6** **PRICING AND SERVICE AFFIRMATION**

**THE FOLLOWING FORM MUST BE COMPLETED, SIGNED AND SUBMITTED WITH THE PROPOSER'S PROPOSAL. FAILURE TO DO SO WILL RESULT IN THE REJECTION OF YOUR PROPOSAL.**

**Proposal of:** \_\_\_\_\_  
(Proposer Company Name)

**To:** The University of Texas System

**Ref.:** Managed Print Services

**RFP No.:** UTS/A20

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFP and any attachments thereto, the undersigned proposes to furnish the Services required pursuant to the above-referenced Request for Proposal upon the pricing terms quoted below.

### 6.1 Pricing

The prices quoted in **Attachment A**, Price Schedule, to this RFP will be Proposer's guaranteed pricing for the Services.

**6.2 Administrative Fees**

Proposer agrees that if Proposer is awarded an agreement under this RFP, it will provide to UT System a quarterly administrative fee of 3% of the Total Net Sales made by Preferred Supplier under the Agreement. **"Total Net Sales"** means the total dollar amount of all sales of Services that are made by Preferred Supplier to an Institutional Participant, less credits, returns, taxes, and unpaid invoices. The administrative fee will be used by UT System to provide support for implementation, administration, monitoring, and management of the agreement.

**6.3 Payment Terms**

The Institutional Participants' standard payment term for goods and services is "Net 30 days."

Indicate below the prompt payment discount that Proposer will provide to UT System:

Prompt Payment Discount: \_\_\_\_\_% \_\_\_\_\_days/net 30 days.

Proposer certifies and agrees that all prices, rebates, and incentives proposed in Proposer's proposal have been reviewed by Proposer's executive management.

Respectfully submitted,

**Proposer:** \_\_\_\_\_

**By:** \_\_\_\_\_  
(Authorized Signature for Proposer)

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

# APPENDIX ONE

## PROPOSAL REQUIREMENTS

### SECTION 1 GENERAL INFORMATION

#### 1.1 Purpose

UT System is soliciting competitive sealed proposals from Proposers having suitable qualifications and experience providing goods and services in accordance with the terms, conditions and requirements set forth in this RFP. This RFP provides sufficient information for interested parties to prepare and submit proposals for consideration by UT System.

By submitting a proposal, Proposer certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the goods and services to be performed, the detailed requirements of the goods and services to be provided, and the conditions under which such goods and services are to be performed. Proposer also certifies that it understands that all costs relating to preparing a response to this RFP will be the sole responsibility of Proposer.

PROPOSER IS CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFP CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

#### 1.2 Inquiries and Interpretations

UT System may in its sole discretion respond in writing to written inquiries concerning this RFP and post its response as an Addendum to all parties recorded by UT System as participating in this RFP. Only UT System's responses that are made by formal written Addenda will be binding on UT System. Any verbal responses, written interpretations or clarifications other than Addenda to this RFP will be without legal effect. All Addenda issued by UT System prior to the Submittal Deadline will be and are hereby incorporated as a part of this RFP for all purposes.

Proposers are required to acknowledge receipt of each Addendum by selecting "acknowledge" in the Addendum section of the RFP in Ariba. Each Addendum must be acknowledged by Proposer prior to the Submittal Deadline and should accompany Proposer's proposal.

#### 1.3 Public Information

Proposer is hereby notified that UT System strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information.

UT System may seek to protect from disclosure all information submitted in response to this RFP until such time as a final agreement is executed.

Upon execution of a final agreement, UT System will consider all information, documentation, and other materials requested to be submitted in response to this RFP, to be of a non-confidential and non-proprietary nature and, therefore, subject to public disclosure under the *Texas Public Information Act* (*Government Code*, Chapter 552.001, et seq.). Proposer will be advised of a request for public information that implicates their materials and will have the opportunity to raise

any objections to disclosure to the Texas Attorney General. Certain information may be protected from release under Sections 552.101, 552.110, 552.113, and 552.131, *Government Code*.

#### **1.4 Type of Agreement**

Preferred Supplier, if any, will be required to enter into an agreement with UT System in a form that (i) includes terms and conditions substantially similar to those set forth in **Section 4** of this RFP, and (ii) is otherwise acceptable to UT System in all respects.

#### **1.5 Proposal Evaluation Process**

UT System will select Preferred Supplier by using the competitive sealed proposal process described in this Section. UT System will open the HSP Packet submitted by a Proposer prior to opening Proposer's proposal in order to ensure that Proposer has submitted the completed and signed HUB Subcontracting Plan (also called the HSP) that is required by this RFP (ref. **Section 2.5.4** of the RFP). All proposals submitted by the Submittal Deadline accompanied by the completed and signed HSP required by this RFP will be opened. Any proposals that are not submitted by the Submittal Date or that are not accompanied by the completed and signed HSP required by this RFP will be rejected by UT System as non-responsive due to material failure to comply with advertised specifications. After the opening of the proposals and upon completion of the initial review and evaluation of the proposals, UT System may invite one or more selected Proposers to participate in oral presentations. UT System will use commercially reasonable efforts to avoid public disclosure of the contents of a proposal prior to selection of Preferred Supplier.

UT System may make the selection of Preferred Supplier on the basis of the proposals initially submitted, without discussion, clarification or modification. In the alternative, UT System may make the selection of Preferred Supplier on the basis of negotiation with any of Proposers. In conducting such negotiations, UT System will avoid disclosing the contents of competing proposals.

At UT System's sole option and discretion, UT System may discuss and negotiate all elements of the proposals submitted by selected Proposers within a specified competitive range. For purposes of negotiation, UT System may establish, after an initial review of the proposals, a competitive range of acceptable or potentially acceptable proposals composed of the highest rated proposal(s). In that event, UT System will defer further action on proposals not included within the competitive range pending the selection of Preferred Supplier; provided, however, UT System reserves the right to include additional proposals in the competitive range if deemed to be in the best interests of UT System.

After submission of a proposal but before final selection of Preferred Supplier is made, UT System may permit a Proposer to revise its proposal in order to obtain Proposer's best and final offer. In that event, representations made by Proposer in its revised proposal, including price and fee quotes, will be binding on Proposer. UT System will provide each Proposer within the competitive range with an equal opportunity for discussion and revision of its proposal. UT System is not obligated to select Proposer offering the most attractive economic terms if that Proposer is not the most advantageous to UT System overall, as determined by UT System.

UT System reserves the right to (a) enter into an agreement for all or any portion of the requirements and specifications set forth in this RFP with one or more Proposers, (b) reject any and all proposals and re-solicit proposals, or (c) reject any and all proposals and temporarily or permanently abandon this selection process, if deemed to be in the best interests of UT System. Proposer is hereby notified that UT System will maintain in its files concerning this RFP a written record of the basis upon which a selection, if any, is made by UT System.

## **1.6 Proposer's Acceptance of Evaluation Methodology**

By submitting a proposal, Proposer acknowledges (1) Proposer's acceptance of [a] the Proposal Evaluation Process (ref. **Section 1.5** of **APPENDIX ONE**), [b] the Criteria for Selection (ref. **2.3** of this RFP), [c] the Specifications, Additional Questions and Scope of Work (ref. **Section 5** of this RFP), [d] the terms and conditions set forth in **Section 4** of this RFP, and [e] all other requirements and specifications set forth in this RFP; and (2) Proposer's recognition that some subjective judgments must be made by UT System during this RFP process.

## **1.7 Solicitation for Proposal and Proposal Preparation Costs**

Proposer understands and agrees that (1) this RFP is a solicitation for proposals and UT System has made no representation written or oral that one or more agreements with UT System will be awarded under this RFP; (2) UT System issues this RFP predicated on UT System's anticipated requirements for the Services, and UT System has made no representation, written or oral, that any particular scope of services will actually be required by UT System; and (3) Proposer will bear, as its sole risk and responsibility, any cost that arises from Proposer's preparation of a proposal in response to this RFP.

## **1.8 Proposal Requirements and General Instructions**

- 1.8.1 Proposer should carefully read the information contained herein and submit a complete proposal in response to all requirements and questions as directed.
- 1.8.2 Proposals and any other information submitted by Proposer in response to this RFP will become the property of UT System.
- 1.8.3 UT System will not provide compensation to Proposer for any expenses incurred by Proposer for proposal preparation or for demonstrations or oral presentations that may be made by Proposer, unless otherwise expressly agreed in writing. Proposer submits its proposal at its own risk and expense.
- 1.8.4 Proposals that (i) are qualified with conditional clauses; (ii) alter, modify, or revise this RFP in any way; or (iii) contain irregularities of any kind, are subject to disqualification by UT System, at UT System's sole discretion.
- 1.8.5 Proposals should be prepared simply and economically, providing a straightforward, concise description of Proposer's ability to meet the requirements and specifications of this RFP. Emphasis should be on completeness, clarity of content, and responsiveness to the requirements and specifications of this RFP.
- 1.8.6 UT System makes no warranty or guarantee that an award will be made as a result of this RFP. UT System reserves the right to accept or reject any or all proposals, waive any formalities, procedural requirements, or minor technical inconsistencies, and delete any requirement or specification from this RFP when deemed to be in UT System's best interest. UT System reserves the right to seek clarification from any Proposer concerning any item contained in its proposal prior to final selection. Such clarification may be provided by telephone conference or personal meeting with or writing to UT System, at UT System's sole discretion. Representations made by Proposer within its proposal will be binding on Proposer.

1.8.7 Any proposal that fails to comply with the requirements contained in this RFP may be rejected by UT System, in UT System's sole discretion.

## 1.9 Preparation and Submittal Instructions

### 1.9.1 Specifications and Additional Questions

Proposals must include responses to the questions referenced in Specifications, Additional Questions and Scope of Work (ref. **Section 5** of this RFP).

### 1.9.2 Execution of Offer

Proposer must complete, sign and return the attached Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) as part of its proposal. The Execution of Offer must be signed by a representative of Proposer duly authorized to bind Proposer to its proposal. Any proposal received without a completed and signed Execution of Offer may be rejected by UT System, in its sole discretion.

### 1.9.3 Pricing and Service Affirmation

Proposer must complete and return the Pricing and Service Affirmation (ref. **Section 6** of this RFP), as part of its proposal.

UT System will not recognize or accept any charges or fees to perform the Services that are not specifically stated in the Pricing and Service Affirmation.

### 1.9.4 Submission

Proposer should submit all proposal materials via UTMDACC's Ariba® e-sourcing tool. Proposer should ensure that all documents are submitted electronically in accordance with the instructions in **Section 3.1** of this RFP.

Proposer must also submit the HUB Subcontracting Plan (also called the HSP) as required by this RFP (ref. **Section 2.5** of the RFP.)

UT System will not, under any circumstances, consider a proposal that is received after the Submittal Deadline or which is not accompanied by the completed and signed HSP that is required by this RFP.

UT System will not accept proposals submitted by telephone, proposals submitted by Facsimile ("**FAX**") transmission, or proposals submitted by hard copy (i.e., paper form) in response to this RFP.

Except as otherwise provided in this RFP, no proposal may be changed, amended, or modified after it has been submitted to UT System. However, a proposal may be withdrawn and resubmitted at any time prior to the Submittal Deadline. No proposal may be withdrawn after the Submittal Deadline without UT System's consent, which will be based on Proposer's submittal of a written explanation and documentation evidencing a reason acceptable to UT System, in UT System's sole discretion.

By signing the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) and submitting a proposal, Proposer certifies that any terms, conditions, or documents attached to or referenced in its proposal are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFP and (b) do not place any requirements on UT System that are not set forth in this RFP or in the Appendices to this RFP. Proposer further certifies that the submission of a proposal is Proposer's good faith intent to enter into the Agreement with UT System as specified herein and that such intent is not contingent upon UT System's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.

## **SECTION 2** **EXECUTION OF OFFER**

**THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED AND RETURNED WITH PROPOSER'S PROPOSAL. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH PROPOSER'S PROPOSAL MAY RESULT IN THE REJECTION OF THE PROPOSAL.**

- 2.1** By signature hereon, Proposer represents and warrants the following:
- 2.1.1 Proposer acknowledges and agrees that (1) this RFP is a solicitation for a proposal and is not a contract or an offer to contract; (2) the submission of a proposal by Proposer in response to this RFP will not create a contract between UT System and Proposer; (3) UT System has made no representation or warranty, written or oral, that one or more contracts with UT System will be awarded under this RFP; and (4) Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
  - 2.1.2 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
  - 2.1.3 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
  - 2.1.4 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.
  - 2.1.5 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in Section 4 of this RFP, under which Proposer will be required to operate.
  - 2.1.6 If selected by UT System, Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
  - 2.1.7 If selected by UT System, Proposer will maintain any insurance coverage as required by the Agreement during the term thereof.
  - 2.1.8 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. Proposer acknowledges that UT System will rely on such statements, information and representations in selecting Preferred Supplier. If selected by UT System, Proposer will notify UT System immediately of any material change

in any matters with regard to which Proposer has made a statement or representation or provided information.

2.1.9 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UT SYSTEM, INDEMNIFY, AND HOLD HARMLESS UT SYSTEM, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFP.

2.1.10 Pursuant to Sections 2107.008 and 2252.903, *Government Code*, any payments owing to Proposer under any contract or agreement resulting from this RFP may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

**2.2** By signature hereon, Proposer offers and agrees to furnish the Services to UT System and comply with all terms, conditions, requirements and specifications set forth in this RFP.

**2.3** By signature hereon, Proposer affirms that it has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its submitted proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting contracts, and Proposer may be removed from all proposal lists at UT System.

**2.4** By signature hereon, Proposer certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, *Tax Code*, or that Proposer is exempt from the payment of those taxes, or that Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at UT System's option, may result in termination of any resulting contract or agreement.

**2.5** By signature hereon, Proposer hereby certifies that neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et seq., *Business and Commerce Code*, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.

