

# **REQUEST FOR PROPOSAL**

**by**

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

**for**

**selection of a**

## **PATIENT PRIVACY MONITORING SOLUTION**

**RFP No. UTS/A33**

**Submittal Deadline: December 11, 2012,  
@ 3:00 PM, CST**

Issued: November 15, 2012

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## **SECTION 1** **INTRODUCTION**

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

The University of Texas System is comprised of System Administration and 15 institutions of higher education with campuses across the State of Texas whose missions are devoted to world class healthcare, teaching, research, and public service (collectively, "UT System"). UT System currently has six health institutions and nine academic facilities, making it one of the larger education systems in the United States. With an operating budget of \$12.8 billion, UT System has a current student enrollment exceeding 211,000. UT System employs more than 87,000 faculty and staff, making UT System one of the largest employers in the State of Texas.

UT System is comprised of the following institutions:

- The University of Texas Southwestern Medical Center (UTSW)
- The University of Texas Medical Branch at Galveston (UTMB)
- The University of Texas Health Science Center at Houston (UTHSCH)
- The University of Texas Health Science Center at San Antonio (UTHSCSA)
- The University of Texas MD Anderson Cancer Center (UTMDACC)
- The University of Texas Health Science Center at Tyler (UTHSCT)
- The University of Texas at Arlington
- The University of Texas at Austin
- The University of Texas at Brownsville
- The University of Texas at Dallas
- The University of Texas at El Paso
- The University of Texas – Pan American
- The University of Texas of the Permian Basin
- The University of Texas at San Antonio
- The University of Texas at Tyler

UT System has established the University of Texas System Supply Chain Alliance (the "Alliance") to conduct and coordinate strategic purchasing initiatives across UT System. Through a collaborative relationship, the Alliance seeks to combine the supply chain and contracting activities and efforts to obtain best value goods and services while reducing total acquisition costs.

### **1.2 Objective of this Request for Proposal**

UT System is soliciting proposals in response to this Request for Proposal, UTS/A33 (this "RFP"), for selection of a Preferred Supplier(s) to provide a patient privacy monitoring ("PPM") solution, including software, as more specifically described in **Section 5.4** (Scope of Work) of this RFP (collectively, the "Services"). A successful Proposer to whom business may be awarded is referred to in this RFP as the "Preferred Supplier."

Proposer should provide solutions involving historically underutilized business suppliers, where possible (ref. **Section 2.5** of this RFP). UT System will work through the Alliance to team with a Preferred Supplier to develop a relationship that will produce a win-win for all parties and establish practical business processes and procedures that will foster a strong working relationship.

Proposer is invited to submit a proposal, including innovative and non-traditional service suggestions, to establish a strategic business alliance with UT System that will maximize the resources of both organizations to most effectively meet the requirements specified in this RFP. This RFP process should:

- provide a comprehensive and guaranteed service configuration and pricing structure for the Services;
- leverage the aggregate purchasing volumes of participants;
- achieve cost savings for participants;
- improve overall customer satisfaction; and
- enhance relationships between Preferred Supplier and participants.

### 1.3 Background

In order to administer care and ensure patient safety, a wide range of specialized healthcare personnel require access to a patient's Protected Health Information ("PHI"). Unfortunately, illegal activities regarding Electronic Health Records ("EHR") and other private patient information are on the rise in the healthcare industry. These activities, many of which are internal to an organization, include EHR snooping, identity theft, selling patient information, as well as other inappropriate behaviors. These types of incidents have serious consequences for both the patients and institutions involved. In addition, the passage of the Health Information Technology for Economic and Clinical Health Act ("HITECH"), as part of the American Recovery and Reinvestment Act of 2009, strengthened The Health Insurance Portability and Accountability Act ("HIPAA") Privacy and Security Rule requirements by increasing civil monetary penalties for HIPAA violations and expanding the U.S. Department of Health and Human Services resources to conduct HIPAA Privacy and Security Rule audits. Additionally, state privacy laws, such as identity theft laws and breach notification laws, also create the necessity for verification of compliance. For these reasons, the logging and monitoring of usage patterns in EHRs has been identified as a privacy and information security priority shared across multiple institutions within UT System.

