

UT System RFP- Vendor to Provide Upgrade to FCRS **UPDATED 10/06/15**

Open Date: 10/15/15 02:00 PM

Agency Requisition Number: CON10152015

NOTE: You will need to download all of the following files for complete specifications and other required document, including a HUB subcontracting plan(if required).

Help: Right Click to and choose "save file as" or "save target as" to your computer.

-Package 1 size: 787399 (in bytes) Type: Specification Format: Acrobat PDF Files

-Package 2 size: 158437 (in bytes) Type: Additional Specification(s) Format: Word for Windows 97

-Package 3 size: 2500453 (in bytes) Type: Non-Bid Information Format: Word for Windows 97

Update 10/06 - add HUB Docs (package 3) **Update 10/05 - add updated Q&A (package 2)** **Update 09/30 - add updated Q&A (package 2)** **Update 09/24 - add updated Q&A (package 2)** **Update 09/23 - add updated Q&A (package 2)** **Update 09/16 - add updated Q&A (package 2)** **Update 09/15 - add Q&A (package 2)** The University of Texas System Administration is soliciting proposals in response to this Request for Proposal for Selection of a Vendor to Provide software implementation Services related to Upgrade of Oracle HFM, FDM and Reporting & Analysis Services from the version currently being used to the most current version (at least 11.1.2.4), RFP No.CON10152015 (this "RFP"), from qualified vendors to provide implementation services (the "Services") related to Oracle Hyperion modules. Options for both upgrading the existing customer premise installation and for replacing that environment with a hosted solution will be considered. The Services, which are more specifically described in Section 5.4 (Scope of Work) of this RFP, include (1) Create a new Oracle Hyperion (at least 11.1.2.4) production and development environments on either UTS supplied hardware or hosted platform, or do proof of concept in place upgrade; (2) Work with UTS to develop a plan to replicate all data from production installation (at least 11.1.2.4), including access information, or modifying data necessary for in place upgrade; and (3) test the results to confirm all information has correctly been migrated.

Agency: UNIVERSITY OF TEXAS SYSTEM (720)

Open Date: 10/15/15 02:00 PM

Agency Requisition Number: CON10152015

Previous Price Paid: N/A

Solicitation type: 14 Days or more for entire solicitation package

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- Class-Item: 208 - 10
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Class-Item: 209 - 13
Class-Item: 209 - 42
Class-Item: 209 - 59
Class-Item: 209 - 72
Class-Item: 209 - 73
Class-Item: 209 - 87

Contact Information:

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Email: sneidhart@utsystem.edu

REQUEST FOR PROPOSAL

by

The University of Texas System Administration

for

**Selection of a Vendor to Provide
Implementation Services**

related to

**Upgrade of Oracle Enterprise Performance Management System
Hyperion Financial Management; Hyperion Financial Data Quality
Management, Hyperion BI+ Financial Reporting to the most recent
Version, but at least Version 11.1.2.4**

RFP No. CON10152015

**Submittal Deadline: 2:00 p.m. Central Prevailing Time
October 15, 2015**

Issued: September 1, 2015

REQUEST FOR PROPOSAL

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SECTION 1

INTRODUCTION

1.1 Description of UTS

The University of Texas System Administration (“**UTS**”) is the central office of one of the nation’s largest higher education systems with 14 campuses – including eight academic and six health institutions – and an annual operating budget of over \$15.6 billion (FY 2015). Student enrollment exceeded 212,000 in fall 2013. The System’s eight general academic campuses educate one-third of Texas’ public university students and its six health-related campuses educate two-thirds of the health professional students attending Texas public health related institution of higher education. The 14 campuses and the UT System Administration offices together employ over 90,000 faculty and staff, making the UT System one of the largest employers in the state.

The Board of Regents consists of nine regents who are appointed by the Governor of the State of Texas and confirmed by the Texas State Senate to staggered six-year terms. UTS offices are located in Austin, Texas.

1.2 Background and Special Circumstances

The University of Texas System Administration implemented Oracle Hyperion HFM/FDM and Reporting and Analysis modules v9.3 in January of 2009 and went into full production September 2010. The infrastructure was installed by an Oracle engineer on customer-provided and maintained on-premise hardware.

Oracle Hyperion HFM/FDM and Reporting and Analysis were upgraded to Version 11.1.2.1. in 2012.

UTS is currently utilizing various Oracle Hyperion products:

Hyperion Shared Services

Hyperion Financial Management - version 11.1.2.1.104

Hyperion Financial Data Quality Management - version 11.1.2.1.501

Hyperion BI+ Financial Reporting and Analysis - version 11.1.2.1

UTS is seeking to contract with a qualified and experienced contractor providing upgrade services (to at least 11.1.2.4). The purpose of this Request for Proposal is to provide information and guidelines for the submission of a proposal to The University of Texas System that provide a comprehensive upgrade strategy and implement that strategy.

UTS is seeking to enter into an agreement with a qualified vendor for the performance of high quality services (the “Services”), as more specifically described in **Section 5.4** (Scope of Work) of this RFP.

1.3 Objective of this Request for Proposal

The University of Texas System Administration is soliciting proposals in response to this Request for Proposal for Selection of a Vendor to Provide software implementation Services related to Upgrade of Oracle HFM, FDM and Reporting & Analysis Services from the version currently being used to the most current version (at least 11.1.2.4), RFP No.CON10152015 (this “**RFP**”), from qualified vendors to provide implementation

services (the “**Services**”) related to Oracle Hyperion modules. Options for both upgrading the existing customer premise installation and for replacing that environment with a hosted solution will be considered. The Services, which are more specifically described in **Section 5.4** (Scope of Work) of this RFP, include (1) Create a new Oracle Hyperion (at least 11.1.2.4) production and development environments on either UTS supplied hardware or hosted platform, or do proof of concept in place upgrade; (2) Work with UTS to develop a plan to replicate all data from production installation (at least 11.1.2.4), including access information, or modifying data necessary for in place upgrade; and (3) test the results to confirm all information has correctly been migrated.

1.4 Group Purchase Authority

Texas law authorizes institutions of higher education (defined by Section 61.003, Education Code) to use the group purchasing procurement method (ref. Sections 51.9335, 73.115, and 74.008, Education Code). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Proposer under this RFP. In particular, Proposer should note that UTS is part of The University of Texas System ("UT System"), which is comprised of nine academic and six health universities described at <http://www.utsystem.edu/institutions>. UT System institutions routinely evaluate whether a contract resulting from a procurement conducted by one of the institutions might be suitable for use by another, and if so, this could give rise to additional purchase volumes. As a result, in submitting its proposal in response to this RFP, Proposer should consider proposing pricing and other commercial terms that take into account such higher volumes and other expanded opportunities that could result from the eventual inclusion of other institutions in the purchase contemplated by this RFP.

SECTION 2**NOTICE TO PROPOSER****2.1 Submittal Deadline**

UTS will accept proposals submitted in response to this RFP until **2:00 p.m.**, Central Prevailing Time on Thursday, October 15, 2015 (the “**Submittal Deadline**”).

2.2 UTS Contact Person

Proposers will direct all questions or concerns regarding this RFP to the following UTS contact (“**UTS Contact**”):

Sandra Neidhart
Office of the Controller
sneidhart@utsystem.edu
Subject line of email: RFP CON10152015

UTS specifically instructs all interested parties to restrict all contact and questions regarding this RFP to written communications forwarded to UTS Contact. UTS Contact must receive all questions or concerns no later than October 1, 2015. UTS will have a reasonable amount of time to respond to questions or concerns. It is UTS’ intent to respond to all appropriate questions and concerns; however, UTS reserves the right to decline to respond to any question or concern.

2.3 Criteria for Selection

The successful Proposer, if any, selected by UTS 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 the most advantageous to UTS. The successful Proposer is referred to as the “**Contractor**.”

Proposer is encouraged to propose terms and conditions offering the maximum benefit to UTS in terms of (1) services to UTS, (2) total overall cost to UTS, 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 UTS in a contract for the Services.

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

The criteria to be considered by UTS in evaluating proposals and selecting Contractor, will be those factors listed below:

2.3.1 Threshold Criteria Not Scored

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

2.3.2 Scored Criteria

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

2.4 Key Events Schedule

Issuance of RFP	September 1, 2015
Pre-Proposal Teleconference (ref. Section 2.6 of this RFP)	September 15, 2015 10:00 AM CPT
Deadline for Questions/Concerns (ref. Section 2.2 of this RFP)	October 1, 2015
Submittal Deadline (ref. Section 2.1 of this RFP)	2:00 PM CPT October 15, 2015

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, Contractor subcontracts any of the Services, then Contractor must make a good faith effort to utilize HUBs certified by the Procurement and Support Services Division of the Texas Comptroller of Public Accounts. 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 UTS 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 UTS, 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 the Proposer is subject to review by UTS to ensure compliance with the HUB program.
- 2.5.2 UTS has reviewed this RFP in accordance with Title 34, *Texas Administrative Code*, Section 20.14, and has determined that subcontracting opportunities are not 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 UTS' Policy on

Utilization of Historically Underutilized Businesses attached as **APPENDIX TWO** and incorporated for all purposes.

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

Questions regarding the HSP may be directed to:

*Contact: Stephanie Park
Office of HUB Development
Phone: 512-499-4378
Email: spark@utsystem.edu*

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

2.5.4 Proposer must submit three (3) originals of the HSP to UTS at the same time it submits its proposal to UTS (ref. **Section 3.2** of this RFP.) The three (3) originals of the HSP must be submitted under separate cover and in a separate envelope (the "HSP Envelope"). Proposer must ensure that the top outside surface of its HSP Envelope clearly shows and makes visible:

2.5.4.1 the RFP No. (ref. **Section 1.3** of this RFP) and the Submittal Deadline (ref. **Section 2.1** of this RFP), both located in the lower left hand corner of the top surface of the envelope,

2.5.4.2 the name and the return address of the Proposer, and

2.5.4.3 the phrase "HUB Subcontracting Plan".

Any proposal submitted in response to this RFP that is not accompanied by a separate HSP Envelope meeting the above requirements will be rejected by UTS and returned to the Proposer unopened as that proposal will be considered non-responsive due to material failure to comply with advertised specifications. Furthermore, UTS will open a Proposer's HSP Envelope prior to opening the proposal submitted by the Proposer, in order to ensure that the Proposer has submitted the number of completed and signed originals of the Proposer's HSP that are required by this RFP. A Proposer's failure to submit the number of completed and signed originals of the HSP that are required by this RFP will result in UTS' rejection of the proposal submitted by that Proposer as non-responsive due to material failure to comply with advertised specifications; such a proposal will be returned to the Proposer unopened (ref. **Section 1.5** of **APPENDIX ONE** to this RFP). **Note:** The requirement that Proposer provide three originals of the HSP under this **Section 2.5.4** is separate from and does not

affect Proposer's obligation to provide UTS with the number of copies of its proposal as specified in **Section 3.1** of this RFP

2.6 Pre-Proposal Conference

UTS will hold a pre-proposal teleconference at 10:00 AM, Central Prevailing Time on Tuesday, September 15, 2015. The pre-proposal conference will allow all Proposers an opportunity to ask UTS' representatives relevant questions and clarify provisions of this RFP.

Audio conference access: 800-307-6441
Guest PIN: 223588

SECTION 3

SUBMISSION OF PROPOSAL

3.1 Number of Copies

Proposer must submit a total of four (4) complete and identical copies of its *entire* proposal. An *original* signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) of at least one (1) copy of the submitted proposal. The copy of the Proposer's proposal bearing an original signature should contain the mark "original" on the front cover of the proposal.

3.2 Submission

Proposals must be received by UTS on or before the Submittal Deadline (ref. **Section 2.1** of this RFP) and should be delivered to:

Jennifer Murphy
Director of Accounting & Purchasing
The University of Texas System Administration
210 West 6th Street
Room B.140E
Austin, Texas 78701

3.3 Proposal Validity Period

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

3.4 Terms and Conditions

3.4.1 Proposer must comply with the requirements and specifications contained in this RFP, the 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 and Additional Questions (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 services will prevail, or if such conflict does not involve quality or quantity, then interpretation will be in the following order of precedence:

- 3.4.1.1. Specifications and Additional Questions (ref. **Section 5** of this RFP);
- 3.4.1.2. Terms and Conditions (ref. **Section 4** of this RFP);
- 3.4.1.3. Proposal Requirements (ref. **APPENDIX ONE**);
- 3.4.1.4. Notice to Proposers (ref. **Section 2** of this RFP).

3.5 Submittal Checklist

Proposer is instructed to complete, sign, and return the following documents as a part of its proposal. If Proposer fails to return each of the following items with its proposal, then UTS may reject the proposal:

- 3.5.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**)
- 3.5.2 Signed and Completed Pricing and Delivery Schedule (ref. **Section 6** of this RFP)
- 3.5.3 Responses to Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**)
- 3.5.4 Signed and Completed Addenda Checklist (ref. Section 4 of **APPENDIX ONE**)
- 3.5.5 Responses to questions and requests for information in the Specifications and Additional Questions Section (ref. **Section 5** of this RFP)
- 3.5.6 Signed and completed originals of the HUB Subcontracting Plan or other applicable documents (ref. **Section 2.5** of this RFP and **APPENDIX TWO**).

SECTION 4**GENERAL TERMS AND CONDITIONS****4.1 General**

The terms and conditions contained in **APPENDIX THREE – AGREEMENT** or, in the sole discretion of UTS, terms and conditions substantially similar to these terms and conditions, will be included in any contract or agreement that results from this RFP (ref. **APPENDIX THREE - AGREEMENT**). If Proposer takes exception to any terms or conditions set forth in **APPENDIX THREE - AGREEMENT**, Proposer will submit a list of the exceptions as part of its proposal in accordance with **Section 5.3.1** of this RFP. Proposer's exceptions will be reviewed by UTS 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, then UTS may consider Proposer's exceptions when UTS evaluates the Proposer's proposal.

SECTION 5

SPECIFICATIONS AND ADDITIONAL QUESTIONS

5.1 General

The minimum requirements and the specifications for the 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 2.3** of this RFP, the successful Proposer is referred to as the “**Contractor.**”

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 Demonstrates experience in the implementation of Oracle Hyperion Enterprise Performance Management System, specifically Financial Management, Financial Data Quality Management, and BI+ Reporting and Analysis.
- 5.2.2 Demonstrates experience in testing of upgraded systems.

5.3 Additional Questions Specific to this RFP

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

- 5.3.1 If Proposer takes exception to any terms or conditions set forth in **Section 4 (APPENDIX THREE - AGREEMENT)** of this RFP, Proposer will submit a list of the exceptions.