**2.6** By signature hereon, Proposer certifies that the individual signing this document and the documents made a part of this RFP, is authorized to sign such documents on behalf of Proposer and to bind Proposer under any agreements and other contractual arrangements that may result from the submission of Proposer's proposal.

**2.7** By signature hereon, Proposer certifies as follows:

"Under Section 231.006, *Family Code*, relating to child support, Proposer certifies that the individual or business entity named in Proposer's proposal is not ineligible to receive the specified contract

award and acknowledges that any agreements or other contractual arrangements resulting from this RFP may be terminated if this certification is inaccurate."

- 2.8** By signature hereon, Proposer certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture or the members or managers of any Proposer that is a limited liability company, on one hand, and any member of the Board of Regents of the University of Texas System or an employee of any component of The University of Texas System, on the other hand, other than the relationships which have been previously disclosed to UT System in writing; (ii) Proposer has not been an employee of any component institution of The University of Texas System within the immediate twelve (12) months prior to the Submittal Deadline; and (iii) no person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Proposer's proposal or any contract resulting from this RFP (ref. Section 669.003, *Government Code*). All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before UT System enters into a contract or agreement with Proposer.
- 2.9** By signature hereon, Proposer certifies that in accordance with Section 2155.004, *Government Code*, no compensation has been received for its participation in the preparation of the requirements or specifications for this RFP. In addition, Proposer certifies that an award of a contract to Proposer will not violate Section 2155.006, *Government Code*, prohibiting UT System from entering into a contract that involves financial participation by a person who, during the previous five years, has been convicted of violating federal law or assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Pursuant to Sections 2155.004 and 2155.006, *Government Code*, Proposer certifies that Proposer is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if these certifications are inaccurate.
- 2.10** By signature hereon, Proposer certifies its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 2.11** By signature hereon, Proposer represents and warrants that all products and services offered to UT System in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and the *Texas Hazard Communication Act*, Chapter 502, *Health and Safety Code*, and all related regulations in effect or proposed as of the date of this RFP.
- 2.12** Proposer will and has disclosed, as part of its proposal, any exceptions to the certifications stated in this Execution of Offer. All such disclosures will be subject to administrative review and approval prior to the time UT System makes an award or enters into any contract or agreement with Proposer.
- 2.13** If Proposer will sell or lease computer equipment to UT System under any agreements or other contractual arrangements that may result from the submission of Proposer's proposal then, pursuant to Section 361.965(c), *Health & Safety Code*, Proposer certifies that it is in compliance with the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in Chapter 361, Subchapter Y, *Health & Safety Code* and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in Title 30,

Chapter 328, Subchapter I, *Texas Administrative Code*. Section 361.952(2), *Health & Safety Code* states that, for purposes of the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act, the term "computer equipment" means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.

**2.14 Proposer should complete the following information:**

If Proposer is a Corporation, then State of Incorporation: \_\_\_\_\_

If Proposer is a Corporation then Proposer's Corporate Charter Number: \_\_\_\_\_

RFP No.: UTS/A20

**NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER SECTIONS 552.021 AND 552.023, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER SECTION 559.004, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.**

**THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED AND RETURNED WITH PROPOSER'S PROPOSAL. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH PROPOSER'S PROPOSAL MAY RESULT IN THE REJECTION OF THE PROPOSAL.**

**Submitted and Certified By:**

\_\_\_\_\_  
(Proposer Institution's Name)

\_\_\_\_\_  
(Signature of Duly Authorized Representative)

\_\_\_\_\_  
(Printed Name/Title)

\_\_\_\_\_  
(Date Signed)

\_\_\_\_\_  
(Proposer's Street Address)

\_\_\_\_\_  
(City, State, Zip Code)

\_\_\_\_\_  
(Telephone Number)

\_\_\_\_\_  
(FAX Number)

## APPENDIX TWO

### UT SYSTEM POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES

*[Note: the Alliance should include the most recent edition, obtained from the UT System HUB Office, of the System's Policy on Utilization of Historically Underutilized Businesses.]*

## APPENDIX THREE

### ACCESS BY INDIVIDUALS WITH DISABILITIES

**Access by Individuals with Disabilities.** Preferred Supplier represents and warrants (“**EIR Accessibility Warranty**”) that the electronic and information resources and all associated information, documentation, and support that it provides to UT System under the Agreement (collectively, the “**EIRs**”) comply with the applicable requirements set forth in Title 1, Chapter 213, *Texas Administrative Code* and Title 1, Chapter 206, Rule §206.70, *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M, *Government Code*.) To the extent Preferred Supplier becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Preferred Supplier represents and warrants that it will, at no cost to UT System, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Preferred Supplier is unable to do so, then UT System may terminate the Agreement and Preferred Supplier will refund to UT System all amounts UT System has paid under the Agreement within thirty (30) days after the termination date.

# **APPENDIX FOUR**

## **ELECTRONIC AND INFORMATION RESOURCES ENVIRONMENT SPECIFICATIONS**

The specifications, representations, warranties and agreements set forth in Proposer's responses to this **APPENDIX FOUR** will be incorporated into the Agreement.

### **Basic Specifications**

1. If the EIR will be hosted by University, please describe the overall environment requirements for the EIR (size the requirements to support the number of concurrent users, the number of licenses and the input/output generated by the application as requested in the application requirements).
  - A. Hardware: If Proposer will provide hardware, does the hardware have multiple hard drives utilizing a redundant RAID configuration for fault tolerance? Are redundant servers included as well?
  - B. Operating System and Version:
  - C. Web Server: Is a web server required? If so, what web application is required (Apache or IIS)? What version? Are add-ins required?
  - D. Application Server:
  - E. Database:
  - F. Other Requirements: Are any other hardware or software components required?
  - G. Assumptions: List any assumptions made as part of the identification of these environment requirements.
  - H. Storage: What are the space/storage requirements of this implementation?
  - I. Users: What is the maximum number of users this configuration will support?
  - J. Clustering: How does the EIR handle clustering over multiple servers?
  - K. Virtual Server Environment: Can the EIR be run in a virtual server environment?
  
2. If the EIR will be hosted by Proposer, describe in detail what the hosted solution includes, and address, specifically, the following issues:
  1. Describe the audit standards of the physical security of the facility; and
  2. Indicate whether Proposer is willing to allow an audit by University or its representative.
  
3. If the user and administrative interfaces for the EIR are web-based, do the interfaces support Firefox on Mac as well as Windows and Safari on the Macintosh?
  
4. If the EIR requires special client software, what are the environment requirements for that client software?
  
5. Manpower Requirements: Who will operate and maintain the EIR? Will additional University full time employees (FTEs) be required? Will special training on the EIR be required by Proposer's technical staff? What is the estimated cost of required training.

6. Upgrades and Patches: Describe Proposer's strategy regarding EIR upgrades and patches for both the server and, if applicable, the client software. Included Proposer's typical release schedule, recommended processes, estimated outage and plans for next version/major upgrade.

### **Security**

1. Has the EIR been tested for application security vulnerabilities? For example, has the EIR been evaluated against the Open Web Application Security Project ("**OWASP**") Top 10 list that includes flaws like cross site scripting and SQL injection? If so, please provide the scan results and specify the tool used. University will not take final delivery of the EIR if University determines there are serious vulnerabilities within the EIR.
2. Which party, Proposer or University, will be responsible for maintaining critical EIR application security updates?
3. If the EIR is hosted, indicate whether Proposer's will permit University to conduct a penetration test on University's instance of the EIR.
4. If confidential data, including HIPAA or FERPA data, is stored in the EIR, will the data be encrypted at rest and in transmittal?

### **Integration**

5. Is the EIR authentication Security Assertion Markup Language ("**SAML**") compliant? Has Proposer ever implemented the EIR with Shibboleth authentication? If not, does the EIR integrate with Active Directory? Does the EIR support SSL connections to this directory service?
6. Does the EIR rely on Active Directory for group management and authorization or does the EIR maintain a local authorization/group database?
7. What logging capabilities does the EIR have? If this is a hosted EIR solution, will University have access to implement logging with University's standard logging and monitoring tools, RSA's Envision?
8. Does the EIR have an application programming interface ("**API**") that enables us to incorporate it with other applications run by the University? If so, is the API .Net based? Web Services-based? Other?
9. Will University have access to the EIR source code? If so, will the EIR license permit University to make modifications to the source code? Will University's modifications be protected in future upgrades?
10. Will Proposer place the EIR source code in escrow with an escrow agent so that if Proposer is no longer in business or Proposer has discontinued support, the EIR source code will be available to University?

## Accessibility Information

11. Please complete the Voluntary Product Accessibility Template (“**VPAT**”) found at <http://www.itic.org/index.php?submenu=resources&src=gendocs&ref=vpat&category=resources> and submit the VPAT with Proposer’s proposal.

**APPENDIX FIVE**

**SAMPLE PREFERRED SUPPLIER AGREEMENT**

FOR

\_\_\_\_\_ SUPPLIES

AND RELATED SERVICES

BETWEEN

THE UNIVERSITY OF TEXAS SYSTEM

AND

\_\_\_\_\_  
**University of Texas Agreement Number:** \_\_\_\_\_

This Preferred Supplier Agreement, dated effective as of \_\_\_\_\_, 2011 (“**Effective Date**”), is made by and between **The University of Texas System** (“**UT System**”), a state agency and institution of higher education authorized under the laws of the State of Texas, and \_\_\_\_\_ (“**Preferred Supplier**”), a \_\_\_\_\_ corporation, Federal Tax Identification Number \_\_\_\_\_, with its principal offices located at \_\_\_\_\_.

This Agreement establishes terms and conditions for the procurement of \_\_\_\_\_ supplies and related services on terms and conditions that will permit the parties to reduce procurement and transaction costs and improve efficiency of business processes, all as more fully described below.

In consideration of the benefits, covenants, and stipulations set forth in this Agreement, the parties agree as follows:

**SECTION 1 – Definitions:**

“**Agreement**” means this Preferred Supplier Agreement and all attachments.

“**Alliance**” means The University of Texas System Supply Chain Alliance, a group purchasing organization established by UT System to conduct and coordinate strategic purchasing initiatives across UT System. UT System health institutions are members of the Alliance. The Alliance is also affiliated with UT System academic campuses and other institutions of higher education that have executed an Alliance affiliate agreement.

“**HUB**” means a Historically Underutilized Business as defined by Texas laws and regulations.

“**Institutional Participant**” means an Alliance member or affiliated institution of higher education, as designated by the Alliance, that has executed an Institutional Participation Agreement in connection with this Agreement.

“**Institutional Participation Agreement**” or “**IPA**” means the Institutional Participation Agreement attached to this Agreement as **Rider 300** and incorporated for all purposes, to be executed by each Institutional Participant.

“**Strategic Sourcing Team**” means the team of supply chain professionals employed by UT M.D. Anderson Cancer Center and authorized by UT System to manage activities of the Alliance.

“**UT System Administrator**” means the Director of the Alliance and will be the initial contact for all contractual concerns related to governance and performance management matters under this Agreement.

“**UT Party**” means, collectively, UT System and each Institutional Participant.

**[Additional definitions to be inserted, as appropriate]**

**SECTION 2 – Term:**

The initial term of this Agreement (“**Initial Term**”) will begin on the Effective Date and expire \_\_\_\_\_ *[specifying an initial three-year term]*, unless earlier terminated in accordance with the provisions of this Agreement. UT System and Preferred Supplier may mutually agree to extend the term of this Agreement for up to two additional one-year periods. A renewal will be effective only if evidenced by written amendment between UT System and Preferred Supplier in accordance with **Section 3**.

**SECTION 3 – Amendment:**

No change, modification, alteration, or waiver of this Agreement will be effective unless it is set forth in a written agreement that is signed by UT System and Preferred Supplier.

**SECTION 4 – Performance of Services:**

Preferred Supplier will perform the Services to the satisfaction of UT Party. Time is of the essence in connection with this Agreement. UT Party will not have any obligation to accept late performance or waive timely performance by Preferred Supplier. Preferred Supplier will obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, for the performance of the Services.

**SECTION 5 – Family Code Child Support Certification:**

Pursuant to Section 231.006, *Family Code*, Preferred Supplier certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

**SECTION 6 – Eligibility Certifications:**

Pursuant to Sections 2155.004 and 2155.006, Texas Government Code, Preferred Supplier certifies that Preferred Supplier has not received compensation for participation in the preparation of the Request for Proposal related to this Agreement and is not ineligible to receive the award of or payments under this

Agreement; and acknowledges that this Agreement may be terminated and payment withheld if these certifications are inaccurate.

#### **SECTION 7 – Tax Certification:**

If Preferred Supplier is a taxable entity as defined by Chapter 171, Texas Tax Code (“**Chapter 171**”), then Preferred Supplier certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Preferred Supplier is exempt from the payment of those taxes, or that Preferred Supplier is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

#### **SECTION 8 – Payment of Debt or Delinquency to the State:**

Pursuant to Sections 2107.008 and 2252.903, Texas Government Code, Preferred Supplier agrees that any payments owing to Preferred Supplier under this Agreement may be applied directly toward any debt or delinquency that Preferred Supplier owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

#### **SECTION 9 – Products and Materials Produced in Texas:**

If Preferred Supplier will provide services under this Agreement, Preferred Supplier covenants and agrees that in accordance with Section 2155.4441, Texas Government Code, in performing its duties and obligations under this Agreement, Preferred Supplier will purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

#### **SECTION 10 – Loss of Funding:**

Performance by UT Party under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “**Legislature**”) and/or allocation of funds by the Board of Regents of The University of Texas System (the “**Board**”). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then UT Party will issue written notice to Preferred Supplier and UT Party may terminate this Agreement without further duty or obligation hereunder, other than payment for Services already delivered or provided to Institutional Participant. Preferred Supplier acknowledges that appropriation, allotment, and allocation of funds are beyond the control of UT Party.