Existing processes within UT System institutions do not easily allow for proactive monitoring of usage patterns in EHRs. Therefore, an objective of UT System is to identify a technology solution that will systematically discern users who are engaging in inappropriate patient access patterns. The solution should employ impermissible access detection for all crucial EHR and other applications that provide access to PHI.

#### **Scope of Opportunity**

The table below includes data intended to convey the relative size of the five UT health institutions that are participating in this RFP process. The table also includes an estimated number of the potential applications/systems that each participating institution has identified as likely being included in their respective initial implementation phase. Lastly, the table includes a column depicting an estimated total number of applications/systems that each participating institution has identified in use at their respective locations. This table has been provided for



your bid consideration only. UT System makes no guarantees of these estimated figures, and offers this information only to assist you in preparing your proposal.

Health Institution	Approximate No. Employees (Staff/Faculty)	Approximate No. Students (Full/Part-Time)	Estimated Patients Annually	Estimated Number of Applications to be Included Initially	Estimated Number of Total Applications Within the Institution
UTSWMC	10,858	2,146	550,000	2 - 3	3 - 10
UTHSC-H	7,973	4,563	1,112,512	3	6
UTHSC-SA	5,957	3,270	-	4	8
UTMDACC	18,000	250	1,190,568	4	60 +
UTHSC-T	948	6	294,324	2	8

No contract resulting from this RFP will guarantee a specific volume of Services to a Preferred Supplier.

THE ABOVE FIGURES ARE ESTIMATES ONLY. SERVICES PURCHASED ON THE BASIS OF ANY AGREEMENT RESULTING FROM THIS RFP MAY INVOLVE MORE OR LESS THAN THE ESTIMATES PROVIDED. UT SYSTEM DOES NOT REPRESENT, WARRANT OR GUARANTY THAT PARTICIPANTS WILL PURCHASE ANY PARTICULAR DOLLAR VALUE OR ANY PARTICULAR QUANTITY OF SERVICES, AND UT SYSTEM SPECIFICALLY DISCLAIMS ANY SUCH REPRESENTATIONS, WARRANTIES AND GUARANTIES.

Texas law authorizes institutions and agencies of higher education (defined by Section 61.003 Education Code) to use the group purchasing procurement method, and other state agencies also may rely on the group procurement embodied in this RFP. As a result, Texas state institutions and agencies in addition to UT System may elect to utilize any contract(s) resulting from this RFP.

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

### **2.1 Submittal Deadline**

UT System will accept proposals submitted in response to this RFP until **3:00 PM**, Central Standard Time, on **December 11, 2012** (the "**Submittal Deadline**").

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

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

Miguel Machado, Sourcing & Contract Management Analyst  
 UT System Supply Chain Alliance  
 Phone: 713-792-0210  
 Email: mfmachad@mdanderson.org

UT System specifically instructs all interested parties to restrict all contact and questions regarding this RFP to written communications forwarded to the UT System Contact. The UT System Contact must receive all questions or concerns no later than **December 3, 2012**. UT System will use a reasonable amount of time to respond to questions or concerns. It is UT System's intent to respond to all appropriate questions and concerns; however, UT System reserves the right to decline to respond to any question or concern.

## 2.3 Criteria for Selection

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

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

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

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

### 2.3.1 Threshold Criteria Not Scored

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

### 2.3.1 Scored Criteria

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

## 2.4 Key Events Schedule

Issuance of RFP	November 15, 2012
Pre-Proposal Conference	November 27, 2012

(ref. <b>Section 2.6</b> of this RFP)	10:00 AM, Central Standard Time
Deadline for Questions/Concerns (ref. <b>Section 2.2</b> of this RFP)	December 3, 2012
Submittal Deadline (ref. <b>Section 2.1</b> of this RFP)	3:00 PM, Central Standard Time on December 11, 2012
Selection of Finalists	Early January 2012
Finalists Interviews and Negotiations	Mid-January 2013
Anticipated Contract Award	Early February 2013

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

1. If selected as a finalist, Proposer may be required to attend an interview session that includes a face-to-face meeting with an advance notice of no more than one week. The anticipated location of this activity is Houston, Texas.
2. If selected for contract award, Proposer should have its chief legal and business officers available for commencement of contract negotiations with 72 hours of notice of award. Such negotiations may take place face-to-face in order to expedite the contracting phase. The anticipated location of this activity is Houston, Texas. Proposer is requested to reference **Section 4.1** of this RFP and provide any exceptions as part of Proposer's RFP response.