5.4 Scope of Work

Contractor will provide the following services to UTS:

- 5.4.1 Upgrade Oracle Hyperion Financial Management, Financial Data Quality Management, BI+ Reporting and Analysis version 11.1.2.1 to version 11.1.2.4 or later, if a more current version becomes available and is acceptable to UTS.
- 5.4.2 Provide upgrade services (to at least 11.1.2.4), including a comprehensive upgrade strategy and implementation of that strategy.
- 5.4.3 Provide upgrade documentation, including but not limited to, user client set up configuration guidelines, updating the current Job Aid and Participant Guide to be user-ready.
- 5.4.4 Provide documentation for settings required for all supported browsers.
- 5.4.5 Provide administrator and transition support through December 2016. Include a description of the support services and availability.
- 5.4.6 Monthly/Annual Financial Report (MFR/AFR) support through at least on MFR and one AFR reporting cycle.

5.4.7 Data extraction and management support through December 2016.

5.4.8 General troubleshooting through December 2016.

SECTION 6

PRICING AND DELIVERY SCHEDULE

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System Administration

Ref.: _____ Services related to the _____

RFP No.: CON10152015

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 terms quoted below.

6.1 Pricing for Services Offered

6.2 Delivery Schedule of Events and Time Periods

6.3 UTS' Payment Terms

UTS' standard payment terms for services are "Net 30 days." Proposer agrees that UTS will be entitled to withhold _____ percent (_____%) of the total payment due under the Agreement until after UTS' acceptance of the final work product. Indicate below the prompt payment discount that Proposer will provide to UTS:

Prompt Payment Discount: _____% _____ days/net 30 days

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

**APPENDIX ONE
PROPOSAL REQUIREMENTS**

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APPENDIX ONE

SECTION 1

GENERAL INFORMATION & PROPOSAL REQUIREMENTS**1.1 Purpose**

UTS is soliciting competitive sealed proposals from Proposers having suitable qualifications and experience providing 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 UTS.

By submitting a proposal, Proposer certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the services to be performed, the detailed requirements of the services to be provided, and the conditions under which such 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 the 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

UTS may in its sole discretion respond in writing to written inquiries concerning this RFP and mail its response as an Addendum to all parties recorded by UTS as having received a copy of this RFP. Only UTS' responses that are made by formal written Addenda will be binding on UTS. Any verbal responses, written interpretations or clarifications other than Addenda to this RFP will be without legal effect. All Addenda issued by UTS 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 as specified in this Section. The Proposer must acknowledge all Addenda by completing, signing and returning the Addenda Checklist (ref. **Section 4 of APPENDIX ONE**). The Addenda Checklist must be received by UTS prior to the Submittal Deadline and should accompany the Proposer's proposal.

Any interested party that receives this RFP by means other than directly from UTS is responsible for notifying UTS that it has received an RFP package, and should provide its name, address, telephone number and FAX number to UTS, so that if UTS issues Addenda to this RFP or provides written answers to questions, that information can be provided to such party.

1.3 Public Information

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

UTS 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, UTS 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

Contractor, if any, will be required to enter into a contract with UTS in a form that (i) includes terms and conditions substantially similar to the terms and conditions set forth in **Section 4** of this RFP, and (ii) is otherwise acceptable to UTS in all respects (the "**Agreement**"). A draft Agreement is included as **APPENDIX THREE**.

1.5 Proposal Evaluation Process

UTS will select Contractor by using the competitive sealed proposal process described in this Section. UTS will open the HSP Envelope submitted by a Proposer prior to opening the Proposer's proposal in order to ensure that the Proposer has submitted the number of completed and signed originals of the Proposer's HUB Subcontracting Plan (also called the HSP) that are required by this RFP (ref. **Section 2.5.4** of the RFP.) All proposals submitted by the Submittal Deadline accompanied by the number of completed and signed originals of the HSP that are required by this RFP will be opened publicly to identify the name of each Proposer submitting a proposal. Any proposals that are not submitted by the Submittal Date or that are not accompanied by the number of completed and signed originals of the HSP that are required by this RFP will be rejected by UTS 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, UTS may invite one or more selected Proposers to participate in oral presentations. UTS will use commercially reasonable efforts to avoid public disclosure of the contents of a proposal prior to selection of Contractor.

UTS may make the selection of Contractor on the basis of the proposals initially submitted, without discussion, clarification or modification. In the alternative, UTS may make the selection of Contractor on the basis of negotiation with any of the Proposers. In conducting such negotiations, UTS will use commercially reasonable efforts to avoid disclosing the contents of competing proposals.

At UTS' sole option and discretion, UTS may discuss and negotiate all elements of the proposals submitted by selected Proposers within a specified competitive range. For purposes of negotiation, UTS 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, UTS will defer further action on proposals not included within the competitive range pending the selection of Contractor; provided, however, UTS reserves the right to include additional proposals in the competitive range if deemed to be in the best interests of UTS.

After submission of a proposal but before final selection of Contractor is made, UTS may permit a Proposer to revise its proposal in order to obtain the 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. UTS will provide each Proposer within the competitive range with an equal opportunity for discussion and revision of its proposal. UTS is not obligated to select the Proposer offering the most attractive economic terms if that Proposer is not the most advantageous to UTS overall, as determined by UTS.

UTS 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 UTS. Proposer is hereby notified that UTS will maintain in its files concerning this RFP a written record of the basis upon which a selection, if any, is made by UTS.

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 and Additional Questions (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 UTS 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 UTS has made no representation written or oral that one or more agreements with UTS will be awarded under this RFP; (2) UTS issues this RFP predicated on UTS' anticipated requirements for the Services, and UTS has made no representation, written or oral, that any particular scope of services will actually be required by UTS; 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 UTS.
- 1.8.3 UTS will not provide compensation to Proposer for any expenses incurred by the Proposer for proposal preparation or for demonstrations or oral presentations that may be made by Proposer. 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 UTS, at UTS' 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 UTS makes no warranty or guarantee that an award will be made as a result of this RFP. UTS 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 or the Agreement when deemed to be in UTS' best interest. UTS 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 UTS, at UTS' 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 UTS, in UTS' sole discretion.

1.9 Preparation and Submittal Instructions

1.9.1 Specifications and Additional Questions

Proposals must include responses to the questions in Specifications and Additional Questions (ref. **Section 5** of this RFP). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Proposer should explain the reason when responding N/A or N/R.

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 the Proposer to its proposal. Any proposal received without a completed and signed Execution of Offer may be rejected by UTS, in its sole discretion.

1.9.3 Pricing and Delivery Schedule

Proposer must complete and return the Pricing and Delivery Schedule (ref. **Section 6** of this RFP), as part of its proposal. In the Pricing and Delivery Schedule, the Proposer should describe in detail (a) the total fees for the entire scope of the Services; and (b) the method by which the fees are calculated. The fees must be inclusive of all associated costs for delivery, labor, insurance, taxes, overhead, and profit.

UTS will not recognize or accept any charges or fees to perform the Services that are not specifically stated in the Pricing and Delivery Schedule.

In the Pricing and Delivery Schedule, Proposer should describe each significant phase in the process of providing the Services to UTS, and the time period within which Proposer proposes to be able to complete each such phase.

1.9.4 Proposer's General Questionnaire

Proposals must include responses to the questions in Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Proposer should explain the reason when responding N/A or N/R.

1.9.5 Addenda Checklist

Proposer should acknowledge all Addenda to this RFP (if any) by completing, signing and returning the Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**) as part of its proposal. Any proposal received without a completed and signed Addenda Checklist may be rejected by UTS, in its sole discretion.

1.9.6 Submission

Proposer should submit all proposal materials enclosed in a sealed envelope, box, or container. The RFP No. (ref. **Section 1.3** of this RFP) and the Submittal Deadline (ref. **Section 2.1** of this RFP) should be clearly shown in the lower left-hand corner on the top surface of the container. In addition, the name and the return address of the Proposer should be clearly visible.

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

Upon Proposer's request and at Proposer's expense, UTS will return to a Proposer its proposal received after the Submittal Deadline if the proposal is properly identified. UTS will not under any circumstances consider a proposal that is received after the Submittal Deadline or which is not accompanied by the number of completed and signed originals of the HSP that are required by this RFP.

UTS will not accept proposals submitted by telephone, proposals submitted by Facsimile ("**FAX**") transmission, or proposals submitted by electronic transmission (i.e., e-mail) 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 UTS. 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 UTS' consent, which will be based on Proposer's submittal of a written explanation and documentation evidencing a reason acceptable to UTS, in UTS' 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 UTS 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 UTS as specified herein and that such intent is not contingent upon UTS' acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.

1.9.7 Page Size, Binders, and Dividers

Proposals must be typed on letter-size (8-1/2" x 11") paper, and must be submitted in a binder. Preprinted material should be referenced in the proposal and included as labeled attachments. Sections within a proposal should be divided by tabs for ease of reference.

1.9.8 Table of Contents

Proposals must include a Table of Contents with page number references. The Table of Contents must contain sufficient detail and be organized according to the same format as presented in this RFP, to allow easy reference to the sections of the proposal as well as to any separate attachments (which should be identified in the main Table of Contents). If a Proposer includes supplemental information or non-required attachments with its proposal, this material should be clearly identified in the Table of Contents and organized as a separate section of the proposal.

1.9.9 Pagination

All pages of the proposal should be numbered sequentially in Arabic numerals (1, 2, 3, etc.). Attachments should be numbered or referenced separately.

1.9.10 Suggested Outline of Proposal

Signed Execution of offer (See APPENDIX ONE Section 1.9.1 – complete APPENDIX ONE Section 2)

Signed Addenda Checklist (See APPENDIX ONE Section 1.9.5 – complete APPENDIX ONE Section 4)

- I. Proposer's General Questionnaire (Complete APPENDIX ONE Section 3)
- II. Specifications and Additional Questions (APPENDIX ONE Section 1.9.1)
 - a. RFP 5.2 - Minimum Requirements
 - b. RFP 5.3.1 - List all exceptions to Section 4 (also Appendix Three – Agreement)
 - c. RFP 5.4 - Scope of work
- III. RFP Section 6 - Pricing and Delivery Schedule (see APPENDIX ONE Section 1.9.3)

Note: HUB Subcontracting Plan (Section 2.5 of this RFP) must be submitted as required.

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 THE 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 UTS and Proposer; (3) UTS has made no representation or warranty, written or oral, that one or more contracts with UTS 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 and **APPENDIX THREE**, under which Proposer will be required to operate.
 - 2.1.6 If selected by UTS, 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 UTS, 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 UTS will rely on such statements, information and representations in selecting Contractor. If selected by UTS, Proposer will notify UTS 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 UTS, INDEMNIFY, AND HOLD HARMLESS UTS, THE UTS OF TEXAS 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 UTS 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 the Proposer may be removed from all proposal lists at UTS.
- 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 UTS' 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 the 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 an employee of any component of The UTS of Texas System, on the other hand, other than the relationships which have been previously disclosed to UTS in writing; (ii) Proposer has not been an employee of any component institution of The UTS 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 UTS enters into a contract or agreement with Proposer.

2.9 By signature hereon, Proposer certifies its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.

2.10 By signature hereon, Proposer represents and warrants that all products and services offered to UTS 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.

2.11 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 UTS makes an award or enters into any contract or agreement with Proposer.

2.12 If Proposer will sell or lease computer equipment to the UTS 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.

2.13 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.: CON10152015

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.

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)

SECTION 3

PROPOSER'S GENERAL QUESTIONNAIRE

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.

Proposals must include responses to the questions contained in this Proposer's General Questionnaire. Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Proposer will explain the reason when responding N/A or N/R.

3.1 Proposer Profile

3.1.1 Legal name of Proposer company:

Address of principal place of business:

Address of office that would be providing service under the Agreement:

Number of years in Business: _____

State of incorporation: _____

Number of Employees: _____

Annual Revenues Volume: _____

Name of Parent Corporation, if any _____

NOTE: If Proposer is a subsidiary, UTS prefers to enter into a contract or agreement with the Parent Corporation or to receive assurances of performance from the Parent Corporation.

3.1.2 State whether Proposer will provide a copy of its financial statements for the past two (2) years, if requested by UTS.

3.1.3 Proposer will provide a financial rating of the Proposer entity and any related documentation (such as a Dunn and Bradstreet analysis) that indicates the financial stability of Proposer.

3.1.4 Is Proposer currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, Proposer will explain the expected impact, both in organizational and directional terms.

3.1.5 Proposer will provide any details of all past or pending litigation or claims filed against Proposer that would affect its performance under the Agreement with UTS (if any).

3.1.6 Is Proposer currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, Proposer will specify the pertinent date(s), details, circumstances, and describe the current prospects for resolution.

3.1.7 Proposer will provide a customer reference list of no less than three (3) organizations with which Proposer currently has contracts and/or to which Proposer has previously provided services (within the past five (5) years) of a type and scope similar to those required by UTS' RFP. Proposer will include in its customer reference list the customer's company name, contact person, telephone number, project description, length of business relationship, and background of services provided by Proposer.

- 3.1.8 Does any relationship exist (whether by family kinship, business association, capital funding agreement, or any other such relationship) between Proposer and any employee of UTS? If yes, Proposer will explain.
- 3.1.9 Proposer will provide the name and Social Security Number for each person having at least 25% ownership interest in Proposer. This disclosure is mandatory pursuant to Section 231.006, *Family Code*, and will be used for the purpose of determining whether an owner of Proposer with an ownership interest of at least 25% is more than 30 days delinquent in paying child support. Further disclosure of this information is governed by the *Texas Public Information Act*, Chapter 552, *Government Code*, and other applicable law.

3.2 Approach to Project Services

- 3.2.1 Proposer will provide a statement of the Proposer's service approach and will describe any unique benefits to UTS from doing business with Proposer. Proposer will briefly describe its approach for each of the required services identified in **Section 5.4** Scope of Work of this RFP.
- 3.2.2 Proposer will provide an estimate of the earliest starting date for services following execution of the Agreement.
- 3.2.3 Proposer will submit a work plan with key dates and milestones. The work plan should include:
- 3.2.3.1 Identification of tasks to be performed;
 - 3.2.3.2 Time frames to perform the identified tasks;
 - 3.2.3.3 Project management methodology;
 - 3.2.3.4 Implementation strategy; and
 - 3.2.3.5 The expected time frame in which the services would be implemented.
- 3.2.4 Proposer will describe the types of reports or other written documents Proposer will provide (if any) and the frequency of reporting, if more frequent than required in the RFP. Proposer will include samples of reports and documents if appropriate.

3.3 General Requirements

- 3.3.1 Proposer will provide summary resumes for its proposed key personnel who will be providing services under the Agreement with UTS, including their specific experiences with similar service projects, and number of years of employment with Proposer.
- 3.3.2 Proposer will describe any difficulties it anticipates in performing its duties under the Agreement with UTS and how Proposer plans to manage these difficulties. Proposer will describe the assistance it will require from UTS.

3.4 Service Support

Proposer will describe its service support philosophy, how it is implemented, and how Proposer measures its success in maintaining this philosophy.

3.5 Quality Assurance

Proposer will describe its quality assurance program, its quality requirements, and how they are measured.