#### **SECTION 11 – Force Majeure:**

None of the parties to this Agreement will be liable or responsible to another for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character (“**force majeure occurrence**”). Provided, however, in the event of a force majeure occurrence, Preferred Supplier agrees to use its best efforts to mitigate the impact of the occurrence so that UT Party may continue to provide healthcare services during the occurrence.

#### **SECTION 12 – Notices:**

Except as otherwise provided in this Section, all notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement will be in writing and will be sent via registered or certified mail, overnight courier, confirmed facsimile transmission (to the extent a facsimile number is set forth below), or email (to the extent an email address is set forth below), and notice will be deemed given (i) if mailed, when deposited, postage prepaid, in the United States

mail, (ii) if sent by overnight courier, one business day after delivery to the courier, (iii) if sent by facsimile (to the extent a facsimile number is set forth below), when transmitted, and (iv) if sent by email (to the extent an email address is set forth below), when received:

**If to UT System:** Office of Business Affairs  
The University of Texas System  
201 W. 7th Street  
Attn: Executive Vice Chancellor  
Austin, Texas 78701-2982  
Fax: 512-499-4289  
Email: Lloyd@utsystem.edu

*with copy to:* The University of Texas System Supply Chain Alliance  
1020 Holcombe Blvd.  
Suite 1450  
Houston, TX 77030  
Attention: Director  
Fax : 713-792-8084  
Email:jfjoshua@mdanderson.org

**If to Preferred Supplier:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**If to an Institutional Participant:** The contact information for Institutional Participant as set forth in its IPA.

*with copy to:* Office of Business Affairs  
The University of Texas System  
201 W. 7th Street  
Attn: Executive Vice Chancellor  
Austin, Texas 78701-2982  
Fax: 512-499-4289  
Email: LegalNotices@utsystem.edu

*and* The University of Texas System Supply Chain Alliance  
1020 Holcombe Blvd., Suite 1450  
Houston, TX 77030  
Attention: Director  
Fax: 713-792-8084  
Email:jfjoshua@mdanderson.org

or such other person or address as may be given in writing by either party to the other in accordance with the aforesaid.

**SECTION 13 – Preferred Supplier's Obligations.**

**13.1** Preferred Supplier represents that it has the knowledge, ability, skills, and resources to perform the Services.

**13.2** Preferred Supplier will maintain a staff of properly trained and experienced personnel to ensure satisfactory performance of the Services. Preferred Supplier will cause all persons connected with the Preferred Supplier directly in charge of the performance of the Services to be duly registered and/or licensed under all applicable federal, state and municipal, laws, regulations, codes, ordinances and orders, including the rules, regulations and procedures promulgated by the Board or Institutional Participants, and those of any other body or authority having jurisdiction (collectively, “**Applicable Law**”).

**13.3** Preferred Supplier represents, warrants and agrees that (a) it will use commercially reasonable efforts to perform the Services, in a good and workmanlike manner and in accordance with commercially reasonable standards of Preferred Supplier’s profession or business, and (b) all Services will be of the quality that prevails among similar businesses engaged in providing similar products and services in major United States urban areas under the same or similar circumstances.

**13.4** Preferred Supplier warrants and agrees that the Services will be accurate and free from any material defects. Preferred Supplier's performance of the Services will at no time be in any way diminished by reason of any approval by UT Party nor will Preferred Supplier be released from any liability by reason of any approval by UT Party, it being agreed that UT Party at all times is relying upon Preferred Supplier's skill and knowledge in performing the Services. Preferred Supplier will, at its own cost, correct all material defects in performance of the Services, as soon as practical after Preferred Supplier becomes aware of the defects. If Preferred Supplier fails to correct material defects in the Services within a reasonable time, then UT Party may correct the defect at Preferred Supplier’s expense. This remedy is in addition to, and not in substitution for, any other remedy for the defect that UT Party may have at law or in equity.

**13.5** Preferred Supplier will call to the attention of UT Party, in writing, all information in any materials supplied to Preferred Supplier (by UT Party or any other party) that Preferred Supplier regards as unsuitable, improper or inaccurate in connection with the purposes for which the material is furnished.

**13.6** Preferred Supplier represents that if (i) it is a corporation or limited liability company, then it is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, or a foreign corporation or limited liability company duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary corporate power and has received all necessary corporate approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of Preferred Supplier has been duly authorized to act for and bind Preferred Supplier; or (ii) if it is a partnership, limited partnership, limited liability partnership, or limited liability company then it has all necessary power and has secured all necessary approvals to execute and deliver this Agreement and perform all its obligations hereunder, and the individual executing this Agreement on behalf of Preferred Supplier has been duly authorized to act for and bind Preferred Supplier.

**13.7** Preferred Supplier will provide the warranties more particularly described in Section 7 of **Rider 100**, Scope of Work, on all Supplies.

**13.8** Preferred Supplier represents and warrants that neither the execution and delivery of this Agreement by Preferred Supplier nor the performance of the Services will (a) result in the violation of any provision [i] if a corporation, of Preferred Supplier’s articles of incorporation or by-laws, [ii] if a limited liability company, of its articles of organization or regulations, or [iii] if a partnership, of any partnership agreement by which Preferred Supplier is bound; (b) result in the violation of any provision of any agreement by which Preferred Supplier is bound; or (c) to the best of Preferred Supplier's knowledge and belief, conflict with any order or decree of any court or other body or authority having jurisdiction.

## **SECTION 14 – State Auditor’s Office:**

Preferred Supplier understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, “**Auditor**”), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), 73.115(c) and 74.008(c), Education Code. Preferred Supplier agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Preferred Supplier will include this provision in all contracts with permitted subcontractors.

## **SECTION 15 –Governing Law:**

Travis County, Texas, will be the proper place of venue for suit on or in respect of this Agreement. This Agreement and all of the rights and obligations of the parties thereto and all of the terms and conditions thereof will be construed, interpreted and applied in accordance with and governed by and enforced under the internal laws of the State of Texas.

## **SECTION 16 – Breach of Contract Claims:**

**16.1** To the extent that Chapter 2260, Texas Government Code, as it may be amended from time to time (“**Chapter 2260**”), is applicable to this Agreement and is not preempted by other Applicable Law, the dispute resolution process provided for in Chapter 2260 will be used, as further described herein, by UT Party and Preferred Supplier to attempt to resolve any claim for breach of contract made by Preferred Supplier:

**16.1.1** Preferred Supplier’s claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business will be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Preferred Supplier will submit written notice, as required by subchapter B of Chapter 2260, to UT Party in accordance with the notice provisions in this Agreement. Preferred Supplier's notice will specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that UT Party allegedly breached, the amount of damages Preferred Supplier seeks, and the method used to calculate the damages. Compliance by Preferred Supplier with subchapter B of Chapter 2260 is a required prerequisite to Preferred Supplier's filing of a contested case proceeding under subchapter C of Chapter 2260. The UT Party’s chief business officer, or another officer of UT Party as may be designated from time to time by UT Party by written notice thereof to Preferred Supplier in accordance with the notice provisions in this Agreement, will examine Preferred Supplier's claim and any counterclaim and negotiate with Preferred Supplier in an effort to resolve the claims.

**16.1.2** If the parties are unable to resolve their disputes under Section 4.11.1.1, the contested case process provided in subchapter C of Chapter 2260 is Preferred Supplier’s sole and exclusive process for seeking a remedy for any and all of Preferred Supplier's claims for breach of this Agreement by UT Party.

**16.1.3** Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107, Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this Agreement by UT Party nor any other conduct, action or inaction of any representative of UT Party relating to this Agreement constitutes or is intended to constitute a waiver of UT Party's or the state's sovereign immunity to suit and (ii) UT Party has not waived its right to seek redress in the courts.

**16.2** The submission, processing and resolution of Preferred Supplier's claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, thereafter enacted or subsequently amended.

**16.3** UT Party and Preferred Supplier agree that any periods set forth in this Agreement for notice and cure of defaults are not waived.

**SECTION 17 – Compliance with Law:**

Preferred Supplier will perform the Services in compliance with all Applicable Law. Preferred Supplier represents and warrants that neither Preferred Supplier nor any firm, corporation or institution represented by Preferred Supplier, nor anyone acting for such firm, corporation or institution, (1) has violated the antitrust laws of the State of Texas, Chapter 15, *Texas Business and Commerce Code*, or federal antitrust laws, or (2) has communicated directly or indirectly the content of Preferred Supplier's response to UT System's procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for the Services.

**SECTION 18 – UT Party's Right to Audit:**

At any time during the term of this Agreement and for a period of four (4) years thereafter UT System or a duly authorized audit representative of UT System, or the State of Texas, at its expense and at reasonable times, reserves the right to audit Preferred Supplier's records and books directly related to charges paid for all products and services provided under this Agreement. The right will not extend to any fixed fee component of the charges or to any services performed more than 1 year prior to the date of request for review. In the event such an audit by UT System reveals any errors or overpayments by UT System which error or overpayment is confirmed by Preferred Supplier, Preferred Supplier will refund UT System the full amount of such overpayments within thirty (30) days of such audit findings, or UT System, at its option, reserves the right to deduct such amounts owing to UT System from any payments due Preferred Supplier

**SECTION 19 – Access to Documents:**

To the extent applicable to this Agreement, in accordance with Section 1861(v)(1)(i) of the Social Security Act (42 U.S.C. 1395x) as amended, and the provisions of 42 CFR Section 420.300, et seq., Preferred Supplier agrees to allow, during and for a period of not less than four (4) years after this Agreement term, access to this Agreement and its books, documents, and records; and contracts between Preferred Supplier and its subcontractors or related organizations, including books, documents and records relating to same, by the Comptroller General of the United States, the U.S. Department of Health and Human Services and their duly authorized representatives.

**SECTION 20 – Insurance:**

**20.1** Preferred Supplier, consistent with its status as an independent contractor will carry and will cause its subcontractors to carry, at least the following insurance in the form, with companies admitted to do business in the State of Texas and having an A.M. Best Rating of A:-VII or better, and in amounts (unless otherwise specified), as UT System may require:

**20.1.1** Workers Compensation Insurance with statutory limits, and Employer's Liability Insurance with limits of not less than \$1,000,000:

|                                     |             |
|-------------------------------------|-------------|
| Employers Liability - Each Accident | \$1,000,000 |
| Employers Liability - Each Employee | \$1,000,000 |
| Employers Liability - Policy Limit  | \$1,000,000 |

Policies must include (a) Other States Endorsement to include TEXAS if business is domiciled outside the State of Texas, and (b) a waiver of all rights of subrogation and other rights in favor of UT System;

**20.1.2 Commercial General Liability Insurance with limits of not less than:**

|   |             |
|---|-------------|
| Each Occurrence Limit                     | \$1,000,000 |
| Damage to Rented Premises                 | \$ 100,000  |
| Medical Expenses (any one person)         | \$ 10,000   |
| Personal & Advertising Injury             | \$1,000,000 |
| General Aggregate                         | \$2,000,000 |
| Products - Completed Operations Aggregate | \$2,000,000 |

Policy will include independent contractor's liability, covering, but not limited to, the liability assumed under the indemnification provision of this contract, fully insuring Preferred Supplier's (or subcontractor's) liability for bodily injury (including death) and property damage.

**20.1.3 Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Combined Single Limit Bodily Injury and Property Damage.**

**20.1.4 Umbrella/Excess Liability Insurance with limits of not less than \$2,000,000 per occurrence and aggregate with a deductible of no more than \$10,000, and (i) providing coverage in excess of the coverages of, and (ii) "following form" subject to the same provisions as, the underlying policies required in Section 20.1.1 Employer's Liability Insurance, Section 20.1.2 Commercial General Liability Insurance, and Section 20.1.3 Business Auto Liability Insurance.**

**20.1.5 Director and Officer Liability Insurance with limits of not less than \$1,000,000 on a claims-made basis.**

**20.2 Preferred Supplier will deliver to UT System:**

**20.2.1 Evidence satisfactory to UT System in its sole discretion, evidencing the existence of all insurance after the execution and delivery of this Agreement and prior to the performance or continued performance of any services to be performed by Preferred Supplier under this Agreement.**

Additional evidence, satisfactory to UT System in its sole discretion, of the continued existence of all insurance not less than thirty (30) days prior to the expiration of any insurance. Insurance policies, with the exception of Workers' Compensation and Employer's Liability, will be endorsed and name UT System and the Institutional Participants as Additional Insureds. All policies will be endorsed to provide a waiver of subrogation in favor of UT System and the Institutional Participants. All policies with the exception of Workers' Compensation and Employer's Liability will be endorsed to provide primary and non-contributory coverage. No policy will be canceled until after thirty (30) days' unconditional written notice to UT System.

Preferred Supplier will be responsible for providing to UT System immediate notice of its receipt of a notice of cancellation, termination, material change, or non-renewal relating to any insurance policy required herein. This requirement may be satisfied by providing a copy of the notice received by the Preferred Supplier to UT System within two business days or by endorsement of the policy to require notice to UT System to be provided by the insurer.

**20.3** The insurance policies required in this Agreement will be kept in force for the periods specified below:

**20.3.1** Commercial General Liability Insurance; Business Automobile Liability Insurance; and Umbrella/Excess Liability Insurance will be kept in force until Preferred Supplier's receipt of final payment from every Institutional Participant; and

**20.3.2** Workers' Compensation Insurance and Employer's Liability Insurance will be kept in force until all the Services have been fully performed and accepted by every Institutional Participant.