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

## **2.5 Historically Underutilized Businesses**

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

any of the Services will continue throughout the term of all agreements and contractual arrangements resulting from this RFP. Furthermore, any subcontracting of the Services by Proposer is subject to review by UT System to ensure compliance with the HUB program.

- 2.5.2 UT System has reviewed this RFP in accordance with Title 34, *Texas Administrative Code*, Section 20.13 (a), and has determined that subcontracting opportunities are probable under this RFP.
- 2.5.3 A HUB Subcontracting Plan (“HSP”) is required as part of Proposer’s proposal. The HSP will be developed and administered in accordance with UT System’s Policy on Utilization of Historically Underutilized Businesses attached as **APPENDIX TWO** and incorporated herein for all purposes.

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

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

- 2.5.4 Proposer must submit one (1) signed copy of the HSP to UT System at the same time as it submits its proposal to UT System (ref. **Section 3.1** of this RFP). The signed copy of the HSP (the “**HSP Packet**”) must be submitted electronically utilizing the Ariba® e-sourcing tool as more particularly described in **Section 3.1** of this RFP. Proposer must ensure that the HSP Packet is submitted according to the electronic instructions provided in this RFP.

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

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

## 2.6 Pre-Proposal Conference

UT System will hold a pre-proposal conference at 10:00 AM, Central Standard Time, on November 27, 2012. Proposers may attend the conference in one of the following two formats:

in person attendance located in the One Mid Campus Building at 7007 Bertner Ave. Suite 5.3212, TX, 77030 (located in the Texas Medical Center); or

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

The Pre-Proposal Conference will allow all Proposers an opportunity to ask the Alliance, the Strategic Sourcing Team, and UT System HUB representatives relevant questions and clarify provisions of this RFP. Proposer should notify the UT System Contact **by no later than November 26, 2012**, whether it will attend the Pre-Proposal Conference, by emailing the UT System Contact at [mfmachad@mdanderson.org](mailto:mfmachad@mdanderson.org). Proposer must clearly state in which format it will attend. If the Proposer elects to attend the Pre-Proposal Conference in the webinar format, UT System will provide complete details and instructions (including personal computer requirements). If Proposer elects to attend the Pre-Proposal Conference in person, there will be a strict limit of two (2) individuals per Proposer.

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

### 3.1 Electronic Submission Notice

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

### 3.2 Proposal Validity Period

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

### 3.3 Terms and Conditions

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

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

#### **3.4 Submittal Checklist**

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

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

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

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

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

The terms and conditions contained in the attached Sample Preferred Supplier Agreement (ref. **APPENDIX THREE**) or, in the sole discretion of UT System, terms and conditions substantially similar to those contained in **APPENDIX THREE**, will constitute and govern any agreement that results from this RFP. If Proposer takes exception to any terms or conditions set forth in the Preferred Supplier Agreement, Proposer must submit a list of the exceptions as part of its proposal in accordance with **Section 5.3.4** of this RFP. Proposer's exceptions will be reviewed by UT System and may result in disqualification of Proposer's proposal as non-responsive to this RFP. If Proposer's exceptions do not result in disqualification of Proposer's proposal, UT



System may consider Proposer's exceptions when UT System evaluates the Proposer's proposal.

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

### **5.1 General**

The requirements and 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.

### **5.2 Minimum Requirement**

The minimum qualification requirement is that Proposer must pay to the Alliance a quarterly administrative fee of 2% of the Total Net Sales made under the Agreement (ref. **Section 6.2** of this RFP).