3.6 Miscellaneous

- 3.6.1 Proposer will provide a list of any additional services or benefits not otherwise identified in this RFP that Proposer would propose to provide to UTS. Additional services or benefits must be directly related to the goods and services solicited under this RFP.
- 3.6.2 Proposer will provide details describing any unique or special services or benefits offered or advantages to be gained by UTS from doing business with Proposer. Additional services or benefits must be directly related to the goods and services solicited under this RFP.
- 3.6.3 Does Proposer have a contingency plan or disaster recovery plan in the event of a disaster? If so, then Proposer will provide a copy of the plan.

SECTION 4
ADDENDA CHECKLIST

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System Administration

Ref.: _____ Services related to the _____

RFP No.: CON10152015_

Ladies and Gentlemen:

The undersigned Proposer hereby acknowledges receipt of the following Addenda to the captioned RFP (initial if applicable).

No. 1 _____ No. 2 _____ No. 3 _____ No. 4 _____ No. 5 _____

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

APPENDIX TWO
HUB SUBCONTRACTING PLAN

**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)

Contents

- Policy on Utilization of Historically Underutilized Businesses (HUB)s Page 3
- Summary of Requirements/Historically Underutilized Business (HUB) Subcontracting Plan (HSP) Pages 4-6
- Summary of Attachments Required from Respondents Page 7
- Letter of Transmittal Page 8
- Letter of HUB Commitment (indefinite duration/indefinite quantity contracts) Page 9
- HSP Quick Checklist Page 10
- HUB Subcontracting Plan (HSP) Page 11-18
 - Section 2 – Good Faith Effort Subcontractor Selection Page 12
 - Self-Performance Justification Page 14
 - HSP Good Faith Effort Method A (Attachment A) Page 15
 - HSP Good Faith Effort Method B (Attachment B) Page 16-17
- HUB Subcontracting Opportunity Notification Form Page 18

Minority and Trade Organizations contact information is available online at:
<http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>
- HUB Subcontracting Plan Prime Contractor Progress Assessment Report (PAR) Page 19

(Required of successful respondent for payment requests only)

The University of Texas System
Office of HUB Development

POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS)

Introduction

In accordance with the Texas Government Code, Sections 2161.181-182 and Title 34, Section 20.13 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 20.10-20.28, 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 business in State contracting in accordance with the following goals as specified in the State of Texas Disparity Study:

- 11.2% for heavy construction other than building contracts;
- 21.1% for all building construction, including general contractors and operative builders contracts;
- 32.9% for all special trade construction contracts;
- 23.7% for professional services contracts;
- 26% for all other services contracts, and
- 21.1% for commodities contracts.

The University of Texas System shall make a good faith effort to meet or exceed the above stated goals to assist HUBs in receiving a portion of the total contract value of all contracts that UT 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.

NOTE: The goals above are the State of Texas HUB goals. For purposes of this procurement, The University of Texas System goals listed in the Special Instructions on page 11 will apply.

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

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, UT System has adopted “**EXHIBIT H, 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, “UT System” or the “University” will indicate in the purchase solicitation (e.g. RFQ, RFP, or CSP) whether or not 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 (HSP) will result in rejection of the Response.**
2. If subcontracting opportunities are probable UT 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) (3)(A)(B)(C)(D)(E)(F) (4)(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 **Section 3 –Self Performance [34 TAC §20.14 (d) (5) (A) (B) (C) (D)]**.
3. If subcontracting opportunities are not probable UT System will declare such probability in its invitations or 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 the work with its employees and resources, the Respondent shall submit a HUB Subcontracting Plan that includes **Section 3 – Self Performance Justification**.
 - 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. **Competitive Sealed Proposals (CSP):** Respondents shall submit a HUB Subcontracting Plan (packaged separately) twenty-four (24) hours following the Response submission date and time or as prescribed by the project manager.
6. In making a determination whether a good faith effort has been made in the development of the required HUB Subcontracting Plan, UT 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 UT 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 HSP shall be approved by the HUB Coordinator.

7. **Design Build (DB) and Construction Manager @ Risk (CM@R) responses:** Respondents to a “design build” or “construction manager-at-risk” purchase solicitation shall include the Letter of HUB Commitment in their Response attesting that the Respondent has read and understands the Policy on Historically Underutilized Businesses (HUBs), and a HUB Subcontracting Plan for all preconstruction and construction services including a HUB Subcontracting Plan as prescribed by the Texas Comptroller specific to construction services identifying first, second and third tier subcontractors. Respondents proposing to perform Part 1 preconstruction services with their own resources and employees shall submit, as part of their HSP, the Self Performance Justification.
8. **DB and CM@R HUB Contract Requirements:** Contractors engaged under design-build and construction manager-at-risk contracts shall submit a HUB Subcontracting Plan for all preconstruction and construction Phase Services, and, must further comply with the requirements of this Policy by developing and submitting a HUB Subcontracting Plan for each bid package issued in buying out the guaranteed maximum or lump sum price of the project. The HSP shall identify first, second and third tier subcontractors.
9. The University of Texas System shall reject any Response that does not include a fully completed HSP as required. **An incomplete HUB Subcontracting Plan is considered a material failure to comply with the solicitation for proposals.**
10. **Changes to the HUB Subcontracting Plan: Once a Respondent's HSP is accepted by UT System and becomes a provision of the contract between Respondent and UT System, the Respondent can only change that HSP if**
 - (a) the Respondent complies with 34 TAC Section 20.14; (b) the Respondent provides its proposed changes to UT System for review; (c) UT System (including UT System's HUB Coordinator) approves Respondent's proposed changes to its HSP; and (d) UT System and the Respondent amend their contract (in writing signed by authorized officials of both parties) in order to replace the contract's existing HSP with a revised HSP containing the changes approved by UT System.
11. **Expansion of Work:** If, after entering into a contract with a Respondent as a result of a purchase solicitation subject to the Policy, UT 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”), UT System will determine if the additional work contains probable subcontracting opportunities not identified in the initial purchase solicitation for that contract. If UT System determines that probable subcontracting opportunities exist for the additional work, then the Respondent must submit to UT System an amended HUB Subcontracting Plan covering those opportunities that complies with the provisions of 34 TAC Section 20.14. Such an amended HSP must be approved by UT System and the Respondent (including UT System's HUB Coordinator) before (a) the contract may be amended by UT System and the Respondent to include the additional work and the amended HSP and (b) the Respondent performs the additional work. If a Respondent subcontracts any of the additional subcontracting opportunities identified by UT System for any additional work (i) without complying with 34 TAC Section 20.14 or (ii) before UT System and that Respondent amend their contract to include a revised HSP that authorizes such subcontracting, then the Respondent will be deemed to be in breach of its contract with UT System. As a result of such breach, UT 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. The University may report a Respondent's nonperformance under a

contract between that Respondent and UT System to the Texas Comptroller in accordance with 34 TAC Sections 20.10 through 20.18.

12. 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 UT 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 10 above.
13. The University of Texas System shall require a professional services firm, contractor or vendor to whom a contract has been awarded to report the identity and the amount paid to its subcontractors on a monthly basis using a **HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report (PAR)** as a condition for payment.
14. If the University of Texas System determines that the successful Respondent failed to implement an approved HUB Subcontracting Plan in good faith, UT System, in addition to any other remedies, may report nonperformance to the Texas Comptroller in accordance with 34 TAC Section 20.14, (g) (1) related remedies of nonperformance to professional services firms, contractor and vendor implementation of the HSP.
15. 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.
16. These requirements, including the attachments referred to above, may be downloaded over the Internet from <http://utsystem.edu/offices/historically-underutilized-business/hub-forms>. For additional information contact the Office of HUB Development, The University of Texas System, 512/499/4530.

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

	Letter of Transmittal Page 8	Letter of HUB Commitment Page 9	HUB Subcontracting Plan (HSP) Pages 11-18	Progress Assessment Report (PAR) Page 19
1. UT SYSTEM DETERMINES THAT SUBCONTRACTING OPPORTUNITIES ARE PROBABLE.				
1. A. Respondent Proposes Subcontractors: Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are probable</u> .	X		X	
1.B. Respondent Proposes Self-Performance: 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.	X		X	
2. UT SYSTEM DETERMINES THAT SUBCONTRACTING OPPORTUNITIES ARE NOT PROBABLE.				
2.A. Respondent Proposes Self-Performance: 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.	X		X	
2. B. Respondent Proposes Subcontractors: 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.	X		X	
3. INDEFINITE DURATION/INDEFINITE QUANTITY CONTRACTS: Submit with initial qualifications. Attachments required from the Respondent prior to contract execution for each contract associated with a solicitation for miscellaneous services.		X	X	
4. CHANGES IN THE HUB SUBCONTRACTING PLAN AFTER AWARD: Attachments required from the Respondent to whom a contract has been awarded if it desires to make changes to the approved HUB Subcontracting Plan.			X	
5. REPORTING: Progress Assessment Report (PAR) required with all payment requests. The submittal of this attachment is a condition of payment.				X

(RESPONDENT’S BUSINESS LETTERHEAD)

Date

Mr. Hopeton Hay
Director, HUB and Federal Small Business Program
The University of Texas System
201 W. 6th St., Room B.140E
Austin, Texas 78701

RE: Historically Underutilized Business Plan for (Project Title): _____
Project Number: _____ - _____

Dear Mr. Hay,

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, and the goal as stated in the Agency Special Instructions section of the HUB Subcontracting Plan, page 11.

- Select one of the following:
- _____ 32.9% for all special trade construction contracts
 - _____ 26% for all other services contracts
 - _____ 31.04% for commodities contracts

Subcontractors	No. of Subcontractors	Total Subcontract \$ Value	Total Estimated HUB %	% Minority Owned	% Woman Owned	% Service Disabled Veteran
HUB						
NON-HUB						
TOTAL						

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 HUB 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

(RESPONDENT'S BUSINESS LETTERHEAD)

Date

Mr. Hopeton Hay
Director, HUB and Federal Small Business Program
The University of Texas System
201 W. 6th St., Room B.140E
Austin, TX 78701

RE: Historically Underutilized Business Plan for (Project Title): _____
Project Number: _____ - _____

Dear Mr. Hay:

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 proposal in connection with your invitation for request for proposals, referencing Project Number _____.

I have read and understand The University of Texas System Policy on Utilization of Historically Underutilized Businesses (HUBs).

Good Faith Effort will be documented by a two part HUB Subcontracting Plan (HSP) process. Part one (1) of the HSP submission will reflect self-performance with the appropriate sections completed per the instructions in Option One of the HSP Quick Checklist located on page 10 of The University of Texas Exhibit H Policy on Utilization of Historically Underutilized Businesses (HUBs).

As the scope of work/project is defined under this ID/IQ contract, part two (2) of the process will require a revised HUB Subcontracting Plan (HSP) and the Good Faith Effort will be documented per instructions in Attachment B (page 16-17) and Option Three of the HSP Quick Check List. The revised HUB Subcontracting Plan will be submitted to the HUB Coordinator prior to execution of each contract process. Documentation of subcontracted work will be provided with each pay request.

Sincerely,

(Project Executive)

cc: Contract Administrator



HUB Subcontracting Plan (HSP)

QUICKCHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

Option One -If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:

- Section 1 - Respondent and Requisition Information
- Section 2a. - Yes, I will be subcontracting portions of the contract
- Section 2b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors
- Section 2c. - Yes
- Section 4 - Affirmation
- GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2b.
- Letter of Transmittal

Option Two - If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you have a continuous contract in place for five (5) years or less meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:

- Section 1 - Respondent and Requisition Information
- Section 2a. - Yes, I will be subcontracting portions of the contract
- Section 2b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors
- Section 2c. - No
- Section 2d. - Yes
- Section 4 - Affirmation
- GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2b.
- Letter of Transmittal

Option Three - If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you have a continuous contract in place for five (5) years or less does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:

- Section 1 - Respondent and Requisition Information
- Section 2a. - Yes, I will be subcontracting portions of the contract
- Section 2b. - List all the portions of work you will subcontract, and indicated the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors
- Section 2c. - No
- Section 2d. - No
- Section 4 - Affirmation
- GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2b.
- Letter of Transmittal

Option Four - If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources, complete:

- Section 1 - Respondent and Requisition Information
- Section 2a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources
- Section 3 - Self Performing Justification
- Section 4 - Affirmation
- Letter of HUB Commitment

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



HUB Subcontracting Plan (HSP)

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

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas 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 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- 11.2 percent for heavy construction other than building contracts,
- 21.1 percent for all building construction, including general contractors and operative builders' contracts,
- 32.9 percent for all special trade construction contracts,
- 23.7 percent for professional services contracts,
- 26.0 percent for all other services contracts, and
- 21.1 percent for commodities contracts.

- - Agency Special Instructions/Additional Requirements - -

In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only contracts that have been in place for five years or less shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

In accordance with 34 TAC §20.13(d)(1)(D)(iii), the goals below are the applicable goals for the University of Texas System Administration only.

- Other Services HUB Goal – 26%**
- Commodities HUB Goal – 31.04%**
- Special Trades HUB Goal – 32.9%**

- Responses for Special Trades construction shall submit a HUB Subcontracting Plan (HSP) that meets the Good Faith Effort prescribed in Method B (Attachment B). See instruction for Option three on the HSP Quick Check List. No other Good Faith Effort method will be accepted.
- Responses for Miscellaneous Services Agreements for indefinite duration/indefinite quantity- Two (2) part process:
 1. Submit a Letter of HUB Commitment (page 9) and a Good Faith Effort described in Option Four.
 2. Submit a revised HSP prior to execution of each contract process as described in Option Three of Quick Check List.
- Respondents shall submit a completed HUB Subcontracting Plan (HSP) to be considered responsive. Failure to submit a completed HSP shall result in the bid, proposal or other expression of interest to be considered Non-responsive.
- Respondents who intend to Self-Perform all of their work shall submit an HSP for Self Performance HUB Subcontracting Plan (HSP) as described in Option Four.
- Prime contractor Progress Assessment Report (PAR) shall be submitted with each request for payment as a condition of payment.
- Please note that phone logs are no longer acceptable documentation of Good Faith Effort. Only fax, email and certified letter are acceptable.

SECTION-1: RESPONDENT AND REQUISITION INFORM

- a. Respondent (Company) Name: _____ State of Texas VID #: _____
 Point of Contact: _____ Phone #: _____
 E-mail Address: Fax #: _____
- b. Is your company a State of Texas certified HUB? - Yes - No
- c. Requisition #: _____ Bid Open Date: _____

Enter your company's name here: _____ Requisition #: _____

SECTION 2: SUBCONTRACTING INTENTIONS RESPONDENT

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including goods and services, will be subcontracted. Note: In accordance with 34 TAC §20.11., an "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- Yes, I will be subcontracting portions of the contract. (If Yes, complete Item b, of this SECTION and continue to Item c of this SECTION.)
- No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources. (If No, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for five (5) years or less.	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years.</u>	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <http://window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

- Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- No (If No, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified HUBs with which you have a continuous contract* in place with for five (5) years or less meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements".

- Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- No (If No, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____ Requisition #: _____

SECTION-2: SUBCONTRACTING INTENTIONS RESPONDENT (CONTINUATION SHEET)

a. This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for five (5) years or less.	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years.</u>	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%

**Continuous Contract: Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.*

HSP – SECTION 2
(Continuation Sheet)

Enter your company's name here: _____ Requisition #: _____

SECTION-3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4)

Check the appropriate box (Yes or No) that indicates whether your response/proposal contains 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(s)/section(s) of your proposal which explains 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-4: 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 is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (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 its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- 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 being performed and must provide documentation regarding staffing and other resources.

Signature Printed Name Title Date

(mm/dd/yyyy)

Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method B (Attachment B)

Enter your company's name here: _____	Requisition #: _____
---------------------------------------	----------------------

IMPORTANT: If you responded "Yes" to SECTION 2, Items c or d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <http://window.state.tx.us/procurement/prog/hub/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If Yes, to continue to SECTION B-4.)
- No / Not Applicable (If *No* or *Not Applicable*, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you MUST comply with items a, b, c and d, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to your submitting your bid response to the contracting agency. When searching for Texas certified HUBs, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) and Historically Underutilized Business (HUB) Search directory located at <http://mycpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB Status code "A" signifies that the company is a Texas certified HUB.
- b. List the three (3) Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Vendor ID (VID) number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	VID Number	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to two (2) or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>.
- d. List two (2) trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

Enter your company's name here: _____ Requisition #: _____

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in SECTION B-1. Also identify whether they are a Texas certified HUB and their VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB.

Company Name	Texas certified HUB	VID Number (Required if Texas)	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
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	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in SECTION B-1 is **not** a Texas certified HUB, provide **written** justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

APPENDIX THREE

AGREEMENT BETWEEN THE UNIVERSITY OF TEXAS SYSTEM AND CONTRACTOR

This Agreement between UTS and Contractor ("**Agreement**") is made and entered into effective as of Month DD, 20YY (the "**Effective Date**"), by and between **The University of Texas System**, an agency and institution of higher education established under the laws of the State of Texas ("**UTS**"), and **Name of Contractor**, ("**Contractor**").

UTS and Contractor hereby agree as follows:

1. Scope of Work.

- 1.1 Contractor will perform the scope of the work ("**Work**") set forth in **Exhibit A**, Scope of Work, attached and incorporated for all purposes, to the satisfaction of UTS and in accordance with the schedule ("**Schedule**") for the Work set forth in **Exhibit B**, Schedule, attached and incorporated for all purposes. Time is of the essence in connection with this Agreement. UTS will have no obligation to accept late performance or waive timely performance by Contractor.
- 1.2 Contractor 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 Work.
- 1.3 Upon execution of this Agreement, all services previously performed by Contractor on behalf of UTS and included in the description of the Work, will become a part of the Work and will be subject to the terms and conditions of this Agreement.

2. The Project.

The Work will be provided in connection with technical services for the upgrade and support of the Financial Consolidation and Reporting System ("FCRS") and all other related, necessary and appropriate services (the "**Project**") at UTS.

UTS is currently utilizing Oracle Hyperion:

Financial Data Quality Management ("FDM") Version 11.1.2.1.501

Financial Management ("HFM") Version 11.1.2.1.600.07

BI+ Reporting and Analysis ("Financial Reporting") Version 11.1.2.1.725

The Project includes the upgrade of FDM, HFM and Financial Reporting to at least version 11.1.2.4.

Contractor will provide upgrade documentation, including but not limited to, user client set up configuration guidelines, updating the current Job Aid and Participant Guide to be user-ready. Provide documentation for settings required for all supported browsers.

3. Time for Commencement and Completion.

The term of this Agreement will begin on the Effective Date and expire on **Month DD, YYYY**.

4. Contractor's Obligations.

- 4.1 Contractor will perform the Work in compliance with all applicable federal, state and local laws, regulations, and ordinances. Contractor represents and warrants that neither Contractor nor any firm, corporation or institution represented by Contractor, or anyone

acting for the firm, corporation or institution, 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 Contractor's response to UTS' procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for this Agreement.

- 4.2 Contractor 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 Contractor's profession or business, and (b) all of the Services to be performed will be of the quality that prevails among similar businesses engaged in providing similar services in major United States urban areas under the same or similar circumstances.
- 4.3 Contractor will call to UTS' attention in writing all information in any materials supplied to Contractor (by UTS or any other party) that Contractor regards as unsuitable, improper or inaccurate in connection with the purposes for which the material is furnished.
- 4.4 Contractor warrants and agrees that the Services will be accurate and free from any material defects. Contractor's duties and obligations under this Agreement will at no time be in any way diminished by reason of any approval by UTS nor will Contractor be released from any liability by reason of any approval by UTS, it being agreed that UTS at all times is relying upon Contractor's skill and knowledge in performing the Services.
- 4.5 Contractor will, at its own cost, correct all material defects in the Services as soon as practical after Contractor becomes aware of the defects. If Contractor fails to correct material defects in the Services within a reasonable time, then UTS may correct the defective Services at Contractor's expense. This remedy is in addition to, and not in substitution for, any other remedy for defective Services that UTS may have at law or in equity.
- 4.6 Contractor will furnish efficient business administration and coordination and perform the Work in an expeditious and economical manner consistent with the interests of UTS.
- 4.7 Contractor represents that if (i) it is a corporation, 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 Contractor has been duly authorized to act for and bind Contractor; 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 Contractor has been duly authorized to act for and bind Contractor.
- 4.8 Contractor represents and warrants that neither the execution and delivery of this Agreement by Contractor nor the performance of its duties and obligations under this Agreement will (a) result in the violation of any provision [i] if a corporation, of Contractor'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 Contractor is bound; (b) result in the violation of any provision of any agreement by which Contractor is bound; or (c) to the best of Contractor's knowledge and belief, conflict with any order or decree of any court or other body or authority having jurisdiction.
- 4.9 Reserved
- 4.10 Contractor represents and warrants that: (i) the Services will be performed solely by Contractor, its full-time or part-time employees during the course of their employment, or

independent contractors who have assigned in writing all right, title and interest in their work to Contractor for the benefit of UTS; (ii) UTS will receive free, good and clear title to all Work Material developed under this Agreement; (iii) the Work Material and the intellectual property rights protecting the Work Material are free and clear of all encumbrances, including security interests, licenses, liens, charges or other restrictions; (iv) the Work Material will not infringe upon or violate any patent, copyright, trade secret, trademark, service mark or other property right of any former employer, independent contractor, client or other third party; and (v) the use, reproduction, distribution, or modification of the Work Material will not violate the rights of any third parties in the Work Material, including trade secret, publicity, privacy, copyright, trademark, service mark and patent rights.

- 4.11 Premises Rules. If this Agreement requires Contractor's presence on UTS' premises or in UTS' facilities, Contractor agrees to become aware of, fully informed about, and in full compliance with all applicable UTS rules and policies, including those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.

5. The Contract Amount.

- 5.1 So long as Contractor has provided UTS with its current and accurate Federal Tax Identification Number in writing, UTS will pay Contractor for the performance of the Work as more particularly set forth in **Exhibit C**, Payment for Services, attached and incorporated for all purposes.
- 5.2 The Contract Amount includes all applicable federal, state or local sales or use taxes payable as a result of the execution or performance of this Agreement.
- 5.3 UTS, an agency of the State of Texas, is exempt from Texas Sales & Use Tax on the Work in accordance with Section 151.309, *Texas Tax Code*, and Title 34 *Texas Administrative Code* ("**TAC**") Section 3.322.

6. Payment Terms.

- 6.1 Contractor will periodically submit to UTS an invoice covering the services performed for UTS in compliance with **Exhibit C**, Payment for Services. Each invoice will be accompanied by documentation that UTS may reasonably request to support the invoice amount. UTS will, within thirty (30) days from the date it receives an invoice and supporting documentation, approve or disapprove the amount reflected in the invoice. If UTS approves the amount or any portion of the amount, UTS will promptly pay (each a "**Progress Payment**") to Contractor the amount approved so long as Contractor is not in default under this Agreement. If UTS disapproves any invoice amount, UTS will give Contractor specific reasons for its disapproval in writing.
- 6.2 Within ten (10) days after final completion of the Work and acceptance of the Work by UTS or as soon thereafter as possible, Contractor will submit a final invoice ("**Final Invoice**") setting forth all amounts due and remaining unpaid to Contractor. Upon approval of the Final Invoice by UTS, UTS will pay ("**Final Payment**") to Contractor the amount due under the Final Invoice.
- 6.3 Notwithstanding any provision of this Agreement to the contrary, UTS will not be obligated to make any payment (whether a Progress Payment or Final Payment) to Contractor if Contractor is in material default under this Agreement which default is not cured within thirty (30) days of receipt of written notice from UTS specifying the nature of the default.

- 6.4 The cumulative amount of all Progress Payments and the Final Payment (defined below) will not exceed the Contract Amount as more particularly set forth in **Exhibit C**, Payment for Services.
- 6.5 No payment made by UTS will (a) be construed to be final acceptance or approval of that part of the Work to which the payment relates, or (b) relieve Contractor of any of its duties or obligations under this Agreement.
- 6.6 UTS will have the right to verify the details set forth in Contractor's invoices and supporting documentation, either before or after payment, by (a) inspecting the books and records of Contractor related to Project Payments at mutually convenient times upon advance written notice; (b) examining any reports with respect to the Project; and (c) other reasonable action.

7. Tax Exemption

UTS, an agency of the State of Texas, is exempt from Texas Sales & Use Tax on the Services in accordance with Section 151.309, *Tax Code*, and Title 34 *Texas Administrative Code* ("TAC") Section 3.322.

8. Reserved.

9. Reserved.

10. Relationship of the Parties.

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

11. Insurance

11.1 Contractor, consistent with its status as an independent contractor will carry and will cause its subcontractors to carry, at least the following insurance, with companies authorized to do insurance business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code, having an A.M. Best Rating of A-:VII or better, and in amounts not less than the following minimum limits of coverage:

11.1.1 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

Workers' Compensation policy must include under Item 3.A. on the information page of the Workers' Compensation policy the state in which Work is to be performed for UTS.

11.1.2 Commercial General Liability Insurance with limits of not less than:

Each Occurrence Limit	\$1,000,000
Damage to Rented Premises	\$ 300,000
Personal & Advertising Injury	\$1,000,000
General Aggregate	\$2,000,000
Products - Completed Operations Aggregate	\$2,000,000

The required Commercial General Liability policy will be issued on a form that insures Contractor's and subcontractor's liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement.

- 11.1.3 Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 single limit of liability per accident for Bodily Injury and Property Damage;
 - 11.1.4 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 will be excess over and at least as broad as the underlying coverage as required under sections 11.1.1 Employer's Liability; 11.1.2 Commercial General Liability; and 11.1.3 Business Auto Liability. Inception and expiration dates will be the same as the underlying policies. Drop down coverage will be provided for reduction or exhaustion of underlying aggregate limits and will provide a duty to defend for any insured.
 - 11.1.6 Professional Liability (Errors & Omissions) Insurance with limits of not less than \$1,000,000 each occurrence, \$3,000,000 aggregate. Such insurance will cover all Work performed by or on behalf of Contractor and its subcontractors under this Agreement. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of this Agreement. If coverage is written on a claims-made basis, Contractor agrees to purchase an Extended Reporting Period Endorsement, effective twenty-four (24) months after the expiration or cancellation of the policy. No Professional Liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least twenty-four (24) months after the expiration or termination of this Agreement for any reason.
- 11.2 Contractor will deliver to UTS:
- 11.2.1 Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all required insurance policies after the execution and delivery of this Agreement and prior to the performance of any Work by Contractor under this Agreement. Additional evidence of insurance will be provided verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.
 - 11.2.1.1 **All insurance policies** (with the exception of workers' compensation, employer's liability and professional liability) will be endorsed and name the Board of Regents of The University of Texas System and UTS as Additional Insureds for liability caused in whole or in part by Contractor's acts or omissions with respect to its on-going and completed operations up to the actual liability limits of the required insurance policies maintained by Contractor. Commercial General Liability Additional Insured endorsement including ongoing and completed operations coverage will be submitted with the Certificates of Insurance. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage.
 - 11.2.1.2 Contractor hereby waives all rights of subrogation against the Board of Regents of The University of Texas System and, The University of Texas System. **All insurance policies** will be

endorsed to provide a waiver of subrogation in favor of the Board of Regents of The University of Texas System **and** The University of Texas System. No policy will be canceled until after thirty (30) days' unconditional written notice to UTS. ***All insurance policies*** will be endorsed to require the insurance carrier providing coverage to send notice to UTS thirty (30) days prior to any cancellation, material change, or non-renewal relating to any insurance policy required in this **Section 11**.

11.2.1.3 Contractor will pay any deductible or self-insured retention for any loss. Any self-insured retention must be declared to and approved by UTS prior to the performance of any Work by Contractor under this Agreement. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

11.2.1.4 Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed, faxed, or emailed to the following UTS contact:

Eric Agnew
The University of Texas System
Claudia Taylor Johnson
210 W 6th Street, Suite B140E
Austin, Texas 78701

11.3 Contractor's or subcontractor's insurance will be primary to any insurance carried or self-insurance program established by the University of Texas System. Contractor's or subcontractor's insurance will be kept in force until all Work has been fully performed and accepted by UTS in writing.

11.3.1 Professional Liability Insurance coverage written on a claims-made basis requires Contractor to purchase an Extended Reporting Period Endorsement, effective for twenty-four (24) months after the expiration or cancellation of this policy.

12. **Miscellaneous.**

12.1 **Assignment and Subcontracting.** Contractor's interest in this Agreement (including Contractor's duties and obligations under this Agreement, and the fees due to Contractor under this Agreement) may not be subcontracted, assigned, delegated, or otherwise transferred to a third party, in whole or in part, without the prior written consent of UTS and any attempt to do so will (a) not be binding on UTS; and (b) be a breach of this Agreement for which Contractor will be subject to all remedial actions provided by Texas law, including Chapter 2161, *Texas Government Code*, and 34 TAC Chapter 20, §§20.101 – 20.108. The benefits and burdens of this Agreement are assignable by UTS.

12.2 **Texas Family Code Child Support Certification.** Pursuant to Section 231.006, *Texas Family Code*, Contractor 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.