**SECTION 21 – Indemnification:**

**21.1** TO THE FULLEST EXTENT PERMITTED BY LAW, PREFERRED SUPPLIER WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UT PARTY, AND HOLD HARMLESS UT PARTY AND ITS AFFILIATED ENTERPRISES, REGENTS, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND AGENTS (COLLECTIVELY "INDEMNITEES") FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTling ANY OF THE FOREGOING (COLLECTIVELY "CLAIMS") BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED BY, OR RESULTING FROM PREFERRED SUPPLIER'S PERFORMANCE UNDER OR BREACH OF THIS AGREEMENT, AND THAT ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION OR WILLFUL MISCONDUCT OF PREFERRED SUPPLIER, ANYONE DIRECTLY EMPLOYED BY PREFERRED SUPPLIER OR ANYONE FOR WHOSE ACTS PREFERRED SUPPLIER MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

**21.2** IN ADDITION, PREFERRED SUPPLIER WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UT PARTY, AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY INTEREST ARISING BY OR OUT OF THE PERFORMANCE OF SERVICES OR THE PROVISION OF GOODS BY PREFERRED SUPPLIER, OR THE USE BY INDEMNITEES, AT THE DIRECTION OF PREFERRED SUPPLIER, OF ANY ARTICLE OR MATERIAL; PROVIDED, THAT, UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR INFRINGEMENT, UT PARTIES WILL PROMPTLY NOTIFY PREFERRED SUPPLIER AND PREFERRED SUPPLIER WILL BE GIVEN THE OPPORTUNITY TO NEGOTIATE A SETTLEMENT. IN THE EVENT OF LITIGATION, UT PARTIES AGREE TO REASONABLY COOPERATE WITH PREFERRED SUPPLIER. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

## **SECTION 22 – Ethics Matters; No Financial Interest:**

Preferred Supplier and its employees, agents, representatives and subcontractors have read and understand UT System's Conflicts of Interest Policy available at <http://www.utsystem.edu/policy/policies/int160.html>, UT System's Standards of Conduct Guide available at <http://www.utsystem.edu/systemcompliance/>, and applicable state ethics laws and rules available at [www.utsystem.edu/ogc/ethics](http://www.utsystem.edu/ogc/ethics). Neither Preferred Supplier nor its employees, agents, representatives or subcontractors will assist or cause UT Party's employees to violate UT System's Conflicts of Interest Policy, provisions described by UT System's Standards of Conduct Guide, or applicable state ethics laws or rules. Preferred Supplier represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

## **SECTION 23 – Assignment of Overcharge Claims:**

Preferred Supplier hereby assigns to UT Party any and all claims for overcharges associated with this Agreement arising under the antitrust laws of the United States, 15 U.S.C.A., Sec. 1 et seq., or arising under the antitrust laws of the State of Texas, Business and Commerce Code, Sec. 15.01, et seq.

## **SECTION 24 – Assignment and Subcontracting:**

Except as specifically provided in any Historically Underutilized Business Subcontracting Plan (“HSP”) attached as **Rider 500** and incorporated for all purposes, neither Preferred Supplier's interest in this Agreement, its duties and obligations under this Agreement nor fees due to Preferred Supplier under this Agreement may be subcontracted, assigned, delegated or otherwise transferred to a third party, in whole or in part, and any attempt to do so will (1) not be binding on UT Party; and (2) be a breach of this Agreement for which Preferred Supplier will be subject to any remedial actions provided by Texas law, including Chapter 2161, Texas Government Code, and 34 Texas Administrative Code (“TAC”) Section 20.14. UT Party may report nonperformance under this Agreement to the Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts or any successor agency (collectively, “TPSS”) in accordance with 34 TAC Chapter 20, Subchapter F, Vendor Performance and Debarment Program. The benefits and burdens of this Agreement are, however, assignable by UT Party.

## **SECTION 25 – Historically Underutilized Business Subcontracting Plan:**

**25.1** If an HSP is attached to this Agreement, Preferred Supplier agrees to use good faith efforts to subcontract the scope of work in accordance with the HSP. Preferred Supplier agrees to maintain business records documenting its compliance with the HSP and to submit a monthly compliance report to UT Party in the format required by the TPSS. Submission of compliance reports will be required as a condition for payment under this Agreement. If UT Party determines that Preferred Supplier has failed to subcontract as set out in the HSP, UT Party will notify Preferred Supplier of any deficiencies and give Preferred Supplier an opportunity to submit documentation and explain why the failure to comply with the HSP should not be attributed to a lack of good faith effort by Preferred Supplier. If UT Party determines that Preferred Supplier failed to implement the HSP in good faith, UT Party, in addition to any other remedies, may report nonperformance to the TPSS in accordance with 34 TAC Chapter 20, Subchapter F, Vendor Performance and Debarment Program. UT Party may also revoke this Agreement for breach and make a claim against the Preferred Supplier.

**25.2** If at any time during the term of this Agreement, Preferred Supplier desires to change the HSP, before the proposed changes become effective (1) Preferred Supplier must comply with 34 TAC Section 20.14; (2) the changes must be reviewed and approved by UT Party; and (3) if UT Party approves changes to the HSP, this Agreement must be amended in accordance with Section 2.5.3 to replace the HSP with the revised subcontracting plan.

**25.3** If UT Party expands the scope of the Services through a change order or any other amendment, UT Party will determine if the additional scope of work contains probable subcontracting opportunities not identified in the initial solicitation for the scope of work. If UT Party determines additional probable subcontracting opportunities exist, Preferred Supplier will submit an amended subcontracting plan covering those opportunities. The amended subcontracting plan must comply with the provisions of 34 TAC Section 20.14 before (1) this Agreement may be amended to include the additional scope of work; or (2) Preferred Supplier may perform the additional scope of work. If Preferred Supplier subcontracts any of the additional subcontracting opportunities identified by UT Party without prior authorization and without complying with 34 TAC Section 20.14, Preferred Supplier will be deemed to be in breach of this Agreement under Section 4.19 and will be subject to any remedial actions provided by Texas law including Chapter 2161, Texas Government Code, and 34 TAC Section 20.14. UT Party may report nonperformance under this Agreement to the TPSS in accordance with 34 TAC Chapter 20, Subchapter F, Vendor Performance and Debarment Program.

**SECTION 26 – Payment and Invoicing:**

Institutional Participant agrees to pay fees due under this Agreement in accordance with the Texas Prompt Payment Act (“**Act**”), Chapter 2251, *Texas Government Code*. Pursuant to the Act, payment will be deemed late on the 31<sup>st</sup> day after the later of: 1) the date the performance of the Services is completed, or 2) the date Institutional Participant receives an invoice for the Services. Institutional Participant will be responsible for interest on overdue payments equal to the sum of: 1) one percent, plus 2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year (Institutional Participant’s fiscal year begins September 1) that does not fall on a Saturday or Sunday. Institutional Participant will have the right to verify the details set forth in Preferred Supplier’s invoices and supporting documentation, either before or after payment, by (a) inspecting the books and records of Preferred Supplier at mutually convenient times; (b) examining any reports with respect to the Services; and (c) other reasonable action.

**SECTION 27 – Limitations:**

The parties to this Agreement are aware that there are constitutional and statutory limitations on the authority of UT Party (a state agency) to enter into certain terms and conditions of this Agreement, including, but not limited to, those terms and conditions relating to disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers and limitations of legal rights, remedies, requirements and processes; limitations of periods to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorneys’ fees; dispute resolution; indemnities; and confidentiality (collectively, the “**Limitations**”), and terms and conditions related to the Limitations will not be binding on UT Party except to the extent authorized by the laws and Constitution of the State of Texas.

**SECTION 28 – Affirmative Action:**

Preferred Supplier agrees that either a written copy of Preferred Supplier’s Civil Rights "Affirmative Action Compliance Program" or, if Preferred Supplier is not required to have such a written program, the reason Preferred Supplier is not subject to such requirement, is attached to this Agreement as **Rider 600** and incorporated for all purposes.

**SECTION 29 – OSHA Compliance:**

Preferred Supplier represents and warrants that all services furnished under this Agreement meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-598) and its regulations in effect or proposed as of the date of this Agreement.

**SECTION 30 - Certifications of Nonsegregated Facilities and Equal Employment Opportunities Compliance:**

Preferred Supplier certifies that, except for restrooms and wash rooms and one (1) or more lactation rooms each of which is segregated on the basis of sex: (1) it does not maintain or provide for its employees any segregated facilities at any of its establishments and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained; (2) it will not maintain or provide for its employees any segregated facilities at any of its establishments; and (3) it will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. Preferred Supplier agrees that a breach of this certification is a violation of the Equal Opportunity clause in this Agreement. The term "**segregated facilities**" means any waiting rooms, work area, rest rooms and wash rooms, entertainment areas, transportation, or housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin, because of habit, local custom, or otherwise. Preferred Supplier further agrees that, except where it has contracts prior to the award with subcontractors exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity clause, Preferred Supplier will retain such certifications for each one of its subcontractors in Preferred Supplier's files, and that it will forward the following notice to all proposed subcontractors (except where the proposed subcontractors have submitted identical certifications for specific time periods):

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES - A Certification on Nonsegregated Facilities must be submitted prior to the award of any subcontract exceeding \$10,000.00 which is not exempt from the provisions of the Equal Opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e. quarterly, semiannually, or annually).

Preferred Supplier understands that the penalty for making false statements regarding the subject matters of this Section is prescribed in 18 U.S.C. 1001.

**SECTION 31 – Premises Rules:**

If this Agreement requires Preferred Supplier's presence on UT Party's premises or in UT Party's facilities, Preferred Supplier agrees to cause its representatives, agents, employees and permitted subcontractors (if any) to become aware of, fully informed about, and in full compliance with all applicable UT Party rules and policies, including, without limitation, those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions; consideration for students, patients and their families as well as employees; parking; and security.

**SECTION 32 – Debarment:**

Preferred Supplier confirms that neither Preferred Supplier nor its Principals are suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts from United States ("U.S.") federal government procurement or nonprocurement programs, or are listed in the List of Parties Excluded from Federal Procurement or Nonprocurement Programs issued by the U.S. General Services Administration. "**Principals**" means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division or business segment, and similar positions). Preferred Supplier will provide immediate written notification to UT Party if, at any time prior to award, Preferred Supplier learns

that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance will be placed when UT Party executes this Agreement. If it is later determined that Preferred Supplier knowingly rendered an erroneous certification, in addition to the other remedies available to UT Party, UT Party may terminate this Agreement for default by Preferred Supplier.

### **SECTION 33 – Office of Inspector General Certification:**

Preferred Supplier acknowledges that UT Party is prohibited by federal regulations from allowing any employee, subcontractor, or agent of Preferred Supplier to work on site at UT Party premises or facilities if that individual is not eligible to work on federal healthcare programs such as Medicare, Medicaid, or other similar federal programs. Therefore, Preferred Supplier will not assign any employee, subcontractor or agent that appears on the List of Excluded Individuals issued by the United States Office of the Inspector General ("**OIG**") to work on site at UT Party premises or facilities. Preferred Supplier will perform an OIG sanctions check quarterly on each of its employees, subcontractors and agents during the time such employees, subcontractors and agents are assigned to work on site at UT Party premises or facilities. Preferred Supplier acknowledges that UT Party will require immediate removal of any employee, subcontractor or agent of Preferred Supplier assigned to work at UT Party premises or facilities if such employee, subcontractor or agent is found to be on the OIG's List of Excluded Individuals. The OIG's List of Excluded Individuals may be accessed through the following Internet website: <http://www.dhhs.gov/progorg/oig/cumsan/index.htm>.

### **SECTION 34 – Termination:**

**34.1** UT System may terminate this Agreement, without cause, upon written notice to the Preferred Supplier; provided, however, this Agreement will not terminate until the later of (1) ninety (90) days after receipt of notice of termination, or (2) the date that performance is complete under all purchase orders issued by Institutional Participant to Preferred Supplier prior to receipt of notice of termination. Institutional Participant may not issue any purchase orders after receipt of notice of termination. Termination of this Agreement will not relieve any party from liability for its default under or breach of this Agreement or any other act or omission of that party. In the event that this Agreement is terminated, then within thirty (30) days after termination, Preferred Supplier will reimburse UT Party for all fees paid by UT Party to Preferred Supplier that were (a) not earned by Preferred Supplier prior to termination, or (b) for goods or services that UT Party did not receive from Preferred Supplier prior to termination.

**34.2** UT System or Institutional Participant may terminate an IPA, without cause, upon written notice to Preferred Supplier; provided, however, the IPA will not terminate until the later of (1) thirty (30) days after receipt of notice of termination, or (2) the date that performance is complete under all purchase orders issued by Institutional Participant to Preferred Supplier prior to receipt of notice of termination. Institutional Participant may not issue any purchase orders after receipt of notice of termination. Termination of an IPA will not relieve any party from liability for its default under or breach of the IPA or any other act or omission of that party. In the event that an IPA is terminated, then within thirty (30) days after termination, Preferred Supplier will reimburse Institutional Participant for all fees paid by Institutional Participant to Preferred Supplier that were (a) not earned by Preferred Supplier prior to termination, or (b) for goods or services that Institutional Participant did not receive from Preferred Supplier prior to termination.

### **SECTION 35 – Authority:**

The individuals executing this Agreement on behalf of each party have been duly authorized to act for and bind the party they represent.

### **SECTION 36 – Survival of Provisions:**

Expiration or termination of this Agreement will not relieve either party of any obligations under this Agreement that by their nature survive such expiration or termination.