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

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

- 5.3.1 In its proposal, Proposer must indicate whether it will consent to include in the Agreement the "Access by Individuals with Disabilities" language that is set forth in **APPENDIX FOUR**, Access by Individuals with Disabilities. If Proposer objects to the inclusion of the "Access by Individuals with Disabilities" language in the Agreement, Proposer must, as part of its proposal, specifically identify and describe in detail all of the reasons for Proposer's objection. **NOTE THAT A GENERAL OBJECTION IS NOT AN ACCEPTABLE RESPONSE TO THIS QUESTION.**
- 5.3.2 In its proposal, Proposer must respond to each item listed in **APPENDIX FIVE**, Electronic and Information Resources ("EIR") Environment Specifications. **APPENDIX FIVE** will establish specifications, representations, warranties and agreements related to the EIR that Proposer is offering to provide to UT System. Responses to **APPENDIX FIVE** will be incorporated into the Agreement and will be binding on Preferred Supplier.
- 5.3.3 In its proposal, Proposer must respond to each item listed in **APPENDIX SIX**, Security Characteristics and Functionality of Proposer's Information Resources. **APPENDIX SIX** will establish specifications, representations, warranties and agreements related to the EIR that Proposer is offering to provide to UT System. Responses to **APPENDIX SIX** will be incorporated into the Agreement and will be binding on Preferred Supplier.
- 5.3.4 If Proposer takes exception to any terms or conditions set forth in **Section 4** of this RFP, Proposer must submit a list of the exceptions.
- 5.3.5 Proposers will provide answers to the questions listed in the Proposer's Survey ("**Proposer's Survey**") (ref. **Section 5.5** of this RFP) to the best of Proposer's knowledge, as responses may be incorporated into the Preferred Supplier Agreement. The questions in the Proposer's Survey will provide UT System with additional

information about Proposer and various efficiencies and economies of scale that Proposer may provide to participating institutions.

- 5.3.6 Although Proposer may offer only a portion of the Services listed in **Section 5.4** (Scope of Work), Proposer should submit prices for as many of the identified items as possible.

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

The details noted below will form the basis for the scope of work to be included in any Agreement concluded between UT System and Preferred Supplier.

UT System requires a dedicated PPM solution that will assist in improving the efficiency and effectiveness of monitoring and reporting activities related to the detection of impermissible access. The solution should have the capability of identifying users who are engaging in patient access patterns that are indicative of snooping, identity theft, selling patient information or other unauthorized activity. Once these incidents are detected, the solution should also facilitate the filtering out of false positives, subsequently bringing the remaining potential incidents to the attention of the appropriate privacy or compliance personnel.

The included Proposer's Survey (ref. **Section 5.5** of this RFP) is a series of questions that will provide each Proposer the opportunity to explain how its proposed solution meets UT System's needs. The questions in the Proposer's Survey were created by a group of Subject Matter Experts ("SMEs") assembled from the participating UT System healthcare institutions. Responses to the questions in the Proposer's Survey must detail clearly (1) how the product/solution offered by the Proposer can meet the needs addressed by the questions, (2) whether there is an alternative way of meeting the needs, or (3) whether Proposer cannot meet the needs.

In addition, any submitted proposal must specify all hardware, software, enterprise licensing costs, and sizing specifications to facilitate pricing a solution for a given institution. Detailed descriptions of software and hardware with all associated costs must be itemized, and architectural drawings with explanations must be included.

Proposer must list all the services and pricing options with costs, including all required travel costs. This would include maintenance and support, software hosting, software installation, interface design, technical support, and training, where applicable.

Proposer must provide financial information about its company, alliance relationships, customer size with business sectors, along with customer references. Lastly, Proposer must explain its product and service support model with pricing options.

Proposer is encouraged to specify any special certifications, awards, or other industry recognizable achievements that might set it apart from its competitors.

#### **5.5 Proposer's Survey**

The Proposer's Survey contains a list of additional questions the Proposer will answer when responding to this RFP. If Proposer needs to submit additional supporting information, refer to the supporting information in responses to the Proposer's Survey and attach supporting



materials in a logical and clear manner. Any supporting information must be included in electronic form via the Ariba® e-Sourcing tool and must follow the following naming convention: (<Proposer Name> - <Question Number> - Response - <File Name>).