- 12.3 **Eligibility Certifications.** Pursuant to Sections 2155.004 and 2155.006, *Texas Government Code*, Contractor certifies that the individual or business entity named in this Agreement 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.
- 12.4 **Tax Certification.** If Contractor is a taxable entity as defined by Chapter 171, Texas Tax Code (“**Chapter 171**”), then Contractor certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Contractor is exempt from the payment of those taxes, or that Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.
- 12.5 **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, Contractor agrees that any payments owing to Contractor under this Agreement may be applied directly toward any debt or delinquency that Contractor owes the State of Texas or any agency of the State of Texas regardless of when it arises, until the debt or delinquency is paid in full.
- 12.6 **Products and Materials Produced in Texas.** Contractor covenants and agrees that as required by Section 2155.4441, *Texas Government Code*, in performing the Work and its other duties and obligations under this Agreement, Contractor will purchase products and materials produced in Texas when the products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
- 12.7 **Loss of Funding.** UTS performance of its duties and obligations 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 UTS 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 UTS will issue written notice to Contractor and UTS may terminate this Agreement without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of UTS.
- 12.8 **Entire Agreement; Modifications.** This Agreement supersedes all prior agreements, written or oral, between Contractor and UTS 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 both UTS and Contractor.
- 12.9 **Force Majeure.** Neither party hereto will be liable or responsible to the other 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**”).
- 12.10 **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.
- 12.11 **Governing Law.** Austin 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 to this Agreement and all of the terms and conditions of this Agreement will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.
- 12.12 **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.

12.13 **Confidentiality and Safeguarding of UTS Records; Press Releases; Public Information**

Under this Agreement, Contractor may (1) create, (2) receive from or on behalf of UTS, or (3) have access to, records or record systems (collectively, "**UTS Records**"). Among other things, UTS 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 UTS Records are subject to FERPA, (1) UTS designates Contractor as a UTS official with a legitimate educational interest in UTS Records, and (2) Contractor acknowledges that its improper disclosure or redisclosure of personally identifiable information from UTS Records will result in Contractor's exclusion from eligibility to contract with UTS for at least five (5) years. Contractor represents, warrants, and agrees that it will: (1) hold UTS Records in strict confidence and will not use or disclose UTS Records except as (a) permitted or required by this Agreement, (b) required by law, or (c) otherwise authorized by UTS in writing; (2) safeguard UTS 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 Contractor protects its own confidential information; (3) continually monitor its operations and take any action necessary to assure that UTS Records are safeguarded and the confidentiality of UTS 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 UTS' rules, policies, and procedures regarding access to and use of UTS' computer systems. At the request of UTS, Contractor agrees to provide UTS with a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of UTS Records.

12.13.1 **Notice of Impermissible Use.** If an impermissible use or disclosure of any UTS Records occurs, Contractor will provide written notice to UTS within one (1) business day after Contractor's discovery of that use or disclosure. Contractor will promptly provide UTS with all information requested by UTS regarding the impermissible use or disclosure.

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

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

12.13.4 **Press Releases.** Except when defined as part of the Services, Contractor will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor as an independent contractor of UTS in connection with the Project, or release any information relative to the

Project for publication, advertisement or any other purpose without the prior written approval of UTS.

- 12.13.5 **Public Information.** UTS 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* (“**TPIA**”), Chapter 552, *Texas Government Code*. In accordance with Section 552.002 of TPIA and Section 2252.907, *Texas Government Code*, and at no additional charge to UTS, Contractor will make any information created or exchanged with UTS pursuant to this Agreement (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by UTS that is accessible by the public.
- 12.13.6 **Termination.** In addition to any other termination rights set forth in this Agreement and any other rights at law or equity, if UTS reasonably determines that Contractor has breached any of the restrictions or obligations set forth in this Section, UTS may immediately terminate this Agreement without notice or opportunity to cure.
- 12.13.7 **Duration.** The restrictions and obligations under this Section will survive expiration or termination of this Agreement for any reason.
- 12.14 **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors.
- 12.15 **State Auditor’s Office.** Contractor 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), *Texas Education Code*. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including providing all records requested.
- 12.16 **Records.** Records of Contractor's costs, reimbursable expenses pertaining to the Project and payments will be available to UTS or its authorized representative during business hours and will be retained for four (4) years after final Payment or abandonment of the Project, unless UTS otherwise instructs Contractor in writing.
- 12.17 **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 (other than notice of default, termination or dispute), 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, when received:

If to UTS:	UT System Administration Office of the Controller 201 W. 7 th Street, ASH 5 Austin, Texas 78701 Attention: Randy Wallace
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Copy to:	UT System Administration 201 W. 7 th Street, ASH 8 Austin, Texas 78701 Attention: Dr. Scott Kelley Executive Vice Chancellor for Business Affairs
If to Contractor:	Contractor Name Contractor Address Attn: xxx

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

Notwithstanding any other requirements for notices given by a party under this Agreement, if Contractor intends to deliver written notice to UTS pursuant to Section 2251.054, *Texas Government Code*, then Contractor will send that notice to UTS as follows:

If to UTS:	UT System Administration Office of the Controller 201 W. 7 th Street, ASH 5 Austin, Texas 78701 Fax: 512-499-4322 Email: rwallace@utsystem.edu Attention: Randy Wallace
Copy to:	UT System Administration 201 W. 7 th Street, ASH 8 Austin, Texas 78701 Attention: Dr. Scott Kelley Executive Vice Chancellor for Business Affairs

or other person or address as may be given in writing by UTS to Contractor in accordance with this Section.

12.18 **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.

12.19 **Survival of Provisions.** No expiration or termination of this Agreement will relieve either party of any obligations under this Agreement that by their nature survive expiration or termination.

12.20 **Breach of Contract Claims.**

12.20.1 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 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260 will be used by UTS and Contractor to attempt to resolve any claim for breach

of contract made by Contractor that cannot be resolved in the ordinary course of business.

12.20.1.1 Contractor'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, Contractor will submit written notice, as required by subchapter B of Chapter 2260, to UTS in accordance with the notice provisions in this Agreement. Contractor'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 UTS allegedly breached, the amount of damages Contractor seeks, and the method used to calculate the damages. Compliance by Contractor with subchapter B of Chapter 2260 is a required prerequisite to Contractor's filing of a contested case proceeding under subchapter C of Chapter 2260. The Chief Business Officer of UTS, or the other officer of UTS as may be designated from time to time by UTS by written notice thereof to Contractor in accordance with the notice provisions in this Agreement, will examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve the claims.

12.20.1.2 If the parties are unable to resolve their disputes under Section 4.14.1.1, the contested case process provided in subchapter C of Chapter 2260 is Contractor's sole and exclusive process for seeking a remedy for any and all of Contractor's claims for breach of this Agreement by UTS.

12.20.1.3 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 UTS nor any other conduct, action or inaction of any representative of UTS relating to this Agreement constitutes or is intended to constitute a waiver of UTS' or the state's sovereign immunity to suit and (ii) UTS has not waived its right to seek redress in the courts.

12.20.2 The submission, processing and resolution of Contractor'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.

12.20.3 UTS and Contractor agree that any periods set forth in this Agreement for notice and cure of defaults are not waived.

12.21 **Ethics Matters; No Financial Interest.** Contractor has read and understands UTS' Conflicts of Interest Policy available at: <http://www.utsystem.edu/policy/policies/int160.html>, UTS' 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. Contractor will not assist or cause UTS employees to violate UTS' Conflicts of Interest Policy, provisions described by UTS' Standards of Conduct Guide, or applicable state ethics laws or rules. Contractor 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.

- 12.22 **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, Contractor 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 Contractor 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, UTS may terminate this Agreement in accordance with **Section 4.28**. Contractor represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.
- 12.23 **Debarment.** Contractor confirms that Contractor is not 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 (<http://www.epls.gov/>) 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). Contractor will provide immediate written notification to UTS if, at any time prior to award, Contractor 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 UTS executes this Agreement. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to the other remedies available to UTS, UTS may terminate this Agreement for default by Contractor.
- 12.24 **Relationship of the Parties.** For all purposes of this Agreement and notwithstanding any provision of this Agreement to the contrary, Contractor is an independent contractor and is not a state employee, partner, joint venturer, or agent of UTS. Contractor will not bind nor attempt to bind UTS to any agreement or contract. As an independent contractor, Contractor is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including workers' compensation insurance.
- 12.25 **Reserved.**
- 12.26 **OSHA Compliance.** To the extent applicable to the services to be performed under this Agreement, Contractor represents and warrants, that all articles and 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.

12.27 **Discrimination Prohibited.** UTS AND CONTRACTOR WILL ABIDE BY THE REQUIREMENTS OF 41 CFR 60-1.4(A), 60-300.5(A) AND 60-741.5(A) (COLLECTIVELY, THE "REGULATIONS"). THE REGULATIONS (1) PROHIBIT DISCRIMINATION AGAINST QUALIFIED INDIVIDUALS BASED ON THEIR STATUS AS PROTECTED VETERANS OR INDIVIDUALS WITH DISABILITIES, AND (2) PROHIBIT DISCRIMINATION AGAINST ALL INDIVIDUALS BASED ON THEIR RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN. MOREOVER, THE REGULATIONS REQUIRE THAT UTS AND CONTRACTOR TAKE AFFIRMATIVE ACTION TO EMPLOY AND ADVANCE IN EMPLOYMENT, INDIVIDUALS WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, PROTECTED VETERAN STATUS OR DISABILITY.

13. Indemnification

13.1 TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UTS, AND HOLD HARMLESS UTS AND ITS RESPECTIVE 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 CONTRACTOR'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 CONTRACTOR, ANYONE DIRECTLY EMPLOYED BY CONTRACTOR OR ANYONE FOR WHOSE ACTS CONTRACTOR 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.

13.2 IN ADDITION, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UTS, 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 CONTRACTOR, OR THE USE BY INDEMNITEES, AT THE DIRECTION OF CONTRACTOR, OF ANY ARTICLE OR MATERIAL; PROVIDED, THAT, UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR INFRINGEMENT, UTS WILL PROMPTLY NOTIFY CONTRACTOR AND CONTRACTOR WILL BE GIVEN THE OPPORTUNITY TO NEGOTIATE A SETTLEMENT. IN THE EVENT OF LITIGATION, UTS AGREES TO REASONABLY COOPERATE WITH CONTRACTOR. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

14. Ownership and Use of Work Material

14.1 All drawings, specifications, plans, computations, sketches, data, photographs, tapes, renderings, models, publications, statements, accounts, reports, studies, and other materials prepared by Contractor or any subcontractors in connection with the Services (collectively, "Work Material"), whether or not accepted or rejected by UTS, are the sole property of UTS and for its exclusive use and re-use at any time without further compensation and without any restrictions.

14.2 Contractor grants and assigns to UTS all rights and claims of whatever nature and whether now or hereafter arising in and to the Work Material and will cooperate fully with UTS in any steps UTS may take to obtain or enforce patent, copyright, trademark or like protections with respect to the Work Material.

14.3 Contractor will deliver all Work Material to UTS upon expiration or termination of this Agreement. UTS will have the right to use the Work Material for the completion of the

Services or otherwise. UTS may, at all times, retain the originals of the Work Material. The Work Material will not to be used by any person other than UTS on other projects unless expressly authorized by UTS in writing.

- 14.4 The Work Material will not be used or published by Contractor or any other party unless expressly authorized by UTS in writing. Contractor will treat all Work Material as confidential.
- 14.5 All title and interest in the Work Material will vest in UTS and will be deemed to be a work made for hire and made in the course of the Services rendered under this Agreement. To the extent that title to any Work Material may not, by operation of law, vest in UTS or Work Material may not be considered works made for hire, Contractor hereby irrevocably assigns, conveys and transfers to UTS and its successors, licensees and assigns, all rights, title and interest worldwide in and to the Work Material and all proprietary rights therein, including all copyrights, trademarks, service marks, patents, trade secrets, moral rights, all contract and licensing rights and all claims and causes of action with respect to any of the foregoing, whether now known or hereafter to become known. In the event Contractor has any rights in the Work Material which cannot be assigned, Contractor agrees to waive enforcement worldwide of the rights against UTS, its successors, licensees, assigns, distributors and customers or, if necessary, to exclusively license the rights, worldwide to UTS with the right to sublicense. These rights are assignable by UTS.

15. **Default and Termination**

- 15.1 In the event of a material failure by a party to this Agreement to perform in accordance with the terms of this Agreement (“**default**”), the other party may terminate this Agreement upon fifteen (15) days’ written notice of termination setting forth the nature of the material failure; provided, that, the material failure is through no fault of the terminating party. The termination will not be effective if the material failure is fully cured prior to the end of the fifteen-day period.
- 15.2 UTS may, without cause, terminate this Agreement at any time upon giving seven (7) days’ advance written notice to Contractor. Upon termination pursuant to this Section, Contractor will be entitled to payment of an amount that will compensate Contractor for the Services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Agreement; provided, that, Contractor has delivered all Work Material to UTS. Notwithstanding any provision in this Agreement to the contrary, UTS will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor.
- 15.3 Termination under **Sections 4.28.1** or **4.28.2** will not relieve Contractor from liability for any default or breach under this Agreement or any other act or omission of Contractor.
- 15.4 If Contractor fails to cure any default within fifteen (15) days after receiving written notice of the default, UTS will be entitled (but will not be obligated) to cure the default and will have the right to offset against all amounts due to Contractor under this Agreement, any and all reasonable expenses incurred in connection with UTS’ curative actions.

16. Limitation of Liability

EXCEPT FOR UTS' OBLIGATION (IF ANY) TO PAY CONTRACTOR CERTAIN FEES AND EXPENSES UTS WILL HAVE NO LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT. NOTWITHSTANDING ANY DUTY OR OBLIGATION OF UTS TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR, NO PRESENT OR FUTURE AFFILIATED ENTERPRISE, SUBCONTRACTOR, AGENT, OFFICER, DIRECTOR, EMPLOYEE, REPRESENTATIVE, ATTORNEY OR REGENT OF UTS, OR THE UTS OF TEXAS SYSTEM, OR ANYONE CLAIMING UNDER UTS HAS OR WILL HAVE ANY PERSONAL LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT.

17. Historically Underutilized Business Subcontracting Plan

Historically Underutilized Business Subcontracting Plan. Contractor agrees to use good faith efforts to subcontract the Services in accordance with the Historically Underutilized Business Subcontracting Plan ("HSP") (ref. **Exhibit ____**). Contractor agrees to maintain business records documenting its compliance with the HSP and to submit a monthly compliance report to UTS in the format required by Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts or any successor agency (collectively, "TPSS"). Submission of compliance reports will be required as a condition for payment under this Agreement. If UTS determines that Contractor has failed to subcontract as set out in the HSP, UTS will notify Contractor of any deficiencies and give Contractor 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 Contractor. If UTS determines that Contractor failed to implement the HSP in good faith, UTS, in addition to any other remedies, may report nonperformance to the TPSS in accordance with 34 TAC Sections 20.101 through 20.108. UTS may also revoke this Agreement for breach and make a claim against Contractor.

17.1 **Changes to the HSP.** If at any time during the term of this Agreement, Contractor desires to change the HSP, before the proposed changes become effective (a) Contractor must comply with 34 TAC Section 20.14; (b) the changes must be reviewed and approved by UTS; and (c) if UTS approves changes to the HSP, this Agreement must be amended in accordance with **Section 4.19** to replace the HSP with the revised subcontracting plan.