**SECTION 37 – Confidentiality and Safeguarding of University Records; Press Releases; Public Information:**

Under this Agreement, Preferred Supplier may (1) create, (2) receive from or on behalf of UT Party, or (3) have access to UT Party records or record systems (collectively, “**University Records**”). Among other things, University Records may contain social security numbers, credit card numbers, or data protected or made confidential or sensitive by applicable federal, state and local, laws, regulations, and ordinances, including the Gramm-Leach-Bliley Act (Public Law No: 106-102) and the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (“**FERPA**”). If University Records are subject to FERPA, (1) UT Party designates Preferred Supplier as a university official with a legitimate educational interest in University Records, and (2) Preferred Supplier acknowledges that its improper disclosure or redisclosure of personally identifiable information from University Records may result in Preferred Supplier’s exclusion from eligibility to contract with UT Party for at least five (5) years. Preferred Supplier represents, warrants, and agrees that it will: (1) hold University Records in strict confidence and will not use or disclose University Records except as (a) permitted or required by Agreement, (b) required by law, or (c) otherwise authorized by UT Party in writing; (2) safeguard University Records according to reasonable administrative, physical and technical standards (such as standards established by (i) the National Institute of Standards and Technology and (ii) the Center for Internet Security, as well as the Payment Card Industry Data Security Standards) that are no less rigorous than the standards by which Preferred Supplier protects its own confidential information; (3) continually monitor its operations and take any action necessary to assure that University Records are safeguarded and the confidentiality of University Records is maintained in accordance with all applicable federal, state and local, laws, regulations, and ordinances, including FERPA and the Gramm-Leach Bliley Act, and the terms of this Agreement; and (4) comply with the UT Party rules, policies, and procedures regarding access to and use of UT Party computer systems. At the request of UT Party, Preferred Supplier agrees to provide UT Party with a written summary of the procedures Preferred Supplier uses to safeguard and maintain the confidentiality of University Records.

**37.1 Notice of Impermissible Use.** If an impermissible use or disclosure of any University Records occurs, Preferred Supplier will provide written notice to UT Party within one (1) business day after Preferred Supplier’s discovery of that use or disclosure. Preferred Supplier will promptly provide UT Party with all information requested by UT Party regarding the impermissible use or disclosure.

**37.2 Return of University Records.** Preferred Supplier agrees that within thirty (30) days after the expiration or termination of this Agreement, for any reason, all University Records created or received from or on behalf of UT Party will be (1) returned to UT Party, with no copies retained by Preferred Supplier; or (2) if return is not feasible, destroyed. Twenty (20) days before destruction of any University Records, Preferred Supplier will provide UT Party with written notice of Preferred Supplier’s intent to destroy University Records. Within five (5) days after destruction, Preferred Supplier will confirm to UT Party in writing the destruction of University Records.

**37.3 Disclosure.** If Preferred Supplier discloses any University Records to a subcontractor or agent, Preferred Supplier will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Preferred Supplier by this Section.

**37.4 Press Releases.** Preferred Supplier will not make any press releases, public statements, or advertisement referring to Agreement, or the engagement of Preferred Supplier as an independent contractor of UT Party, or release any information relative to this Agreement for publication, advertisement or any other purpose without the prior written approval of UT Party.

**37.5 Public Information.** UT Party strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the *Texas Public Information Act*, Chapter 552, *Texas Government Code*.

**37.6 Termination.** In addition to any other termination rights set forth in this Agreement, and any other rights at law or equity, if UT Party reasonably determines that Preferred Supplier has breached any of the restrictions or obligations set forth in this Section, UT Party may immediately terminate this Agreement without notice or opportunity to cure.

**37.7 Duration.** The restrictions and obligations under this Section will survive expiration or termination of this Agreement for any reason.

### **SECTION 38 – Tax Exemption**

UT Party may be an agency of the State of Texas or other non-profit entity and may be exempt from certain state taxes under various exemption statutes, including Texas Sales & Use Tax in accordance with Section 151.309, *Tax Code*, and Title 34 *Texas Administrative Code* (“**TAC**”) Section 3.322. Notwithstanding its exemption from certain state taxes, UT Party will be responsible for any taxes (except corporate income taxes, franchise taxes, and taxes on Preferred Supplier’s personnel, including personal income tax and social security taxes) from which UT Party is not exempt. Preferred Supplier will provide reasonable cooperation and assistance to UT Party in obtaining any tax exemptions to which UT Party is entitled.

### **SECTION 39 – Undocumented Workers:**

The *Immigration and Nationality Act* (8 *United States Code* 1324a) (“**Immigration Act**”) makes it unlawful for an employer to hire or continue employment of undocumented workers. The United States Immigration and Customs Enforcement Service has established the Form I-9 Employment Eligibility Verification Form (“**I-9 Form**”) as the document to be used for employment eligibility verification (8 *Code of Federal Regulations* 274a). Among other things, Preferred Supplier is required to: (1) have all employees complete and sign the I-9 Form certifying that they are eligible for employment; (2) examine verification documents required by the I-9 Form to be presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the I-9 Form, and complete the certification portion of the I-9 Form; and (4) retain the I-9 Form as required by law. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual’s national origin or citizenship status. If Preferred Supplier employs unauthorized workers during performance of this Agreement in violation of the Immigration Act then, in addition to other remedies or penalties prescribed by law, UT Party may terminate this Agreement in accordance with Section 4.31. Preferred Supplier represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.

### **SECTION 40 – No Required Quantities or Minimum Amounts; Non-Exclusive Contract:**

**40.1** Preferred Supplier understands that this Agreement does not obligate UT Party to purchase any specific amount of Services from Preferred Supplier under this Agreement or otherwise. For example, this Agreement does not establish any minimum quantity or minimum dollar amount of Services that UT Party must purchase from Preferred Supplier during the term of this Agreement.

**40.2** Preferred Supplier and UT System agree that this Agreement is a non-exclusive contract and is not an exclusive purchasing arrangement under which any Services must be procured by UT Party from Preferred Supplier. Preferred Supplier acknowledges and agrees that UT Party may procure any goods and services, including goods and services that are the same as or substantially similar to the Services, from sources other than Preferred Supplier.

#### **SECTION 41 – Access by Individuals with Disabilities:**

Preferred Supplier represents and warrants (“**EIR Accessibility Warranty**”) that the electronic and information resources and all associated information, documentation, and support that it provides to UT Party under this Agreement (collectively, the “**EIRs**”) comply with the applicable requirements set forth in Title 1, Chapter 213 of the *Texas Administrative Code* and Title 1, Chapter 206, Rule §206.70 of the *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M of the *Texas Government Code*). To the extent Preferred Supplier becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Preferred Supplier represents and warrants that it will, at no cost to UT Party, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty, or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Preferred Supplier is unable to do so, then the UT System may terminate this Agreement and Preferred Supplier will refund to UT System all amounts UT System has paid under this Agreement within thirty (30) days after the termination date.

#### **SECTION 42 – Entire Agreement; Modifications:**

This Agreement supersedes all prior agreements, written or oral, between Preferred Supplier and UT Party and will constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement. This Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by UT Party and Preferred Supplier.

#### **SECTION 43 – Captions:**

The captions of sections and subsections in this Agreement are for convenience only and will not be considered or referred to in resolving questions of interpretation or construction.

#### **SECTION 44 – Waivers:**

No delay or omission in exercising any right accruing upon a default in performance of this Agreement will impair any right or be construed to be a waiver of any right. A waiver of any default under this Agreement will not be construed to be a waiver of any subsequent default under this Agreement.

#### **SECTION 45 – Binding Effect:**

This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors.

#### **SECTION 46 – Limitations of Liability:**

Except for UT Party’s obligation (if any) to pay Preferred Supplier certain fees and expenses, UT Party will have no liability to Preferred Supplier or to anyone claiming through or under Preferred Supplier by reason of the execution or performance of this Agreement. Notwithstanding any duty or obligation of UT Party to Preferred Supplier or to anyone claiming through or under Preferred Supplier, no present or future affiliated enterprise, subcontractor, agent, officer, director, employee, representative, attorney or regent of UT Party, or anyone claiming under UT Party has or will have any personal liability to Preferred Supplier or to anyone claiming through or under Preferred Supplier by reason of the execution or performance of this Agreement.

#### **SECTION 47 – Relationship of the Parties:**

For all purposes of this Agreement and notwithstanding any provision of this Agreement to the contrary, Preferred Supplier is an independent contractor and is not a state employee, partner, joint venturer, or agent of UT Party. Preferred Supplier will not bind nor attempt to bind UT Party to any agreement or contract. As an independent contractor, Preferred Supplier is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including workers' compensation insurance.

**SECTION 48 – Severability:**

In case any provision of this Agreement will, for any reason, be held invalid or unenforceable in any respect, the invalidity or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if the invalid or unenforceable provision had not been included.

**SECTION 49 – External Terms:**

This Agreement completely supplants, replaces, and overrides all other terms and conditions or agreements, written or oral ("**External Terms**"), concerning Preferred Supplier's performance under this Agreement. Such External Terms are null and void and will have no effect under this Agreement, regardless of whether UT Party or any of its employees, contractors, or agents consents or agrees to External Terms. External Terms include any shrinkwrap, clickwrap, browsewrap, web-based terms and conditions of use, and any other terms and conditions displayed in any format that UT Party, or its employees, contractors, or agents are required to accept or agree to before or in the course of accessing or using any goods or services provided solely by Preferred Supplier.

**SECTION 50 – Conflicts:**

In the event of a conflict between the terms and conditions of this Agreement and those of an IPA, the terms of this Agreement will control and govern.

**SECTION 51 – Attachments:**

The Riders listed below are attached to and fully incorporated into this Agreement as substantive parts of this Agreement:

- Rider 100** – Scope of Work(to be developed from **Section 5** of this RFP)
- Rider 200** – Pricing Schedule (ref. **Section 6.1** and **Attachment A** of this RFP)
- Rider 300** – Institutional Participation Agreement Form (**Appendix FIVE-300**)
- Rider 400** – Sample Supplier Relationship Management(**Appendix FIVE-400**)
- Rider 500** – HUB Subcontracting Plan (ref. **Section 2.5** of this RFP)
- Rider 600** – Affirmative Action Compliance Program (ref. **Section 28** of the PSA)

Having agreed to the foregoing terms, and with the intention of being bound, the parties have executed this Agreement as of the dates shown below.

**THE UNIVERSITY OF TEXAS SYSTEM**

**[NAME OF PREFERRED SUPPLIER]**

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## APPENDIX FIVE-300

### INSTITUTIONAL PARTICIPATION AGREEMENT

By entering into this Institutional Participation Agreement (“**Institutional Participation Agreement**”), the undersigned UT System Institution (“**Institutional Participant**”) agrees to the terms and conditions set forth in the Preferred Supplier Agreement for System and \_\_\_\_\_ between The University of Texas dated effective \_\_\_\_\_, 2011 (the “**Preferred Supplier Agreement**”). All of the terms and conditions of the Preferred Supplier Agreement are incorporated into this Institutional Participation Agreement for all purposes. Unless otherwise specified in this Institutional Participation Agreement, all defined terms used in this Institutional Participation Agreement have the same meaning as assigned to those terms in the Preferred Supplier Agreement.

By entering into this Institutional Participation Agreement, the Institutional Participant is authorized to take full advantage of all of the benefits and provisions set forth in the Preferred Supplier Agreement including, but not limited to, the benefits listed below, which are specified in detail in the Preferred Supplier Agreement:

#### Preferred Supplier Agreement Benefits:

- tbd
- 

#### Institutional Participant’s Responsibilities

To the extent authorized by all Applicable Laws, Institutional Participant agrees to use commercially reasonable efforts to perform the following responsibilities:

- Identify Preferred Supplier as the preferred supplier for the Services
- Notify the offices at Institutional Participant of the benefits to Institutional Participant and the UT System of those offices’ procurement of the Services from Preferred Supplier under the Preferred Supplier Agreement.
- Load entries for the Preferred Supplier’s Services available for purchase by Institutional Participant under the Preferred Supplier Agreement into any e-procurement, ERP, or local ordering systems used by Institutional Participant to facilitate ordering of the Services.
- Permit Preferred Supplier, at its sole cost, to create and distribute promotional materials to Institutional Participant offices identifying the Preferred Supplier Agreement and the Services available under that Agreement, provided that such promotional materials must be in compliance with all Applicable Laws, Rules, and Regulations and be reviewed and approved in advance by Institutional Participant.
- Identify this Institutional Participant Agreement and its value to end users.
- Organize and promote the Preferred Supplier Agreement with on-campus product shows and promotional events.
- Conduct business reviews to evaluate reports, metrics, and commitments.
- Facilitate resolution of Institutional Participant and Preferred Supplier conflicts.

The Institutional Participant's notice address and contact information is:

The University of Texas at \_\_\_\_\_  
Street Address: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Attention: \_\_\_\_\_

The Institutional Participant designates the following contacts who will be responsible for facilitating this Institutional Participation Agreement:

**INSTITUTIONAL PARTICIPANT: Primary Contact:**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**INSTITUTIONAL PARTICIPANT: HUB Contact:**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

The Institutional Participant designates the following contact who will be responsible for facilitating this Institutional Participation Agreement:

**PREFERRED SUPPLIER Primary Contact:**

Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

**Institutional Participant agrees to the terms of this Institutional Participation Agreement:**

The University of Texas \_\_\_\_\_  
By: \_\_\_\_\_  
Printed Name and Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Street: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Date: \_\_\_\_\_

**Upon activation of this Institutional Participation Agreement, Institutional Participant's Primary Contact will receive notification of activation via email. Please return signed completed form to \_\_\_\_\_, at \_\_\_\_\_@mdanderson.org**

## APPENDIX FIVE-400

### **SUPPLIER RELATIONSHIP MANAGEMENT**

#### **Supplier Relationship Management (“SRM”) Program Requirements**

Quarterly Business Reviews (“QBRs”) of Preferred Supplier’s performance under this Agreement will be conducted by the UT System Administrator on behalf of UT System beginning six (6) months after the Effective Date of this Agreement and then every three (3) months thereafter. Institutional Participants may elect to establish a local level supplier relationship management program by a separate mutual agreement with Preferred Supplier.

#### **Quarterly Business Reviews**

Prior to each QBR, Preferred Supplier’s performance will be evaluated by UT System and, at UT System’s request, one or more Institutional Participants, based on the five (5) Key Performance Indicators (“KPIs”) listed below. Preferred Supplier will be rated by UT System and the Institutional Participants on its performance under each of these KPIs. UT System and the Institutional Participants will also determine an overall rating for Preferred Supplier’s performance during that quarter. The results of such ratings will be subsequently set forth in percentage scores for Preferred Supplier’s performance that will be reported out in a scorecard that UT System and the Institutional Participants provide to Preferred Supplier during the QBR.