## **SECTION 6** **PRICING SCHEDULE AND AFFIRMATION**

### **6.1 Pricing Schedule**

Proposer must submit as **Attachment A**, as part of its proposal, detailed rates for the Services described in **Section 5.4** (Scope of Work) of this RFP. The rate schedule(s) will include all costs associated with providing the full scope of work.

### **6.2 Pricing Affirmation**

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

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

**To:** The University of Texas System

**Ref.:** Preferred Supplier of Patient Privacy Monitoring Solution

**RFP No.:** UTS/A33

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 under the above-referenced Request for Proposal upon the pricing terms quoted below.

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

Proposer agrees that if Proposer is awarded an agreement under this RFP, it will provide to UT System a quarterly administrative fee of 2% of the Total Net Sales made by Preferred Supplier under the Agreement. *[Note to Proposer: this will be addressed in the Agreement's Scope of Work.]* "**Total Net Sales**" means the total dollar amount of all sales of Services that are made by Preferred Supplier to Institutional Participants, less credits, returns, taxes, and unpaid invoices. The administrative fee will be used by UT System to provide support for implementation, administration, monitoring, and management of the Agreement.

Subject to the requirements of the Texas Prompt Payment Act (Chapter 2251, *Texas Government Code*), UT System's standard payment terms for services are "Net 30 days." Proposer will provide the following prompt payment discount:

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

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

Respectfully submitted,

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

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

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

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

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

**APPENDIX ONE**  
**PROPOSAL REQUIREMENTS**

**SECTION 1**  
**GENERAL INFORMATION**

**1.1 Purpose**

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

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

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

**1.2 Inquiries and Interpretations**

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

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

**1.3 Public Information**

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

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

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

advised of a request for public information that implicates their materials and will have the opportunity to raise any objections to disclosure to the Texas Attorney General. Certain information may be protected from release under Sections 552.101, 552.110, 552.113, and 552.131, *Government Code*.

#### 1.4 Type of Agreement

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

#### 1.5 Proposal Evaluation Process

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

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

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

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

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

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

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

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

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

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

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

any formalities, procedural requirements, or minor technical inconsistencies, and delete any requirement or specification from this RFP when deemed to be in UT System's best interest. UT System reserves the right to seek clarification from any Proposer concerning any item contained in its proposal prior to final selection. Such clarification may be provided by telephone conference or personal meeting with or writing to UT System, at UT System's sole discretion. Representations made by Proposer within its proposal will be binding on Proposer.

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

## 1.9 Preparation and Submittal Instructions

### 1.9.1 Specifications and Additional Questions

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

### 1.9.2 Execution of Offer

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

### 1.9.3 Pricing Affirmation

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

UT System will not recognize or accept any charges or fees that are not specifically stated in the Pricing Affirmation.

### 1.9.4 Submission

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

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

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

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



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

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

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

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

- 2.1 By signature hereon, Proposer represents and warrants the following:
- 2.1.1 Proposer acknowledges and agrees that (1) this RFP is a solicitation for a proposal and is not a contract or an offer to contract; (2) the submission of a proposal by Proposer in response to this RFP will not create a contract between UT System and Proposer; (3) UT System has made no representation or warranty, written or oral, that one or more contracts with UT System will be awarded under this RFP; and (4) Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
  - 2.1.2 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
  - 2.1.3 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
  - 2.1.4 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.
  - 2.1.5 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in Section 4 of this RFP, under which Proposer will be required to operate.