17.2 **Expansion of the Services.** If UTS expands the scope of the Services through a change order or any other amendment, UTS will determine if the additional Services contains probable subcontracting opportunities *not* identified in the initial solicitation for the Services. If UTS determines additional probable subcontracting opportunities exist, Contractor 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 (a) this Agreement may be amended to include the additional Services; or (b) Contractor may perform the additional Services. If Contractor subcontracts any of the additional subcontracting opportunities identified by UTS without prior authorization and without complying with 34 TAC Section 20.14, Contractor will be deemed to be in breach of this Agreement under **Section 4.28** and will be subject to any remedial actions provided by Texas law including Chapter 2161, *Government Code* and 34 TAC Section 20.14. UTS may report nonperformance under this Agreement to the TPSS in accordance with 34 TAC Sections 20.101 through 20.108. **]**

18. Responsibility for Individuals Performing Services; Criminal Background Checks

Each individual who is assigned to perform the Services under this Agreement will be an employee of Contractor or an employee of a subcontractor engaged by Contractor. Contractor is responsible for the performance of all individuals performing the Services under this Agreement. Prior to commencing the Services, Contractor will (1) provide UTS with a list ("**List**") of all individuals who may be assigned to perform the Services, and (2) have an appropriate criminal background screening performed on all the individuals. Contractor will determine on a case-by-case basis whether each individual assigned to perform the Services is qualified to provide the

services. Contractor will not knowingly assign any individual to provide services on UTS' campus who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses. Contractor will update the List each time there is a change in the individuals assigned to perform the Services.

Prior to commencing performance of the Services under this Agreement, Contractor will provide UTS a letter signed by an authorized representative of Contractor certifying compliance with this Section. Contractor will provide UTS an updated certification letter each time there is a change in the individuals assigned to perform the Services.

19. Limitations

THE PARTIES ARE AWARE THAT THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF UTS (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS THAT MAY BE A PART OF THIS AGREEMENT, INCLUDING THOSE TERMS AND CONDITIONS RELATING TO LIENS ON UTS' PROPERTY; 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 UTS EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.

UTS and Contractor have executed and delivered this Agreement to be effective as of the Effective Date.

CONTRACTOR

By: _____

Name: _____

Title: _____

UT SYSTEM:

THE UNIVERSITY OF TEXAS SYSTEM

By: _____

Name:

Title:

Approved as to Content

By: _____

Name:

Title:

Attach:

EXHIBIT A – Scope of Work

EXHIBIT B – Team and Schedule

EXHIBIT C – Payment for Services

AGREEMENT - EXHIBIT A

SCOPE OF WORK

Contractor will perform the following services to UTS:

Upgrade Oracle Hyperion Financial Management, Financial Data Quality Management, BI+ Reporting and Analysis version 11.1.2.1 to version 11.1.2.4 or later, if a more current version becomes available and is acceptable to UTS. Provide upgrade services (to at least 11.1.2.4), including a comprehensive upgrade strategy and implementation of that strategy.

Provide upgrade documentation, including but not limited to, user client set up configuration guidelines, updating the current Job Aid and Participant Guide to be user-ready, and providing documentation for settings required for all supported browsers.

Monthly/Annual Financial Report (MFR/AFR) support

Data extraction and management support

Administrator support and transition support

General troubleshooting

Contractor will provide the following services to UTS:

System Setup with Data Transfer

A. Hyperion Version 11 Upgrade Activities

1. Install and configure Oracle EPM Fusion Edition version (at least) 11.1.2.4 on (3) environments (Development, Test and Production)
 - Hyperion Shared Services
 - Hyperion HFM
 - Hyperion FDM
 - Hyperion EPMA Calculation Manager
 - Hyperion Annotation Server
 - Financial Reporting
 - Hyperion Web Analysis
2. Configuration of Hyperion security and integration with one external authentication provider (LDAP, MSAD, or NTLM).
3. Migration of previous version of Hyperion HFM/FDM to version (at least) 11.1.2.4
4. Migration of (1) Hyperion HFM/FDM applications
5. Migration of up to 100 Hyperion Financial Reports - Assistance to functional user in changes to reporting elements impacted by upgrade
6. Migrate up to 100 users
7. Assist with deployment of version (at least) 11.1.2.4 clients (SmartView, Reporting Studio) for end user desktops - Assistance in troubleshooting of applications or application compatibility issues.

8. Optimize Java settings for web applications and provide tuning recommendations (should not conflict with existing client JREs)
9. Document all Hyperion Development installations including screenshots and configuration settings
10. Support all known data interfaces (inbound and outbound)
11. Validate that all data loads are working successfully in the version (at least) 11.1.2.4 environment
12. Test any data exports out of HFM and validate successful loads to 3rd party applications
13. External security inspection of the new system (done by UTS)
14. Provide leadership through application testing phase, interfaces, and resolve related bug and application deficiencies.
 - a. Develop Test scripts and run in DEV and PROD environments
 - b. Validate information between old and new versions.
15. Mentor functional and technical administrators on typical administration tasks, back-end support maintenance, backup and recovery processes, life cycle management, and managing/troubleshooting Hyperion services

B. Data Validation

1. Migrate all data and applications to new environment
2. Validate all report formats for Annual Financial Reports (“AFR”) from Fiscal Year 2015 agree with previous version or identify corrections in the new system which account for differences.
3. Validate Monthly Financial Reports (“MFR”) for the month ending December 2015 and confirm that they agree with previous version or identify corrections in the new system which account for differences.

C. Project Closeout:

1. Finalize Documentation and provide to project contact
2. Create maintenance plan
3. Confirm Transfer of knowledge is accomplished
4. Obtain Customer sign off acceptance

UTS’s Responsibilities for the Project

A. Prior to vendor arriving on-site for installation:

1. Complete a backup of all existing data and programs on affected systems.
2. Provide a safe and suitable working environment with sufficient room for the delivery of Services.

3. Provide virtual machines running Windows 2008, fully patched, for replacement system ready for software installation
4. Ensure that software is fully licensed
5. Verify the availability of Customer-provided physical site and power.
6. Verify the availability of the Customer provided system hardware, software and database.
7. Test operation of application.

B. During the on-site installation:

1. Provide a single point-of-contact to work with the Technician.
2. Ensure that an employee is available to assist the Technician with information necessary to complete the Services.
3. Provide all site or facility specific hardware and/or software, infrastructure configuration information and instructions, and internal resources for the delivery of the Services
4. Provide network access for consultant staff during the implementation process.
5. Ensure that existing hardware and software is set-up and functioning
6. Assume all responsibility for any and all software licensing requirements.
7. Troubleshoot and resolve all network connectivity problems.

AGREEMENT - EXHIBIT B

TEAM AND SCHEDULE

Project Schedule and Team

Insert Gantt chart indicating project phases/milestones, resources utilized, and time associated with each activity.

Other Team Members may be added as agreed upon by UTS and Contractor.

AGREEMENT - EXHIBIT C

PAYMENT FOR SERVICES

SERVICE FEES: Contractor shall be paid for actual hours incurred by Contractor directly and solely in connection with the Work at the rate set forth as follows:

Professional Hourly Rates:

Contractor may only invoice for the hours used in direct support of the UTS' system during the invoiced month.

FEE CAP: The cumulative amount of Service Fees remitted by UTS to Contractor will not exceed the total amount of **\$X** ("**Fee Cap**") without the prior written approval of UTS.

PAYMENT FOR WORK NOT IN SCOPE: If UTS submits, in advance, a written request for additional services not contemplated or reasonably inferred by this Agreement, Contractor will be paid for actual hours incurred by Contractor directly and solely in support of the additional services at the Rates set forth above.

EXPENSES AND DISBURSEMENTS: Contractor will be reimbursed without mark-up for reasonable out-of-pocket expenses including but not limited to postage, photocopying, long-distance telephone, messengers, photography, printing and travel expenses (including meals, lodging, mileage and coach class airfare) validly incurred directly and solely in support of the Project. Provided, however, Contractor agrees and acknowledges that Contractor will be subject to the Travel Allowance Guide promulgated by the Comptroller of Public Accounts for the State of Texas with regard to meals, lodging, mileage, airfare and all other expenses related to travel. Further, Contractor agrees and acknowledges that Contractor will not be reimbursed by UTS for expenses that are prohibited or that exceed the allowable amounts set forth in the Travel Allowance Guide unless such expense is approved in advance by UTS. As a condition precedent to receiving reimbursement for expenses and disbursements, Contractor will submit to UTS original receipts, invoices, and other documentation as required by UTS for all out-of-pocket expenses on a separate invoice to UTS. Any individual expense in excess of \$___ must be approved by UTS in advance.

Notwithstanding the foregoing, reimbursement for expenses in connection with the Project shall not exceed xx% of the services billed and will not exceed **\$X** (the "Expense Cap") for this contract, without the prior written approval of UTS.

The Cumulative Fee Cap and the Expense Cap are sometimes collectively referred to as the "Contract Sum." The Contract Sum shall not exceed **\$X**.

- 1. Does UTS prefer a specific support model, such as 1) a managed services model with a monthly subscription for remote support, 2) as-needed support on a time and materials basis, 3) scheduled support around key events such as MFR and AFR, or a combination? If so, what is the preference?**

We are very open to hearing your suggestions for support but I believe that #2 or #3 would be preferred. The types of support would also be a factor – technical/infrastructure and/or administrative/functional.

- 2. Section 5.4 is labeled as Scope of Work and Agreement - Appendix A is labeled as Scope of Work. There are similarities but are not identical, and specifically differ in that Section 5.4 discusses support through December 2016 and Agreement - Appendix A is silent on that topic. Question: We notice that Section 5.4 has scope of work expectations not noted in Agreement – Appendix A and vice versa. Should we assume a combination of the two as the scope we should include in our response?**

The Agreement in Appendix A is meant to represent the proposed contract, and most importantly, the required terms and conditions. The Exhibits to that Agreement will be developed based on the proposals.

Section 5.4 Scope of Work in the RFP is the primary request for the scope.

- 3. HUB contact information**

RFP Section 2.5.3 lists the HUB contact as:

Stephanie Park

512-499-4378

spark@utsystem.edu

You may also add:

Amy Nemetz

512-499-4485

anemetz@utsystem.edu

- 4. Environment**

FDM – Version 11.1.2.1.501

EPM System Workspace – Version 11.1.2.1.600.07

Financial Management – Version 11.1.2.1.0

Reporting Studio, Fusion Edition – Version 11.1.2.725

HFM Rules Editor – Version 11.1.2.1.0

2008 R2 virtual servers

Independent servers for Production and Development

- 5. Rules**

Approximately 250 pages of rules with about 40 lines per page.

6. Locations

Approximately 80 locations are spread among the 16 entities/institutions. Each entity has 4 or more locations which consolidate to produce each institution's financial statements. The 16 institutions are consolidated into a single set of UT System financial statements.

7. Import Scripts

4 import scripts

8. Can you verify that we are a registered vendor on your site since we did not receive directly from UT System? Also, what commodity code or codes are for this RFP?

UT System Administration does not have an automated system that notifies vendors according to commodity code, though the ESBD might. The NIGP Codes we used are listed at the RFP link http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=119874 and also below:

Class-Item: 208 - 10

Class-Item: 208 - 11

Class-Item: 208 - 20

Class-Item: 208 - 80

Class-Item: 209 - 11

Class-Item: 209 - 12

Class-Item: 209 - 13

Class-Item: 209 - 42

Class-Item: 209 - 59

Class-Item: 209 - 72

Class-Item: 209 - 73

Class-Item: 209 - 87

9. How many HFM applications are we migrating?

Two – FCRSPROD and FCRSDEV

10. How many environments will we be upgrading? Please list (Dev, Test, prod, etc.)

Two environments – Dev and Prod

11. How many reports are associated with each application?

About 50 individual reports for each year, 25 report books, and variance report templates

12. How many reports in total?

See #11. All reports are maintained in Reporting Studio.

13. Do you currently use Financial Data Quality Management Enterprise edition?

We use Hyperion Financial Data Quality Management, Fusion Edition Version 11.1.2.1.501

14. How many integrations and how many source systems do you have? Please list integrations (to/from) and source systems.

FCRS does not integrate directly with our source systems. Data is collected from the institutions through extracts, and loaded via FDM.

15. What is the expected start date for this engagement?

No later than February 1, 2016

16. Must all work be performed onsite in Austin, or can some portion be performed offsite? Please detail UTS' expectations or ideal scenario for the EPM upgrade effort.

The work may be performed both on- and off-site as mutually determined to be most efficient and effective.

17. Is travel to other sites anticipated? If so, how should we handle expenses (time and materials/actuals or fixed)?

Travel will be limited to UT System offices in Austin, Texas.

We ask for an expense cap in your proposal. Contractor will not be reimbursed by UTS for expenses that are prohibited or that exceed the allowable amounts set forth in the Comptroller's travel allowance guide, which can be found at <https://fmx.cpa.state.tx.us/fmx/travel/texttravel/index.php>

18. Do you require resumes and references for the consultants that will be working on the project?

Appendix One – Section 3.1.7 – Discusses references for the company

Appendix One – Section 3.3.1 – Discusses resumes for proposed key personnel.

References and/or resumes for a project team member are helpful, but not required in the RFP.

19. If upgrade on UTS hardware, will Virtual machines be used?

The current environments run on virtual machines. The new upgraded environments will also run on virtual machines managed by UTS.

20. Who will be completing the hardware requirements?

The contractor should provide recommended specifications for the new servers. When we have those recommended specs (Windows version, # of vCPU, RAM and disk space) we can have the servers built before the installation begins.

21. Does the environment need to be clustered for fail over or high availability?

No, does not need to be clustered for failover or HA. However we can discuss its advantages in our deployment if we think it's something we'd like to do.

22. What are the disaster recovery requirements?

UTS will manage DR in alignment with their broader DR/BCP planning.

23. What version of Office and IE will be used on client machines?

Office 2010/2013/2016, all flavors of IE specifically 10, 11, Edge

24. Will there be a request for rework of the current applications or will this be a "lift and shift" for the applications?

Lift and shift – no redesign

- 25. Will UTS be replacing Hyperion BI+ Financial reporting and analysis with Business Intelligence Foundation Suite?**
If it provides better functionality, yes. If not, no.
- 26. How many reports, dashboards and other queries will be migrated and upgraded?**
See #11 and #12. We also have approximately 40 data grids and less than 10 journal entry templates.
- 27. Does UTS currently use SmartView or the Excel Add-in?**
Yes, we use SmartView as an Add-in in Excel
- 28. How many Excel templates will be upgraded?**
If updates to the templates are needed, related to the upgrade, contractor should provide a list of required changes/upgrades and UTS can roll those out to the users. We use two main types of templates at each institution.
- 29. Who will do the UAT testing?**
The contractor should perform technical testing of the upgrade. UTS will perform business functionality testing. The contractor should provide a UAT test plan recommended for the work being performed
- 30. Does UTS use EPMA or Classic?**
Classic
- 31. In Appendix Three page 17 of 21
System Setup with Data Transfer
A. Hyperion Version 11 Upgrade Activities**
- Install and configure Oracle EPM Fusion Edition version (at least) 11.1.2.4 on (3) environments
(Development, Test and Production)**
- Hyperion Shared Services**
 - Hyperion HFM**
 - Hyperion FDM**
 - Hyperion EPMA Calculation Manager**
 - Hyperion Annotation Server**
 - Financial Reporting**
 - Hyperion Web Analysis**
- Hyperion EPMA Calculation Manager is mentioned above but there is no indication whether the HFM application is built in Classic format or EPMA, can you please clarify which method was used to build the HFM application Classic or EPMA?**
Calc Manager is installed but not in use. The HFM application is Classic.
- 32. In the list above of Hyperion products there is no mention of the new features and functionality included with HFM v11.1.2.4 and beyond such as:
Financial Close Manager (FCM)
Supplemental Data Manager (SDM)**

Account Reconciliation Manager (ARM)
Disclosure Management (DM)
Oracle Financial Management Analytics (OFMA)

Question: Is there an interest in having these new modules installed and an interest in learning about these new features?