- a. **Account Management**
- b. **Price Compliance**
- c. **Service & Support**
- d. **Customer Satisfaction**
- e. **tbd**

After the initial implementation period of six (6) months starting on the Effective Date, Preferred Supplier must obtain a minimum score from UT System and the Institutional Participants of 90% or better on each KPI and on the overall rating for each quarter during the remaining term of this Agreement. The scorecard will be reviewed by Preferred Supplier, UT System and the Institutional Participants during each QBR.

#### **Corrective Action Plan**

UT System will notify Preferred Supplier during a QBR if Preferred Supplier receives a score of less than 90% during the previous quarter for (1) any KPI or (2) its overall score. Within fifteen (15) calendar days after receipt of such notice, Preferred Supplier will provide UT System with a written corrective action plan (“CAP”) acceptable to UT System to address such unacceptable scores. At a minimum, the CAP will address Preferred Supplier’s performance issues resulting in unacceptable score(s) and contain a root cause analysis of the problems causing such performance issue, proposed solutions to those problems, proposed process modifications to prevent reoccurrence of such problems, a time frame for Preferred Supplier’s implementation of the proposed solutions and process modifications, and the person(s) who will be responsible for Preferred Supplier’s implementation of the CAP. The CAP will be presented to the UT System Administrator for concurrence prior to implementation. Concurrence with the CAP by the UT System Administrator will not be unreasonably withheld or delayed. Concurrence with the CAP will not constitute a waiver by UT System of its right to exercise all remedies available under this Agreement or Applicable Law.

## **Corrective Action and Remedies**

If Preferred Supplier's implementation of the CAP does not result in a minimum score on each KPI of 90% or better and an overall score of 90% or better, during each subsequent calendar quarter, UT System may:

- revisit and/or re-solicit the marketplace for the Services, or
- exercise other remedies available under this Agreement or Applicable Law

## **Performance Review Reporting and Metrics**

Preferred Supplier will prepare and deliver the following reports to UT System and the Institutional Participants for review at each QBR. Customer Satisfaction Reports and Metrics below will be prepared and provided by UT System at each QBR.

### **Reports and Metrics**

| <b>ACCOUNT MANAGEMENT REPORTS &amp; METRICS</b>   |
|---|
| Year-to-date and period-over-period spend.  |
| Spend versus previous quarter and year.   |
| Price rationalization activities and impact on savings and value-add.   |
| Number/Percentage of items incorrectly shipped. Not to exceed 1%.   |
| <b>PRICE COMPLIANCE REPORTS &amp; METRICS</b>   |
| Number/Percentage of invoice price discrepancies: Not to exceed 2%  |
| Non-Standard items with invoice price discrepancies: Not to exceed 5%   |
| <b>ORDERING AND DELIVERY PERFORMANCE REPORTS &amp; METRICS</b>  |
| Number of return orders   |
| Average ship days   |
| Fill rate percentage - 98% for catalog Products   |
| Report on back-ordered line detail  |
| <b>SERVICE AND SUPPORT REPORTS &amp; METRICS</b>  |
| Number of days account managers accessible for Institutional Participants.  |
| Response time to respond to technical support calls placed by Institutional Participants: Not to exceed 24 hours  |
| Any new IT or technology enhancements will be offered to Institutional Participants as a priority customers: 100% of information will be disseminated to priority customers |
| Order discrepancy resolution rate and response time. Not to exceed 48 hours   |
| <b>CUSTOMER SATISFACTION REPORTS &amp; METRICS</b>  |
| Semi-Annual survey of end users   |
| Overall customer service rating of "satisfactory" greater than 90%  |

All reports may be modified by Institutional Participants within Preferred Supplier's reasonable capabilities to meet local requirements and service levels. Metrics may be revised upon mutual agreement between Preferred Supplier and UT System.

**ATTACHMENT A**  
**PRICE SCHEDULE**

## UT SYSTEM SUPPLY CHAIN ALLIANCE

### MFD MINIMUM SPECIFICATIONS FOR MANAGED PRINT SERVICES RFP

**Instructions:** Proposers are to provide pricing for their top 3 selling black and white, and top 3 color standard base model MFD's in the low, mid and high range. All machines must meet or exceed the specifications listed below. Proposers must have documented qualifications/specifications on each piece of equipment. Pricing shall be all inclusive - Hardware (Print, Copy, Fax, Scan, Email), all consumables (including staples, paper, toner), maintenance, service, and shipping. UT System will not recognize or accept any charges or fees to perform the scope of work that are not specifically stated in the Proposer's response.

All machines must include the minimum requirements: base unit with stand, reduction and enlargement capabilities, duplex and automatic document feeder, finisher or sorter with stapler, transparency capabilities, multi-paper drawers, and by-pass tray.

No less than two (2) 500 sheet paper trays with one (1) large capacity tray.

Paper trays, media types and sizes to meet industry standards with a minimum of letter, legal, executive and envelope.

Document server/Hard Drive minimum of 40 GB

Network and email capable

Memory: Minimum of 512 MB

Print and copy resolution: Minimum of 600 dpi for B/W and Color

Print Speed: Low range minimum of 20 ppm, Mid range minimum of 35 ppm, High range minimum of 60 ppm

Copy Speed: Low range minimum of 15 cpm, Mid range minimum of 25 cpm, High range minimum of 35 cpm











## VALUE-ADDED SERVICES

Proposer should provide detail on any additional value-added services that would be provided to UT System at no cost or at an additional discount as a result of being awarded a contract for this RFP. Value-Added Services will be included in the evaluation of Proposer's RFP submission.

### VALUE ADDED ACCESSORIES:

### ADDITIONAL SERVICES:

### OTHER VALUE-ADDED OFFERING:

**Managed Print Services RFP**  
Proposer Survey Questions

**Background Information**

**References**

Please provide three existing "non UT System" customers (preferably healthcare or academic) who can be contacted for a reference related to the product and services described in the RFP. Details should include: - a brief outline of the services provided - the length of time that services have been provided - a named contact who can be approached for a reference and their contact details. Reference sites should be comparable to the Service required by Alliance and should be contacted by the Proposer in advance of the Proposal response to ensure that they are available to provide a reference.

Provide two financial references (1 trade reference and 1 financial institution/bank reference). List should include Company Name, Mailing Address, Telephone Number, FAX Number, Contact Person and Length of Financial Relationship.

**Account Management & Services**

1. Will your company assign a senior account manager to manage the overall contractual relationship with the Alliance?
2. Will your company assign individual account managers as necessary to each participating institution?
3. What is the average response time for an account manager(s) to respond to initial requests?

|            |     |
|------------|-----|
| < 1 hour   | 100 |
| < 4 hours  | 100 |
| < 8 hours  | 75  |
| < 24 hours | 50  |

4. Is your support line that is dedicated to the Alliance based in the US?
5. Will your company allocate funds to market this Managed Print Services contract?
6. Will your company support marketing efforts of the contract to users? If yes, Check all that apply

Electronic marketing material  
Distribution of marketing materials on campus  
Kick-off Events  
On-line tutorials  
Customer training  
Seasonal Promotions and Specials

7. Please detail your company's problem resolution process for customer complaints and concerns.

## Reporting

1. The Alliance requires the following reporting hierarchy for purchases. Please state your company's ability to report on each level listed below. Check all that apply.

User Level  
Cost Center  
Campus/Institution  
Contract (Alliance)

2. Indicate which standard reports are available. Check all that apply.

Disposal asset reports  
Received asset reports  
Over deliveries & Returns  
Product volume by account  
Order reporting by serial number  
Green product utilization  
Parts Tracking  
Order fulfillment  
Average Order Value  
Performance against Agreed Service Levels  
Delivery Performance

3. How frequently can reports be provided?

On Demand  
Weekly  
Monthly  
Quarterly  
Annually

4. Are reports available real-time via an internet website or portal?
5. If yes, can the report be downloaded into a usable format, i.e. Excel?
6. Does your company currently provide custom reporting capabilities?

## Pricing

1. Will your company allow for quarterly or semi-annual review and revision of the contracted equipment?
2. Will your company extend the same discount percentage on any new equipment added to the Price Schedule?
3. Will your company offer equivalent models of equipment at the same price quoted in their proposal? For example, if a quoted model is discontinued.
4. Is your company offering a cost-per-copy pricing solution?
5. If yes, for what period of time will your company offer fixed pricing for a cost-per-copy solution?

12 months  
18 months

24 months

6. Is your company offering a lease pricing solution?
7. If yes, for what period of time will your company offer fixed pricing for the lease solution?  
6 months  
12 months  
18 months
8. For what period of time will your company offer fixed pricing for the purchase of equipment?  
6 months  
12 months  
18 months
9. Does Proposer's pricing include shipping, installation and disposal?
10. If no, what are your standard shipping, installation and disposal costs?
11. Does Proposer's pricing/print allowance for the cost-per-copy solution include copies, prints, scans and faxes?
12. Does Proposer's pricing for the lease solution include copies, prints, scans and faxes?
13. Does the cost per copy price remain the same, regardless of the page size printed or toner coverage on the page?
14. Does your company charge automatic renewals?
15. Does your company charge for copies or prints completed by service technicians?
16. Provide details of your company's charge-back/credit policy for poor quality copies generated due to machine malfunction or operator error.
17. Does your company charge for scanning images?

#### **Incentive Rebates**

1. Will your company offer sales volume growth incentive rebates?
2. If yes, please describe your company's proposed sales volume growth rebate.
3. Will your company offer early start-up or transition incentives if awarded a contract?
4. If yes, please describe your company's proposed early start-up or transition incentive program.
5. Would your company offer any incentives to overcome the potential of termination fees with current leases or contracts in place?

#### **Payment Terms**

1. Does your company offer early payment discounts?
2. If yes, please provide your company's offering for early payment discounts.

## **Invoicing Processes**

1. Can your company provide summary invoicing for each Alliance location?
2. Can your company provide invoicing by account?
3. Can your company provide invoicing by sub-account?
4. Can your company provide a paper invoice if required?
5. Can invoices be sent in XML format via internet?
6. Can invoices be sent via EDI?

## **Ordering**

1. Which order methods does your company support? Check all that apply  
Phone  
Fax  
Internet
2. Does your company offer online ordering for all products?
3. Does your company have the ability to create a custom website portal containing a tailored catalog for the Alliance?
4. Does each user have a unique ID and Password to access your company's electronic ordering system?
5. Does your company provide an online order confirmation?
6. Does your company order system support a workflow approval hierarchy?
7. Can users place orders for multiple pre-approved ship-to addresses?
8. Can pre-defined order value limits be enforced by user ID?
9. Do you require a minimum order value? If yes, please describe.
10. Can your company set pre-defined spending limits per cost center?
11. Does your company have experience in integrating with the following software for e-procurement? Check all that apply  
  
Peoplesoft  
Lawson  
Sciquest  
SAP

## **Returns**

1. What is the maximum period of time for unconditional (no questions asked) return of new equipment purchases?  
  
30 days

60 days  
90 days  
120 days

2. Excluding shipping, what fees are associated with return of products (e.g. restocking fee, etc)?
3. Will you waive any one of the fees listed as part of your offering in certain situations?
4. If yes, please list the fees that you are willing to waive.

### **Leasing**

1. Does your company currently work with a third party leasing company?
2. Does your company offer a lease program for equipment?
3. If your company offers a lease program, please attach your Leasing Program proposal. Please ensure that at a minimum your program addresses the following items; hard drive disposal, warranties, refresh program, asset monitoring, asset tagging, and specific installation periods, service and maintenance.
4. Is your company willing to hold lease rates for a fixed period of time regardless of the slight fluctuation in the Treasury Yield?
5. If yes, for how long will you fix the rate?

6 months  
12 months  
18 months

6. What is your company's standard lease rate adjustment period?

Daily  
Monthly  
Quarterly  
Yearly  
Other

7. Please describe what steps are taken to ensure your lease rates stay competitive with suppliers in the leasing market.

### **Warranty**

The following warranty questions are related to a Purchasing price structure:

1. What are your company's available warranty programs? Please list all available offerings.
2. When purchasing equipment, what services are included in the standard warranty?
3. Are there additional charges associated with service after the warranty period has expired? If yes, please explain.
4. What is the process for onsite repair by a technician? Please describe.

5. What is the average time it takes for your company to provide onsite repair services?  
**Propose a guarantee minimum return to service time.**
6. At what point and degree would a machine be replaced due to continuous maintenance needs?
7. What is the procedure for resolving a machine with frequent problems?
8. Do you provide a "lemon policy" on equipment with recurring technical issues?
9. If yes, please provide detail regarding the requirements of the "lemon policy".
10. Do you offer any satisfaction guarantees? If yes, please describe.
11. Does Proposer offer a replacement guarantee? If yes, provide details and requirements.

### **Inventory Management**

1. Does your company affix customer furnished asset tags?
2. Does your company provide electronic asset tagging for customer furnished tags?
3. What standard asset tag reports does your company provide? Please describe and list reports.
4. What unique inventory management solutions can your company provide as part of its proposal?
5. What is the recommended number of on-site individuals assigned in accordance to fleet size?

### **Training**

1. Will Proposer provide end-user training at no charge?
2. If yes, please list all training provided by your company at no charge.
3. If no, please explain.
4. When would additional training fees apply? Please describe.

### **Implementation**

1. Does your company have a proven project implementation plan for on-boarding a new contractual relationship/project of this size and scope?
2. If yes, please attach your company's project implementation plan which has been successful.
3. Define the greatest implementation risks and your mitigation strategy.