- 2.1.6 If selected by UT System, Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
- 2.1.7 If selected by UT System, Proposer will maintain any insurance coverage as required by the Agreement during the term thereof.
- 2.1.8 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. Proposer acknowledges that UT System will rely on such statements, information and representations in selecting Preferred Supplier. If selected by UT System, Proposer will notify UT System immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
- 2.1.9 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UT SYSTEM, INDEMNIFY, AND HOLD HARMLESS UT SYSTEM, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFP.
- 2.1.10 Pursuant to Sections 2107.008 and 2252.903, *Government Code*, any payments owing to Proposer under any contract or agreement resulting from this RFP may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- 2.2 By signature hereon, Proposer offers and agrees to comply with all terms, conditions, requirements and specifications set forth in this RFP.
- 2.3 By signature hereon, Proposer affirms that it has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its submitted proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting contracts, and Proposer may be removed from all proposal lists at UT System.
- 2.4 By signature hereon, Proposer certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, *Tax Code*, or that Proposer is exempt from the payment of those taxes, or that Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at UT System's option, may result in termination of any resulting contract or agreement.
- 2.5 By signature hereon, Proposer hereby certifies that neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et



seq., *Business and Commerce Code*, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.

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

2.7 By signature hereon, Proposer certifies as follows:

"Under Section 231.006, *Family Code*, relating to child support, Proposer certifies that the individual or business entity named in Proposer's proposal is not ineligible to receive the specified contract award and acknowledges that any agreements or other contractual arrangements resulting from this RFP may be terminated if this certification is inaccurate."

2.8 By signature hereon, Proposer certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture or the members or managers of any Proposer that is a limited liability company, on one hand, and any member of the Board of Regents of the University of Texas System or an employee of any component of The University of Texas System, on the other hand, other than the relationships which have been previously disclosed to UT System in writing; (ii) Proposer has not been an employee of any component institution of The University of Texas System within the immediate twelve (12) months prior to the Submittal Deadline; and (iii) no person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Proposer's proposal or any contract resulting from this RFP (ref. Section 669.003, *Government Code*). All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before UT System enters into a contract or agreement with Proposer.

2.9 By signature hereon, Proposer certifies that in accordance with Section 2155.004, *Government Code*, no compensation has been received for its participation in the preparation of the requirements or specifications for this RFP. In addition, Proposer certifies that an award of a contract to Proposer will not violate Section 2155.006, *Government Code*, prohibiting UT System from entering into a contract that involves financial participation by a person who, during the previous five years, has been convicted of violating federal law or assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Pursuant to Sections 2155.004 and 2155.006, *Government Code*, Proposer certifies that Proposer is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if these certifications are inaccurate.

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

2.11 By signature hereon, Proposer represents and warrants that all products and services offered to UT System in response to this RFP meet or exceed the safety standards established and

promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and the *Texas Hazard Communication Act*, Chapter 502, *Health and Safety Code*, and all related regulations in effect or proposed as of the date of this RFP.

- 2.12 Proposer will and has disclosed, as part of its proposal, any exceptions to the certifications stated in this Execution of Offer. All such disclosures will be subject to administrative review and approval prior to the time UT System makes an award or enters into any contract or agreement with Proposer.
- 2.13 If Proposer will sell or lease computer equipment to UT System under any agreements or other contractual arrangements that may result from the submission of Proposer's proposal then, pursuant to Section 361.965(c), *Health & Safety Code*, Proposer certifies that it is in compliance with the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in Chapter 361, Subchapter Y, *Health & Safety Code* and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in Title 30, Chapter 328, Subchapter I, *Texas Administrative Code*. Section 361.952(2), *Health & Safety Code* states that, for purposes of the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act, the term "computer equipment" means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.

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

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

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

RFP No.: UTS/A21

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

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

**Submitted and Certified By:**

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

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

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

---

(Date Signed)

---

(Proposer's Street Address)

---

(City, State, Zip Code)

---

(Telephone Number)

---

(FAX Number)

## APPENDIX TWO

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

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

**APPENDIX THREE**

**SAMPLE PREFERRED SUPPLIER AGREEMENT**

for

**PATIENT PRIVACY MONITORING SOLUTION**

between

**THE UNIVERSITY OF TEXAS SYSTEM**

and

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

This Preferred Supplier Agreement, dated effective as of \_\_\_\_\_, 2013 ("**Effective Date**"), is made by and between **The University of Texas System ("UT System")**, a state agency and institution of higher education authorized under the laws of the State of Texas, and \_\_\_\_\_ ("**Preferred Supplier**"), a \_\_\_\_\_ corporation, Federal Tax Identification Number \_\_\_\_\_, with its principal offices located at \_\_\_\_\_.