We are very interested in how any of those modules would be useful in our process.

- 33. In AGREEMENT – EXHIBIT A SCOPE OF WORK:**
Migration of one (1) FDM application
Support for all known data interfaces (inbound and outbound)

Question: Approximately how many “Locations” are in the one (1) FDM application and approximately how many known data interfaces (inbound and outbound) existed on the issue date of this RFP?

Approximately 80 locations are spread among the 16 entities/institutions. Each entity has 4 or more locations which consolidate to produce each institution’s financial statements. Two locations at each institution are for using Excel templates for loading data – one for supplemental data not included in the source general ledger and one for adjustments needed to support regulatory reporting requirements. The 16 institutions are consolidated into a single set of UT System financial statements.

Each institution extracts data from their source general ledger and loads it into FDM for exporting to HFM. Some are able to perform one extract for loading; others require multiple extracts based on their general ledger structure.

All reports are maintained using Financial Reporting Studio and are accessed in HFM. We also use data grids and SmartView for ad hoc reports and to run checks on the data. No other 3rd party software takes data from HFM.

- 34. Are all business units on the same calendar year or are there different calendars?**
All business units have a fiscal year ending August 31.

- 35. How many applications are in Production (PROD)? Development (DEV)?**
Two – once for Production and one for Development

- 36. Are the current applications classic or EPMA?**
Classic

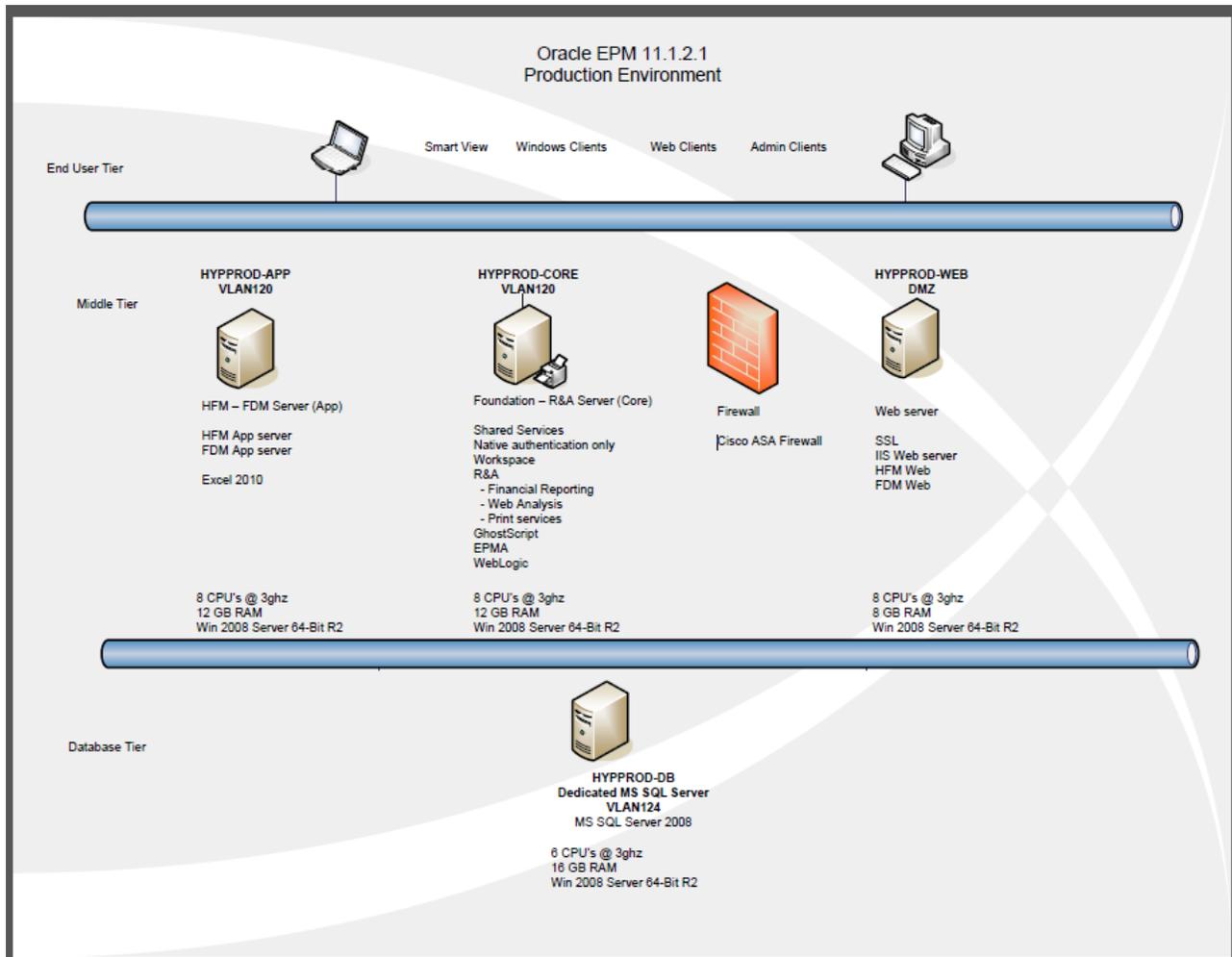
- 37. Is there a need for application training? If so, for how many users?**
Provide training for the three functional administrators on any new features in the upgrade and changes which might be encountered in day-to-day tasks such as setting up new users, security, locations, metadata changes, etc.

We are also asking that the current user documentation (including a Participant Guide and Job Aid) be updated. Any instructions the users might need for Getting Started, should be provided. An example would be browser settings for the various browsers supported. Snapshots of changes to what the users will see when they log in, load, export, run reports, and any other new features. If users will need to uninstall and reinstall SmartView, then the current instructions would need to be updated. Our current guides have step by step instructions with screen snapshots. This helps to minimize any additional training. We will provide our current documentation for you to go through and update.

- 38. Please describe the type of training expected?**
Primarily documentation as noted in previous question.
- 39. Will new data grids or data forms be required? If yes, approximately how many?**
No
- 40. Will any new Rules be required? If yes, approximately how many?**
No
- 41. Will any new reports be required? If yes, approximately how many?**
No
- 42. Will any new custom dimensions be required? If yes, have they been defined? And how many?**
No
- 43. What is the target month for the new system to be live?**
May 2016
- 44. Is it valid to assume that this purely a technical upgrade and that there are no functionality enhancements envisioned as part of this project other than those that come out of the box?**
Correct. Any functionality enhancements that are gained by the upgrade are a bonus but not expected.
- 45. What is the value proposition of the project? Does UT aim to stay current? Leverage enhanced consolidation times?**
We need to stay current. The institutions are constantly experiencing upgrades to their computers which have an effect on the functionality of FDM/HFM. We have encountered certain problems which Oracle told us could only be addressed in an upgrade. For example: the node attribute defaults to "0" when adding metadata; it needs to be "1." That simple default is a big timesaver. Our goals are improved functionality and efficiency.
- 46. Windows 2008 mainstream support ended in Jan. 2015 and is now under extended support. Is there a plan to move the underlying OS to a newer version in the near future (1 - 3 years)?**
Since this is going to be a parallel upgrade, we can deploy the new environments on 2012R2 if the Oracle applications support 2012R2.

- 47. What is the underlying database? (SQL Server, Oracle, etc)**
Microsoft SQL 2008; the upgraded instances will be on Microsoft SQL Server version recommended by the contactor
- 48. Are the IT-PMO policies and practices to which this project must adhere? Can these be shared with the group?**
There is no IT-PMO policy.
- 49. What is the expected composition of the organization's project team for this initiative in addition to those outlined in the agreement section of the RFP?**
A technical/infrastructure contact and a functional contact
- 50. What roles will they play (PM, BA, SME, IT, etc.)?**
See #49
- 51. What time commitment can we expect for these members?**
We have timed the implementation to allow these contacts to provide whatever level of commitment you need.
- 52. Are they all located in Austin, TX?**
Yes
- 53. Will there be technical and functional leads assigned to the project team?**
See #49
- 54. What data exports, if any, are extracted from HFM and in what format?**
All reports are maintained using Financial Reporting Studio and are accessed in HFM. We also use data grids and SmartView for ad hoc reports and to run checks on the data. No other 3rd party software takes data from HFM.
- 55. Does your current 11.1.2.1 environment have any patches applied? If so, what is the latest PSU that was applied?**
HFM version 11.1.2.1.104.3701
FDM version 11.1.2.1.501
- 56. Will you need FDM upgraded to FDMEE?**
Possibly if this is the latest version
- 57. How many FDM integrations/locations do you have today?**
See #6
- 58. How many HFM applications do you have today?**
Two – one production, one for development – see #9

59. Can you provide an infrastructure diagram of your current installation (Include all environments)?



60. Can you provide a breakdown of the current storage in all environments?

The backend environment consists of NetApp Storage Filers attached to ESXi hosts

61. Are you experiencing any major challenges in your current environment?

Compatibility issues with newer versions of software and browsers, specifically IE10, 11 and Edge.

62. Will you be upgrading to new hardware or will we be upgrading on your current hardware?

Parallel upgrade - upgrading to new virtual hardware

63. Describe your organization and include an Org Chart if possible.

See website www.utsystem.edu

64. **At what level of granularity do you view your data?**
At the level required to satisfy regulatory reporting requirements
65. **What are your dimensions? Can you support that with an example?**
Entity, Account, ICP, Fund Group, NACUBO, Endowments/Annuities, Custom 3 is used for interagency transfers (Example: Entity – UT Austin). We also have Scenario, Year, Period and Value.
66. **Can you give us the number of entities and describe these entities?**
16 – made up of 15 institutions and System Administration
67. **How is your data flow and describe an internal flow process?**
NA to the scope of project
68. **Do you frequently have new entities added?**
No
69. **How many reporting units are there and number of consolidation points?**
Each entity has a set of stand-alone reports which are consolidated into one Financial Report for the UT System.
70. **Do you have a hierarchy structure and can you describe this?**
We have a hierarchy structure within dimensions for example, with how children roll up to parents. Also, locations roll up to entities, and entities to the consolidated level.
71. **Is there a reporting CoA in place?**
Yes
72. **Can you give us the focus areas such as Product, Customer etc..?**
NA to the scope of project
73. **Do you integrate data from multiple sources and if yes, what are those sources?**
We consolidate data from 16 entities
74. **Do you have data warehouses solutions implemented?**
No
75. **How are your reporting cycles and frequency?**
Monthly and annually
76. **Do you have inter- or intracompany transactions and what are the volumes?**
Yes, but not applicable to the scope of work for this project
77. **Can you describe the inter-/intracompany reconciliation process?**
We use SmartView check sheets

78. **How many users are performing journal entries and what type of journal entries?**
NA to the scope of this project. We have 100 licensees, so up to 100 people could.
79. **Do you have a journal approval process in place?**
NA to scope of project
80. **Are there top down allocations and can you give us an example?**
No
81. **Can you explain and give us examples of your reporting pack?**
Look at Financial Reports with this link:
http://www.utsystem.edu/cont/Reports_Publications/state_required_reports.htm
82. **What kind of reporting standards are being used and differentiate between internal and external (e.g. accounting standards adoptions)?**
NA to the scope of project
83. **How do you treat your adjustments in HFM?**
Adjustments are in in Value: <Entity Curr Adjs>, which along with <Entity Currency>, rolls up to <Entity Curr Total>
84. **Are there KPI's implemented and can you give us an example of how many and the most important ones?**
No
85. **What kind of security is in place and should this be improved or changed?**
Native Directory is presently being used to handle user provisioning/security. Alternative options can be considered. Within HFM and FDM, we have a very simple security set-up: Admins, and Users who can post JEs and Users who cannot.
86. **Can you describe your closing process and frequency?**
NA to the scope of project
87. **How much and what kind of training you think will be needed for your staff and the level of training, since you are already using Hyperion?**
Training addressed in #37 and #38
88. **How is the structure of your roles and responsibilities currently setup and can you give us an example?**
See #85
89. **Which financial system(s) are you using and how is the integration process based on which technology?**
NA to the scope of project –no integrations
90. **What is the availability of your team during the upgrade/implementation process?**
Q&A #49 -53

91. **Will new hardware be implemented if required or demanded by the new system?**
Yes
92. **What is your current architecture structure and versions of databases?**
See #59
93. **Which financial system(s) are you using and how is the integration process based on which technology?**
NA to the scope of project –no integrations
94. **What is the availability of your team during the upgrade/implementation process?**
Q&A #49 -53
95. **Will new hardware be implemented if required or demanded by the new system?**
Yes
96. **What is your current architecture structure and versions of databases?**
See #59
97. **What are your current reporting tools?**
Financial Reporting Studio and SmartView
98. **Can you describe your metadata structure? High Level!**
See #65
99. **How is your consolidation method currently setup?**
NA to the scope of project
100. **Do you have custom dimensions and how many?**
Dimensions noted above
101. **How do you currently secure and validate your data? How much effort is required on a day to day, weekly or monthly basis?**
Data is validated through maps in FDM. Data is secured through the process of users locking and only Admins can unlock locations.
102. **Number of environments in which Hyperion was installed?**
See #4
103. **What version of database is being used? Does database also needs to be upgraded?**
The current database servers run on MS SQL 2008. See #47
104. **Number of applications and size of those applications?**
Two – FCRSPROD and FCRSDEV (uncertain how to respond to size)