### **Equipment and Technology**

## Features

1. Is the equipment capable of tracking, reporting, and limiting copies, prints, scans and faxes per department or individual user?
2. Can the user manage jobs at the device — cancel, promote, release copy and/or print?
3. Is the equipment capable of receiving incoming print, fax, scan and copy jobs while processing other print jobs, and while printing a current job — all concurrently or simultaneously?
4. Can the equipment hold a job for missing resources, while printing other jobs in the queue?
5. Describe your equipment print queue limitations.
6. Describe your equipment scan-to-network capability. i.e. shared drives, SMB, email, webdav, secured FTP and others.
7. For each model, will the system continue to function if one of the capabilities is inoperable (i.e., if the document handler is inoperative, will the machine still be able to print or if the fax is inoperable, will the machine still be able to make copies)?
8. What happens to printer performance when multiple users print to the machine simultaneously? Does a 45ppm machine always perform at 45ppm, even when the machine is busy?
9. Does your company offer a print driver, supporting all major vendor MFD's, on all existing and added devices?
10. Does your company offer a "mobile" print driver, providing support for all major vendor MFD's, allowing end users to print at different locations? Please explain.
11. Does the print driver receive information from the machine, so that paper status, consumables status, and job completion notifications are instantly available to the end user?
12. Are the print drivers Mac compatible?
13. Is there a "delayed print" feature, enabling users to schedule jobs for off-peak usage periods?
14. Can users restore "all" print driver settings and "individual" tab option settings to the printer driver defaults, with one command?
15. Can users send fax jobs to the machine from their desktop? Please explain.
16. Can users view the entire integrated job queue (print, copy, scan, fax) at the device to determine if their jobs are complete or still pending?
17. Can users view job status remotely, i.e., from their desktops?
18. Can users cancel their pending jobs from their desktops?
19. Can users cancel, promote or release jobs at the device, without having to rely on an administrator with restricted access to the printer server console?

## **Management**

1. Does your company provide real-time monitor usage reporting and break fix for equipment?
2. Does your company provide customer accessible replaceable parts (ex: fuser module, waste toner, rollers, etc.)?
3. If yes, please list all customer accessible replacement parts that will be provided.
4. What level of up time will your company offer under contract?
5. Please describe how software updates are managed.
6. Does your program provide automatic supply fulfillment and service dispatching?
7. Does your program offer web portal access to view printer fleet, device status and supply levels?
8. Does your company offer an on-line ordering system for supplies?
9. Does your company offer an on-line tracking system for service history and device information?
10. Will your company make available to UT System their entire catalog of MFDs and fax machines, including all accessories, at negotiated discounts?
11. Does your company guarantee that all equipment will be new, and meet, at a minimum, the industry performance standards, features and functions?
12. Does your company guarantee that all equipment will be suitable for use with standard electrical service upon delivery and installation?
13. Will all equipment be accompanied by manuals containing service and operations instructions?
14. Will your company provide loaner equipment of equal capacity and function, when equipment is removed for repair, or down for more than one day?
15. Will your company agree to monitoring volume of copies at each location to determine if the current equipment needs to be upgraded or downgraded?
16. Do the proposed MFDs work with multiple operating system platforms? If so, specify all platforms that are supported.
17. Does your fleet management system allow you to set proactive service flags/reminders?

## **SECURITY**

1. Is there device access password protection to safeguard information?
2. Will institutions have the ability to change default passwords?
3. Can your equipment restrict sensitive configuration data access to administrators?

4. Can the system administrator access control functions for the equipment even when they are in use?
5. Can users secure networked devices by enabling/disabling specific devices and ports?
6. Is there a service diagnostic port restriction?
7. Is there a "Secure Print" feature, preventing unauthorized viewing or removal of important or confidential documents that have been sent to the printer?
8. Can your equipment be set up to electronically erase immediately after every job or on demand at the customers' convenience? Please explain.
9. Does the proposed equipment offer single sign-on Authentication and Verification prior to accessing network scanning, email, and fax functions?
10. Does the product ensure there is no possible way in which unauthorized users can gain access to other functions of the device or to the customer's network?
11. In addition, can faxes be automatically routed to a password-protected mailbox or stored at the device until an authorized user releases them for printing?
12. Please provide detail on the security features your system has to prevent unauthorized access to the copier and any data (copy, print, scan, and fax) stored on the MFD and any vendor independent certification of these capabilities.
13. Is the fax function certified by a government entity to separate all facsimile functions from network functions? Please explain.
14. Does the fax function retain any unencrypted data on transmissions after sending?
15. Describe any third party security certifications on the device and other security features.
16. What policies and controls exist to avert the possibility of a random dial-up connection to an analog fax board enabling an attacker to hack through an MFD operating system to the network interface card to penetrate the enterprise-wide network?
17. What controls are there on upload and change of OS / firmware?
18. What audit / review process is followed for printing / forwarding /email by user / system /device?
19. Are special characters allowed in password and can they be at a minimum 10 -14 characters?
20. Where will spare parts, supplies and loaner equipment be stocked for repairs and preventative maintenance?

## **Disposal**

1. Does your company offer services for disposal of equipment?
2. Does your company offer hard drive sanitization of equipment?

3. If yes, please explain the process.
4. What is the process for drive/memory sanitization on disposal?
5. Will your company assist with disposal of current equipment owned by UT System?
6. If yes, is there a charge associated with disposal?

### **Energy Efficiency**

1. Does your equipment offering include automatic shut off or energy saver mode after a period of no use?
2. Does your equipment offering include Energy Star compliant models?
3. Please provide detail on additional energy saving opportunities available through your company.

### **Other Business Related**

1. Please indicate any additional "value added" services or programs not otherwise asked or disclosed herein that should be considered during the evaluation process.
2. Does your company provide a trade-in program for equipment that is three years old or less? If yes, please describe.
3. Does your company currently do business with any federal or federal sponsored entities? If yes, please list.
4. Is your company willing to work through a third party for management of print services?

### **Competitive Advantage**

1. Briefly describe your company's advantage in the marketplace. Please provide only information not previously asked or disclosed herein.
2. Describe how your company would proactively approach generating additional cost savings for the Alliance's spend going forward. Please provide only information not previously asked or disclosed herein.
3. Please state how your company will maintain its competitive "best value" price and non-price offering long-term.

THE UNIVERSITY OF TEXAS SYSTEM ADMINISTRATION  
May, 2009

## APPENDIX TWO

# POLICY ON UTILIZATION HISTORICALLY UNDERUTILIZED BUSINESSES

Vendor/Commodities



**The University of Texas System  
Office of HUB Development  
Policy on Utilization of Historically Underutilized Businesses (HUBs)**

|                 |
|-----------------|
| <b>CONTENTS</b> |
|-----------------|

|  |              |
|--|--------------|
| U. T. System Policy on Utilization of Historically Underutilized Businesses (HUBs)       | Page 3       |
| Summary of Requirements / Historically Underutilized Business (HUBs) Subcontracting Plan | Page 4-5     |
| ▪ <i>Summary of Attachments Required from Respondents</i>                                | Page 6       |
| ▪ <i>Letter of Transmittal / Vendor Services</i>   | Page 7       |
| ▪ <i>HUB Subcontracting Plan (HSP).</i>  | Page 8       |
| ▪ <i>Section 3 – Section 8 (Good Faith Effort – Subcontractor Selection)</i>             | Page 9       |
| • <i>Self-Performance Justification</i>  | Page 10      |
| • <i>HUB Subcontracting Plan Prime Contractor Progress Assessment Report</i>             | Page 11      |
| • <i>Minority and Trade Organizations contact information</i>                            | Page 12 - 18 |

# The University of Texas System Administration

## POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES (HUBs)

### Introduction

In accordance with the Texas Government Code, Sections 2161.181-182 and Title 34, Section 20.11 of the Texas Administrative Code (TAC), The Board of Regents of the University of Texas System, acting through the Office of HUB Development shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction; services, including professional and consulting services; and commodities contracts. The HUB Rules, promulgated by the Texas Comptroller of Public Accounts (the "Texas Comptroller"), set forth in 34 TAC Sections 20.11-20.28, encourage the use of HUBs by implementing these policies through race- ethnic- and gender-neutral means.

The purpose of the HUB Program is to promote full and equal business opportunities for all businesses in State contracting in accordance with the following goals as specified in the State of Texas Disparity Study:

- **11.9% for heavy construction other than building contracts;**
- **26.1% for all building construction, including general contractors and operative builders contracts:**
- **57.2% for all special trade construction contracts;**
- **20% for professional services contracts**
- **33% for all other services contracts, and**
- **12.6% for commodities contracts.**

The University of Texas System shall make a good faith effort to meet or exceed these goals to assist HUBs in receiving a portion of the total contract value of all contracts that the U. T. System expects to award in a fiscal year. The University of Texas System may achieve the annual program goals by contracting directly with HUBs or indirectly through subcontracting opportunities in accordance with the Texas Government Code, Chapter 2161, Subchapter F.

**SUMMARY OF REQUIREMENTS**  
**Historically Underutilized Business (HUBs) Subcontracting Plan**

It is the policy of The University of Texas System and each of its component institutions, to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUBs) in all contracts. Accordingly, The University of Texas System has adopted “**APPENDIX THREE, Policy on Utilization of Historically Underutilized Businesses**”. The Policy applies to all contracts with an expected value of \$100,000 or more. The Board of Regents of The University of Texas System is the contracting authority.

1. In all contracts for professional services, contracting services, and/or commodities with an expected value of \$100,000 or more, The University of Texas System (“U. T. System” or the “University”) will indicate in the purchase solicitation (e.g. RFQ, RFP, or CSP) whether or not U. T. System has determined that subcontracting opportunities are probable in connection with the contract. A HUB Subcontracting Plan is a required element of the architect, contractor or vendor Response to the purchase solicitation. The HUB Subcontracting Plan shall be developed and administered in accordance with the Policy. **Failure to submit a required HUB Subcontracting Plan will result in rejection of the Response.**
2. If subcontracting opportunities are probable, U. T. System will declare such probability in its invitations for bids, requests for proposals, or other purchase solicitation documents, and shall require submission of the appropriate HUB Subcontracting Plan with the Response.
  - a. When subcontracting opportunities are probable, and the Respondent proposes to subcontract any part of the work, the Respondent shall submit a **HUB Subcontracting Plan as prescribed by the Texas Comptroller** identifying subcontractors **[34 TAC §20.14 (d) (1)(A)(B)(C)(D) (2)(A)(B)(C)(D)(E) (3)(A)(B)]**.
  - b. When subcontracting opportunities are probable, but the Respondent can perform such opportunities with its employees and resources, the Respondent’s HUB Subcontracting Plan shall include **the Self Performance HUB Subcontracting Plan, Section 9 – Self Performance Justification (page 9) as the HUB Subcontracting Plan (HSP)**. **[34 TAC §20.14 (d)(4)(A)(B)(C)(D)]**
3. If subcontracting opportunities are not probable, U. T. System will declare such probability in its invitations for bids, requests for proposals, or other purchase solicitation documents and shall require submission of the appropriate HUB Subcontracting Plan with the Response.
  - a. When subcontracting opportunities are not probable, and the Respondent proposes to perform all of the work with its employees and resources, the Respondent shall submit a HUB Subcontracting Plan that includes **the Self Performance HUB Subcontracting Plan, Section 9 – Self Performance Justification (page 9) as the HUB Subcontracting Plan (HSP)**.
  - b. When subcontracting opportunities are not probable, but the Respondent proposes to subcontract any part of the work, the Respondent shall submit a **HUB Subcontracting Plan as prescribed by the Texas Comptroller** identifying subcontractors.
4. Respondents shall follow, but are not limited to, procedures listed in the Policy when developing a HUB Subcontracting Plan
5. In making a determination whether a good faith effort has been made in the development of the required HUB Subcontracting Plan, U. T. System shall follow the procedures listed in the Policy. If accepted by the University, the HUB Subcontracting Plan shall become a provision of the Respondent's contract with the University of Texas System. **Revisions necessary to clarify and enhance information submitted in the original HUB subcontracting plan may be made in an effort to determine good faith effort.** Any revisions after the submission of the HUB Subcontracting Plan shall be approved by the HUB Coordinator.
6. The University shall reject any Response that does not include a fully completed HUB Subcontracting Plan, as required. An incomplete HUB Subcontracting Plan is considered a material failure to comply with the solicitation for proposals.

7. Changes to the HUB Subcontracting Plan. Once a Respondent's HUB Subcontracting Plan is accepted by U. T. System and becomes a provision of the contract between Respondent and U. T. System, the Respondent can only change that HUB Subcontracting Plan if (a) the Respondent complies with 34 TAC Section 20.14; (b) the Respondent provides its proposed changes to U. T. System for review; (c) U. T. System (including U. T. System's HUB Coordinator) approves Respondent's proposed changes to its HUB Subcontracting Plan; and (d) U. T. System and the Respondent amend their contract (via a writing signed by authorized officials of both parties) in order to replace the contract's existing HUB Subcontracting Plan with a revised HUB Subcontracting Plan containing the changes approved by U. T. System.
8. Expansion of Work. If, after entering into a contract with a Respondent as a result of a purchase solicitation subject to the Policy, U. T. System wishes to expand the scope of work that the Respondent will perform under that contract through a change order or any other contract amendment (the "Additional Work"), U. T. System will determine if the Additional Work contains probable subcontracting opportunities not identified in the initial purchase solicitation for that contract. If U. T. System determines that probable subcontracting opportunities exist for the Additional Work, then the Respondent must submit to U. T. System an amended HUB Subcontracting Plan covering those opportunities that complies with the provisions of 34 TAC Section 20.14. Such an amended HUB Subcontracting Plan must be approved by U. T. System (including U. T. System's HUB Coordinator) before (a) the contract may be amended by U. T. System and the Respondent to include the Additional Work and the amended HUB Subcontracting Plan and (b) the Respondent performs the Additional Work. If a Respondent subcontracts any of the additional subcontracting opportunities identified by U. T. System for any Additional Work (i) without complying with 34 TAC Section 20.14 or (ii) before U. T. System and that Respondent amend their contract to include a revised HUB Subcontracting Plan that authorizes such subcontracting, then the Respondent will be deemed to be in breach of its contract with U. T. System. As a result of such breach, U. T. System will be entitled to terminate its contract with the Respondent, and the Respondent will be subject to any remedial actions provided by Texas law, including those set forth in Chapter 2161, Texas Government Code, and 34 TAC Section 20.14. University may report a Respondent's nonperformance under a contract between that Respondent and U. T. System to the Texas Comptroller in accordance with 34 TAC Sections 20.101 through 20.108.
9. A Response may state that the Respondent intends to perform all the subcontracting opportunities with its own employees and resources in accordance with the Policy. However, if such a Respondent enters into a contract with U. T. System as a result of such a Response but later desires to subcontract any part of the work set forth in that contract, before the Respondent subcontracts such work it must first change its HUB Subcontracting Plan in accordance with the provisions of Section 7 above .
10. The University shall require a vendor to whom a contract has been awarded to report the identity and the amount paid to its subcontractors by submitting a **HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report (PAR)** with each request as a condition for payment.
11. If the University determines that the successful Respondent failed to implement an approved HUB Subcontracting Plan in good faith, the University, in addition to any other remedies, may report nonperformance to the Texas Comptroller in accordance with 34 TAC, Section 20.14, (d) (13) related remedies of nonperformance to professional services firms, contractor, and vender implementation of the HUB Subcontracting Plan.
12. In the event of any conflict between this "Summary of Requirements" and the remainder of the HUB Policy, the remainder of the HUB Policy will control.
13. These requirements, including the attachments referred to above, may be downloaded over the Internet from <http://www.utsystem.edu>. For additional information contact Lynda Dyess, Director of HUB Programs, The University of Texas System Administration, 512/499-4724.