This Agreement specifies the terms and conditions applicable to the purchase of certain patient privacy monitoring solution services that Preferred Supplier will sell to UT System and its participating institutions, all as further described below.

Now, therefore, the parties, intending to be legally bound, agree as follows:

**SECTION 1 – Definitions**

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

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

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

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

“**UT System Alliance Administrator**” means the Director of the Alliance, who will be the initial contact for all contractual concerns related to this Agreement.

**SECTION 2 – Term:**

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

**SECTION 3 – Amendment:**

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

**SECTION 4 – Performance of Services:**

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

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

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

**SECTION 6 – Eligibility Certifications:**

Pursuant to Sections 2155.004 and 2155.006, Texas Government Code, Preferred Supplier certifies that Preferred Supplier has not received compensation for participation in the preparation of the Request for Proposal related to this Agreement and is not ineligible to receive the award of or payments under this Agreement; and acknowledges that this Agreement may be terminated and payment withheld if these certifications are inaccurate.

**SECTION 7 – Tax Certification:**

If Preferred Supplier is a taxable entity as defined by Chapter 171, Texas Tax Code (“**Chapter 171**”), then Preferred Supplier certifies that it is not currently delinquent in the payment of any taxes due under

Chapter 171, or that Preferred Supplier is exempt from the payment of those taxes, or that Preferred Supplier is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

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

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

**SECTION 9 – Loss of Funding:**

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

**SECTION 10 – Force Majeure:**

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

**SECTION 11 – Notices:**

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

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

*with copy to:* The University of Texas System Supply Chain Alliance

Mid Campus Building  
7007 Bertner Ave., Suite 10.3212  
Houston, TX 77030  
Attention: Director  
Fax : 713-792-8084  
Email:jfjoshua@mdanderson.org

If to Preferred Supplier:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_

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

with copy to:

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

and

The University of Texas System Supply Chain Alliance  
Mid Campus Building  
7007 Bertner Ave., Suite 10.3212  
Houston, TX 77030  
Attention: Director  
Fax: 713-792-8084  
Email:jfjoshua@mdanderson.org

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

**SECTION 12 – Preferred Supplier's Obligations.**

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

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



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

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

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

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

12.7 Preferred Supplier will provide the warranties more particularly described in Section \_\_\_ of Rider 100, Scope of Work.

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

### **SECTION 13 – State Auditor's Office:**

Preferred Supplier understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c),

73.115(c) and 74.008(c), Education Code. Preferred Supplier agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Preferred Supplier will include this provision in all contracts with permitted subcontractors.

**SECTION 14 –Governing Law:**

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

**SECTION 15 – Breach of Contract Claims:**

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

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

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

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

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

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

**SECTION 16 – Compliance with Law:**

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

**SECTION 17 – UT Party's Right to Audit:**

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

**SECTION 18 – Access to Documents:**

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

**SECTION 19 – Insurance:**

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

19.1.1 Workers Compensation Insurance with statutory limits, and Employer's Liability Insurance with limits of not less than \$1,000,000:	
Employers Liability - Each Accident	\$1,000,000

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

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

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

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

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

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

**19.1.4 Umbrella/Excess Liability Insurance with limits of not less than \$2,000,000 per occurrence and aggregate with a deductible of no more than \$10,000, and (i) providing coverage in excess of the coverages of, and (ii) "following form" subject to the same provisions as, the underlying policies required in Section 19.1.1 Employers Liability Insurance, Section 19.1.2 Commercial General Liability Insurance, and Section 19.1.3 Business Auto Liability Insurance.**