- 105. What is the source system and how is it integrated with Hyperion?**
Extracts from source GLs are described in #33
- 106. Is UTS using Hyperion Planning/EPM as well? If yes which version?**
Not using Hyperion Planning.
- 107. Apart from upgrading Hyperion version, are there any enhancements/customizations to be made?**
See #44
- 108. When do you anticipate the start date of the project?**
February 1, 2016
- 109. We are hoping to clarify the following staffing questions related to your team so that we can provide the best staffing estimate possible on our end:**
Also see #49-53
- a. What is the expected composition of your organization’s project team for this initiative?**
A technical/infrastructure contact and a functional contact
 - b. How many of your employees will participate on the project team?**
2
 - c. What roles will your team play on the project team?**
TBD
 - d. What level of experience do these project team members have with this type of initiative and the technologies your organization expects to implement for this initiative?**
Both have been involved since implementation in 2010.
 - e. What percentage of each project team member’s time will be allocated to this project over the course of the initiative (for example, the project manager might spend 100% of his or her time on the project during the project lifecycle, while an end-user representative might spend 30% of his or her time on project activities)?**
Primary focus will be on this project – technical contact (up to 100%); functional contact (up to 75%)
 - f. Where are these project team members located? If they are located in many regions, what is the expectation around in-person versus remote participation in project activities?**
Contacts are both in Austin
See #16 – work may be performed both on- and off-site as mutually determined to be most efficient and effective.
- 110. What is your team’s expectation relating to consulting partner team composition for the activities outlined in the RFP document?**
- a. What roles does your team expect consultants to play on the project team?**
Complete the implementation – needs to be user ready at the end of the job and documentation and training materials completed. Additionally, we need access to the consultants for future troubleshooting relating to the upgrade.
 - b. What level of experience does your team expect consulting team members to have with this type of initiative and the technologies you expect to implement for this initiative?**

- Level or competency and experience required to complete the project on time. It is expected that consultants would have performed multiple similar upgrades with references included for those projects.
- c. Does your team expect that consulting project team members will be 100% allocated to this project over the duration of the project?**
The expectation is that they will devote time necessary to complete the project in a timely manner. Our goal is to go live with the upgrade on May 1.
- d. What is your team's expectation about the location where consulting partner team members will perform project work (for example, on-site, remote team participation, other)?**
See #16
- e. Does your team have any expectation regarding consulting rates (minimums and maximums) for roles on this project?**
Competitive rates for similar levels of expertise
- 111. Does your organization use a standard project management methodology (e.g., Agile, Waterfall, etc.) that a consulting partner is expected to employ for the initiative outlined in the RFP documentation?**
We do, although not for this project. It is really too small.
- 112. For this kind of initiative, we often build in-person workshops and meetings into the project plan to help achieve team consensus and to more efficiently develop project deliverables. Is your team open to this kind of approach, or do geographical or other constraints prevent us from using this approach?**
We are open to this approach. We have capabilities for web/video conferencing if needed.
- 113. What are the names of the other consulting companies that we are competing with in this RFP process?**
We will not know until we receive the proposals. We do not ask for any notification.
- 114. What are your organization's current hardware standards?**
a. Operating system (Linux, Windows, UNIX, etc.)
b. Processors
c. RAM
d. Anything else we should know
See #59 - New virtual hardware will be based using contractor recommended specifications
- 115. What is your organization's policy / need on a physical versus virtual environment and how does that apply to this initiative?**
The majority of our overall environment is virtual. We deploy physical servers on an as needed basis. Since we've had overall success with our current Hyperion servers as virtuals, we would likely continue with using virtuals for the new environments.
- 116. Are Development, Test and Production environments configured differently (i.e., some are physical hardware and other virtual). If they are different can you describe how they are different? Will these differences be replicated as part of the upgrade?**

Production and Development environments are configured identically to each other. However, Production and Development server differ in their hardware specifications based on use case. Production has more vCPUs and RAM allocations vs Development that has less vCPUs and RAM allocations due to Development not being used as frequently and by as many users as Production.

117. Is Secured Socket Layers employed within these environments, or employed at an external facing web server/gateway.?

Yes. SSL is implemented on the sites. Presently the web servers are externally available on our DMZ with the backend servers on our internal network with ports opened on our firewall. With the new deployments, we may investigate the feasibility of placing a proxy server (such as F5s) in front of the web servers for security hardening purposes. However, this is not a requirement.

118. How many servers are used in each of the environments?

4 servers per environment - see #59

119. Are any servers shared between environments?

None - all are independent

120. Are there multiple instances of any of the software components deployed on any servers? If so please provide details.

None

121. Are the servers virtual or physical

Virtual

122. What type of security authentication is employed?

Native Directory - see #85

123. The RFP indicates the operating system is Windows 2008 running virtual machines – is this the situation for all applications in all environments? And are there plans to change during this initiative?

Yes, see #59. We are open to recommendations from the contractor. We presently support both 2008R2 and 2012R2.

124. Are new servers being made available for this upgrade or will the upgrade take place on the existing servers?

New servers, parallel upgrade.

125. Is UTS willing to move to FDMEE?

If it fits into the workflow of the user base and provides the same or increased functionality.

126. In the scope of work – Hyperion Version 11 Upgrade Activities A.10 Support all known data interfaces (inbound and outbound) – can you elaborate on UTS's expectations regarding this support. Please give some examples of this support.

Extracts from the institutions/entities into FDM; and reports produced in HFM, including the use of SmartView for ad hoc analysis.

- 127. In the scope of work – Hyperion Version 11 Upgrade Activities A.11 Validate that all data loads are working successfully in the version (at least) 11.1.2.4 environment – can you elaborate on this activity. Please provide some examples of what is expected (i.e., verify record counts, verify account balances as for a period, etc.)**

All data (metadata, extracts, templates, rules, locations, scripts, etc.) that was loaded prior to the update must also be able to be loaded after the update. This will be validated by determining if the end product (reports) agrees to the end product pre-upgrade.

Security roles should also be tested in new environment – although our security levels are very simple.

- 128. Are the HFM rules native rules or are they written in Calculation Manager?**

Rules are maintained in Hyperion Financial Management Rules Editor Version: 11.1.2.1.0

- 129. How many source systems are mapped into FDM?**

Each entity maintains its own source general ledger. Most use PeopleSoft, but different instances.

- 130. How many deployed applications are in production HFM today?**

One for production; one for development

- 131. Is there one closing process or many? If more than one can you describe?**

The close occurs at each institution in their general ledger. FDM/HFM are the tools used for producing reports from the final data.

- 132. What is the time window for cutting over to the new applications?**

The goal is to begin using it to load May 31st extracts for reports due mid-June.

- 133. Will the old system be run in parallel with the new system prior to decommissioning the old system?**

Yes

- 134. How is the General Ledger interfaced with FDM are there any adapters used, etc.**

Data from GLs is loaded via extracts.

- 135. Infrastructure Questions – Are the following items required:**

- a. SSL - Between all Java applets or between end-user and proxy?**

SSL between end users and front-end web servers; SSL between backend systems, helpful but not required

- b. Single User Sign-on – such as CA SiteMinder**

None.

- c. Are there firewalls between servers?**

Presently yes. See #59 and #117.

d. Is load testing, such as Load Runner or Accelatis, required?

Not required. Contractor should recommend appropriate specifications so that virtuals are allocated enough resources to manage tasks and load

e. Assumes no need for server hardening. Is this correct?

Our security team will handle OS level hardening. Contractor should handle application level hardening

f. Is Fail-Over required? If so, for how many users?

Not required.

g. Is an Environment Design completed and available?

See #59

136. FDM to FDMEE Conversion Questions:

a. Current FDM Classic version.

11.1.2.1.501

b. Number of FDM Classic applications. FDMEE only supports one application; therefore, if the client has more than one application combining the FDM Classic applications would need to occur.

Only one per environment

c. Number of unique sources and targets. For example, a text file with three different formats would be three sources; however, three text files with the same format would be one.

Each location is set up for a unique source file with its own maps.

d. Number of dimensions per target.

Dimensions previously noted

e. Number of FDM locations by application.

Locations previously noted

f. Number of Import formats by application.

Approximately 60

h. Number of maps with #SCRIPT.

Many

i. Number of import, custom, or event scripts. If the client has these type of scripts receiving the scripts would be helpful. For example, the scripts at Stewart Title are complex.

Event script – 1

Custom - General script – 1; Web – 1

Import Script - 4

Scripts are not considered complex

- j. Number of users by type e.g. administrators, users, etc.**
4 Administrators; users numbers vary, but <100
- k. A brief description of the current process / processes is helpful**
Uncertain what to add beyond what has been provided/discussed.
- l. Having the client provide, a copy of existing documentation if available.**
We will provide this as the starting point for the contractor to update.
- m. Any customization e.g. a Noble Drilling the export to Essbase is customized in an action to enable loading of multiple periods at once instead of separately.**
YTD data is loaded each month.
- n. Custom reports if any.**
Reports are maintained in Financial Reporting studio. See the link in #81 for the various types of reports produced.
- o. Current SOX controls with respect to FDM Classic. FDMEE is missing a couple of features that FDM Classic has e.g. who changed maps and when.**
We have not been able to implement many controls in FDM/HFM – however, it is relatively low risk due to restrictions on locking/unlocking data and a few certifications. Better audit trails would be beneficial.
- p. Is drill through / drill back a requirement.**
Only to the extent we drill into a reporting intersection to see what data from the extract comprises the amount. We use SmartView and data grids.
- q. Anticipated client involvement. For example, the integration team can validate data loads after the FDMEE application is created from FDM Classic; however, validation can be time consuming depending on the number of locations.**
This can be discussed further, but yes, UTS will be involved in report validation.
- r. Migrations needed e.g. number of environments to migrate to.**
Migrate production and created 2 new environments - an upgraded production and a new upgraded development.
- s. Opportunities for improvement and optimization.**
Consistency, troubleshooting, rules simplification – we are hoping the contractor will be able to make suggestions.
- t. Are the loads currently automated? If so please describe the current process.**
No
- u. Are logic groups and / or accounts utilized? If so please provide details.**
We have one logic group with 12 accounts.

137. If available, please attach or paste a network diagram which depicts the current topology in your Oracle EPM environments. Please indicate if servers are physical or virtual. Include database servers in the diagram. Please include current server specifications in the sub-table below.

See #59

Server (Generic Description)	CPU (# cores and speed)	RAM (GB)	DISK (GB)	Physical or Virtual? (P or V)
Ex. "Foundation" or "Planning" or "Reporting" or "A"	4 x 2.92 Ghz	16GB	C: 60GB D: 120 GB	P

138. Does UT System have any Interactive Reporting (IR) reports?
No
139. Would UT System prefer to migrate all Web Analysis Dashboards to OBIEE? If so, is mobile integration required? How many Web Analysis Dashboards does UT System have in the Hyperion environment?
NA
140. Which Java Application Server vendor is being used currently for your EPM environments?
Oracle
141. Which HTTP Server vendor is being used currently for your EPM environments?
Microsoft IIS. See #59
142. Which relational database vendor and version is being used currently for your EPM environments?
See #47 and #59. Microsoft SQL Server 2008
143. Does UT System have Essbase cubes in your Hyperion environment? If so, please describe number of cubes (also include information such as ASO vs. BSO cube-type, if any of these cubes were built with Essbase Studio, EAS/EIS)
None
144. How many inbound/outbound data interfaces does your environment have? What integration tools/technology do you use for this? (ex.ODI, P/L SQL etc.)
Previously answered
145. Does UT System currently use EPRI (ERP Integrator) to connect to the source GL and pull data/metadata? If so, does The System have drill through configured with authentication? If so, this would be migrated to FDMEE as part of this approach.
No

146. How many FDM applications are in scope to Migrate? How many locations are in the FDM application/s? How many import formats are there in the current FDM application? How many import/mapping/custom scripts are in the FDM application/s?

2 applications; information regarding scripts answered above

147. Does UT System use HFM Extended Analytics for extracting data out of HFM? Do you use Essbase Analytics Link (EAL) for extracting data out of HFM?

No.

148. How many years of data exist in the current application, how many years of data will be migrated to the new application?

Fiscal year 2010-current

149. Please describe the level of involvement from UT System during the testing phase.

IT contact will be standing by during testing phase to assist if needed.

150. How many forms, data grids and Smart View templates do you have for your HFM application?

See #26

151. Please describe performance concerns do you currently have? Include any current performance complaints that have been received. For example, complaints about Essbase or Planning calculations, lengthy login, or longer batch processes.

Improved performance is of course a primary goal. We encounter inconsistencies which are difficult to replicate when we seek help from Support and are often chalked up to either being a bug or it will be sent to the development team for further review. We also have some fairly large extracts which are loaded and since we load ytd date, it can take quite a while as we get closer to year end.

152. Please complete the table below. Add additional rows for each FDM application that will be migrated.

Source	Specify the type of source data that is loaded through the application. Options are: file, ERPi, other. For other please add a remark to briefly describe it.
Remarks	Summarize any additional details about the application. Please specify if the database is partitioned.

App	Source	Remarks
1	File	N/A

Loading data from institutions' extracts has been discussed above. Our system is not overly complicated and outlining each would probably not provide a lot of additional insight for you.

153. Please describe your high-availability requirements for this upgrade. Please skip this section if you do not require application / server load balancing.

None

154. Please describe your current load balance / high-availability implementation.
None.
155. Do you require Oracle RAC or Microsoft SQL Server Clustering services?
No.
156. Do you wish to load balance servers across multiple data centers? If so, please describe.
No.
157. Do you wish to load balance the HTTP server? If so, will you be using a network appliance for hardware load balancing?
Not required.
158. Oracle supports Active-Passive Essbase clusters. When the active server stops responding, the passive server begins receiving connections. Do you wish to configure Essbase in an active-passive cluster?
Not using Essbase.
159. Please briefly describe your current disaster recovery model and go-forward requirements.
UTS will manage DR in alignment with their broader DR/BCP planning
160. Please tell us about your SSL / HTTPS requirements. Please skip this section if you will not require SSL.

Query	Response
1. Will the EPM applications be exposed outside your firewall?	Yes.
2. How are your server / domain certificates generated?	Both internal CA and external CA vendor
3. Will SSL terminate at a HTTPS load balancer?	At the moment, no. In the future maybe. Not required however.
4. Will SSL be required for WebLogic application servers?	All sites should be using SSL
5. Will SSL be required for relational database communication?	Yes but not required
6. Will SSL be required for Essbase connectivity?	Not using Essbase

161. What do the current environment(s) look like? Or might we obtain an architecture diagram?
See #59
162. How many environments are in scope for 11.1.2.4? Assume 3, Dev, QA, and Prod perhaps?
Two environments – Dev and Prod
163. Do you expect an in-place or out-of-place upgrade? Assuming out-of-place so you can upgrade servers, OS, and perhaps RDBMS?
Parallel upgrade - see #46, #62, #124, #133
164. How many total and concurrent users do you have?
We have 100 licenses. During busy reporting times, we probably have 30-50 concurrent users.

- 165. How many FDM and HFM applications do you have?**
Two – one for PROD and one for DEV
- 166. Are the HFM apps classic or EPMA?**
Classic
- 167. How large is the current HFM database in SQL?**
Approximately 5.13GBs
- 168. Appx how many reports do you have?**
See #11
- 169. Will they you with SQL server or move to Oracle and what version of SQL or Oracle?**
See #47, #103, #142
- 170. What version of windows do you currently have and what do you plan to have in the future (11.1.2.4+ supports Server 2012)?**
See #46
- 171. What version of Office and which browser do you use?**
See #23