**Vendor/Commodities HSP  
Summary of Attachments Required from Respondents**

|   | <b>Letter of Transmittal<br/>Page 7</b> | <b>HUB Subcontracting Plan (HSP)<br/>Pages 8-10</b> | <b>Progress Assessment Report (PAR)<br/>Page 11</b> |
|---|---|---|---|
| <b>1. UT SYSTEM DETERMINES THAT SUBCONTRACTING OPPORTUNITIES ARE PROBABLE.</b>  |   |   |   |
| <b>1. A. Respondent Proposes Subconsultants:</b><br>Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are probable</u> .   | <b>X</b>                                | <b>X</b>  |   |
| <b>1. B. Respondent Proposes Self-Performance:</b><br>Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are probable</u> , but the Respondent can perform such opportunities with its employees and resources.     | <b>X</b>                                | <b>X</b>  |   |
| <b>2. UT SYSTEM DETERMINES THAT SUBCONTRACTING OPPORTUNITIES ARE NOT PROBABLE.</b>  |   |   |   |
| <b>2. A. Respondent Proposes Self-Performance:</b><br>Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are not probable</u> , but the Respondent can perform such opportunities with its employees and resources. | <b>X</b>                                | <b>X</b>  |   |
| <b>2. B. Respondent Proposes Subconsultants:</b><br>Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are not probable</u> but the Respondent proposes to subcontract any part of the work.                        | <b>X</b>                                | <b>X</b>  |   |
| <b>3. Changes in the HUB Subcontracting Plan After Award:</b> Attachments required from the Respondent to whom a contract has been awarded if it desires to make changes to the approved HUB Subcontracting Plan.   |   | <b>X</b>  |   |
| <b>4. Reporting:</b> The Progress Assessment Report (PAR) is required with all payment requests. The submittal of this attachment is a condition of payment.  |   |   | <b>X</b>  |

(RESPONDENT'S BUSINESS LETTERHEAD)

Date

Mrs. Lynda Dyess  
Director for HUB Program  
The University of Texas System  
1616 Guadalupe, Ste. 7.312A  
Austin, Texas 78701

Re: Historically Underutilized Business Plan for \_\_\_\_\_ (related services)  
RFP No. \_\_\_\_\_

Dear Mrs. Dyess,

In accordance with the requirements outlined in the specification section "HUB Participation Program," I am pleased to forward this HUB Subcontracting Plan as an integral part of our response in connection with your invitation for Request for Proposals referencing the above project.

I have read and understand The University of Texas System Policy on Utilization of Historically Underutilized Businesses (HUBs). I also understand the State of Texas Annual Procurement Goal according to 34 Texas Administrative Code Section 20.13 is [SELECT ONE OF THE FOLLOWING TO COMPLETE THIS SENTENCE:

\_\_\_\_\_ 11.9% for heavy construction other than building contracts

\_\_\_\_\_ 26.1% for all building construction, including general contractors and operative builders contracts

\_\_\_\_\_ 57.2% for all special trade construction contracts

\_\_\_\_\_ 20% for professional services contracts

\_\_\_\_\_ 33% for all other services contracts

\_\_\_\_\_ 12.6% for commodities contracts.]

This HUB Subcontracting Plan includes \_\_\_\_\_ Subcontracting Opportunities (no. of subcontractors) This represents a cumulative percentage of \_\_\_\_\_%, representing \_\_\_\_\_% for minority-owned HUBs and \_\_\_\_\_% for women-owned HUBs. When a HUB is owned by minority women, I have classified that HUB as minority-owned rather than women-owned firm.

I understand the above HUB percentages must represent Texas Comptroller HUB certification standards. For each of the listed HUB firms, I have attached a Texas Comptroller certification document, or, if the HUB is certified by another Texas Comptroller approved certifying agency, a copy of their approved certification document.

Should we discover additional subcontractors claiming Historically Underutilized Business status during the course of this contract we will notify you of the same. In addition, if for some reason a HUB is unable to fulfill its contract with us, we will notify you immediately in order to take the appropriate steps to amend this contractual obligation.

Sincerely,

(Project Executive)

cc: Contract Administrator



# HUB SUBCONTRACTING PLAN (HSP)

In accordance with Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, respondents, including State of Texas certified Historically Underutilized Businesses (HUBs), must complete and submit a State of Texas HUB Subcontracting Plan (HSP) with their solicitation response.

**NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Gov't Code §2161.252(b).**

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the State of Texas Disparity Study. The HUB goals defined in 34 TAC §20.13 are: **11.9 percent for heavy construction other than building contracts, 26.1 percent for all building construction, including general contractors and operative builders contracts, 57.2 percent for all special trade construction contracts, 20 percent for professional services contracts, 33 percent for all other services contracts, and 12.6 percent for commodities contracts.**

## -- Agency Special Instructions/Additional Requirements --

- Proposers shall submit a completed HUB Subcontracting Plan (HSP) to be considered responsive (pages 8, 9, and 10). Failure to submit a completed HSP shall result in the bid, proposal or other expression of interest to be considered NON-responsive.
- Proposers who intend to Self-Perform all of their work shall submit a HSP for Self-Performance (pages 8, 9, and 10).
- HUB Subcontracting Plan (HSP) Prime Contractors Progress Assessment Report (PAR) shall be submitted with each request for payment as a condition of payment.

## SECTION 1 - RESPONDENT AND SOLICITATION INFORMATION

- a. Respondent (Company) Name: \_\_\_\_\_ State of Texas VID #: \_\_\_\_\_  
Point of Contact: \_\_\_\_\_ Phone #: \_\_\_\_\_
- b. Is your company a State of Texas certified HUB?  - Yes  - No
- c. Solicitation #: \_\_\_\_\_

## SECTION 2 - SUBCONTRACTING INTENTIONS

After having divided the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, the respondent must determine what portion(s) of work, including goods or services, will be subcontracted. Note: In accordance with 34 TAC §20.12., a "Subcontractor" means a person who contracts with a vendor to work, to supply commodities, or contribute toward completing work for a governmental entity. Check the appropriate box that identifies your subcontracting intentions:

- Yes, I will be subcontracting portion(s) of the contract.  
(If Yes, in the spaces provided below, list the portions of work you will be subcontracting, and go to page 2.)
- No, I will not be subcontracting any portion of the contract, and will be fulfilling the entire contract with my own resources.  
(If No, complete SECTION 9 and 10.)

| Line Item # - Subcontracting Opportunity Description | Line Item # - Subcontracting Opportunity Description |
|--|--|
| ( #1) -  | (#11) -  |
| ( #2) -  | (#12) -  |
| ( #3) -  | (#13) -  |
| ( #4) -  | (#14) -  |
| ( #5) -  | (#15) -  |
| ( #6) -  | (#16) -  |
| ( #7) -  | (#17) -  |
| ( #8) -  | (#18) -  |
| ( #9) -  | (#19) -  |
| (#10) -  | (#20) -  |

\*If you have more than twenty subcontracting opportunities, a continuation page is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/HUBSubcontractingPlanContinuationPage1.doc>

Enter your company's name here: \_\_\_\_\_ Solicitation #: \_\_\_\_\_

**IMPORTANT:** You must complete a copy of this page for each of the subcontracting opportunities you listed in SECTION 2. You may photocopy this page or download copies at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/HUBSubcontractingPlanContinuationPage2.doc>.

**SECTION 3 - SUBCONTRACTING OPPORTUNITY**

Enter the line item number and description of the subcontracting opportunity you listed in SECTION 2.

Line Item # \_\_\_\_\_ Description: \_\_\_\_\_

**SECTION 4 - MENTOR-PROTÉGÉ PROGRAM**

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting their Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the portion of work (subcontracting opportunity) listed in SECTION 3, constitutes a good faith effort towards that specific portion of work. Will you be subcontracting the portion of work listed in SECTION 3 to your Protégé?

- Yes (If Yes, complete SECTION 8 and 10.)  - No / Not Applicable (If No or Not Applicable, go to SECTION 5.)

**SECTION 5 - PROFESSIONAL SERVICES CONTRACTS ONLY**

This section applies to Professional Services Contracts only. All other contracts go to SECTION 6.

Does your HSP contain subcontracting of 20% or more with HUB(s)?

- Yes (If Yes, complete SECTION 8 and 10.)  - No / Not Applicable (If No or Not Applicable, go to SECTION 6.)

In accordance with Gov't Code §2254.002, "Professional Services" means services: (A) within the scope of the practice, as defined by state law of accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; or professional nursing; or (B) provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant; an architect; a landscape architect; a land surveyor; a physician, including a surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse.

**SECTION 6 - NOTIFICATION OF SUBCONTRACTING OPPORTUNITY**

Complying with a, b and c of this section constitutes Good Faith Effort towards the portion of work listed in SECTION 3. After performing the requirements of this section, complete SECTION 7, 8 and 10.

- a. Provide written notification of the subcontracting opportunity listed in SECTION 3 to **three (3)** or more HUBs. Use the State of Texas' Centralized Master Bidders List (CMBL), found at <http://www2.cpa.state.tx.us/cmb/cmbhub.html>, and its HUB Directory, found at <http://www2.cpa.state.tx.us/cmb/hubonly.html>, to identify available HUBs. **Note: Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.**
- b. Provide written notification of the subcontracting opportunity listed in SECTION 3 to a minority or women trade organization or development center to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. A list of trade organizations and development centers may be accessed at <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>. **Note: Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.**
- c. Written notifications should include the scope of the work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. Unless the contracting agency has specified a different time period, you must allow the HUBs no less than five (5) working days from their receipt of notice to respond, **and** provide notice of your subcontracting opportunity to a minority or women trade organization or development center no less than five (5) working days prior to the submission of your response to the contracting agency.

**SECTION 7 - HUB FIRMS CONTACTED FOR SUBCONTRACTING OPPORTUNITY**

List **three (3)** State of Texas certified HUBs you notified regarding the portion of work (subcontracting opportunity) listed in SECTION 3. Specify the vendor ID number, date you provided notice, and if you received a response. **Note: Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.**

| Company Name | VID # | Notice Date<br>(mm/dd/yyyy) | Was Response Received?                                       |
|--------------|-------|-----------------------------|--|
| _____        | _____ | ____/____/____              | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |
| _____        | _____ | ____/____/____              | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |
| _____        | _____ | ____/____/____              | <input type="checkbox"/> - Yes <input type="checkbox"/> - No |

**SECTION 8 - SUBCONTRACTOR SELECTION**

List the subcontractor(s) you selected to perform the portion of work (subcontracting opportunity) listed in SECTION 3. Also, specify the expected percentage of work to be subcontracted, the approximate dollar value of the work to be subcontracted, and indicate if the company is a Texas certified HUB.

| Company Name | VID # | Expected %<br>of Contract | Approximate<br>Dollar Amount | Texas<br>Certified HUB?                                       |
|--------------|-------|---------------------------|------------------------------|---|
| _____        | _____ | ____%                     | ____\$                       | <input type="checkbox"/> - Yes <input type="checkbox"/> - No* |
| _____        | _____ | ____%                     | ____\$                       | <input type="checkbox"/> - Yes <input type="checkbox"/> - No* |

\*If the subcontractor(s) you selected is not a Texas certified HUB, provide written justification of your selection process below:

\_\_\_\_\_  
\_\_\_\_\_

Enter your company's name here: \_\_\_\_\_

Solicitation #: \_\_\_\_\_

**SECTION 9 - SELF PERFORMANCE JUSTIFICATION**

(If you responded "No" to SECTION 2, you must complete SECTION 9 and 10.)

Does your response/proposal contain an explanation demonstrating how your company will fulfill the entire contract with its own resources?

- **Yes** If Yes, in the space provided below, list the specific page/section of your proposal which identifies how your company will perform the entire Contract with its own equipment, supplies, materials and/or employees.

- **No** If No, in the space provided below, explain how your company will perform the entire contract with its own equipment, supplies, materials, and/or employees.

**SECTION 10 - AFFIRMATION**

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP are true and correct. Respondent understands and agrees that, if awarded any portion of the solicitation:

- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying their compliance with the HSP, including the use/expenditures they have made to subcontractors. (The PAR is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to their HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to debarment pursuant to Gov't Code §2161.253(d).
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are to be performed and must provide documents regarding staff and other resources.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
E-mail

\_\_\_\_\_  
Phone No.