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

**19.2 Preferred Supplier will deliver to UT Party:**

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

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



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

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

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

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

#### **SECTION 20 – Indemnification:**

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

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

AGREE TO REASONABLY COOPERATE WITH PREFERRED SUPPLIER. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

**SECTION 21 – Ethics Matters; No Financial Interest:**

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

**SECTION 22 – Assignment of Overcharge Claims:**

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

**SECTION 23 – Assignment and Subcontracting:**

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

**SECTION 24 – Historically Underutilized Business Subcontracting Plan:**

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

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

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

#### **SECTION 25 – Payment and Invoicing:**

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

#### **SECTION 26 – Limitations:**

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

**SECTION 27 – Affirmative Action:**

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

**SECTION 28 – HIPAA Compliance:**

Preferred Supplier agrees that it will execute a HIPAA Business Associate Agreement ("BAA") with each UT Party, and the BAA will be in a form substantially similar to that set forth in **Rider 700**, HIPAA Business Associate Agreement, attached and incorporated for all purposes.

**SECTION 29 – OSHA Compliance:**

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

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

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

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

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



### **SECTION 31 – Premises Rules:**

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

### **SECTION 32 – Debarment:**

Preferred Supplier confirms that neither Preferred Supplier nor its Principals are suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts from United States ("U.S.") federal government procurement or nonprocurement programs, or are listed in the List of Parties Excluded from Federal Procurement or Nonprocurement Programs issued by the U.S. General Services Administration. "Principals" means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division or business segment, and similar positions). Preferred Supplier will provide immediate written notification to UT Party if, at any time prior to award, Preferred Supplier learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance will be placed when UT Party executes this Agreement. If it is later determined that Preferred Supplier knowingly rendered an erroneous certification, in addition to the other remedies available to UT Party, UT Party may terminate this Agreement for default by Preferred Supplier.

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

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

### **SECTION 34 – Termination:**

**34.1** UT System may terminate this Agreement, without cause, upon written notice to Preferred Supplier; provided, however, this Agreement will not terminate until the later of (1) 90 days after receipt of notice of termination, or (2) the date that performance is complete under all purchase orders issued by Institutional Participant to Preferred Supplier prior to receipt of notice of termination. Institutional Participant may not issue any purchase orders after receipt of notice of termination. Termination of this Agreement will not relieve any party from liability for its default under or breach of this Agreement or

any other act or omission of that party. In the event that this Agreement is terminated, then within thirty (30) days after termination, Preferred Supplier will reimburse UT Party for all fees paid by UT Party to Preferred Supplier that were (a) not earned by Preferred Supplier prior to termination, or (b) for goods or services that UT Party did not receive from Preferred Supplier prior to termination.

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

### **SECTION 35 – Authority:**

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

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

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

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

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

Gramm-Leach Bliley Act, and the terms of this Agreement; and (4) comply with the UT Party rules, policies, and procedures regarding access to and use of UT Party computer systems. At the request of UT Party, Preferred Supplier agrees to provide UT Party with a written summary of the procedures Preferred Supplier uses to safeguard and maintain the confidentiality of University Records.

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

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

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

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

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

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

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

## **SECTION 38 – Tax Exemption**

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

will provide reasonable cooperation and assistance to UT Party in obtaining any tax exemptions to which UT Party is entitled.

**SECTION 39 – Undocumented Workers:**

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

**SECTION 40 – No Required Quantities or Minimum Amounts:**

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

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

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



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

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

#### **SECTION 43 – Captions:**

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

#### **SECTION 44 – Waivers:**

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

#### **SECTION 45 – Binding Effect:**

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

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

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

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

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

#### **SECTION 48 – Severability:**

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

**SECTION 49 – External Terms:**

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

**SECTION 50 – Conflicts:**

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

**SECTION 51 – Attachments:**

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

- Rider 100** – Scope of Work
- Rider 200** – Pricing Schedule
- Rider 300** – Institutional Participation Agreement Form
- Rider 400** – Supplier Relationship Management
- Rider 500** – HUB Subcontracting Plan
- Rider 600** – Affirmative Action Compliance Program
- Rider 700** – HIPAA Business Associate Agreement Form

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

**THE UNIVERSITY OF TEXAS SYSTEM**

**[PREFERRED SUPPLIER]**

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

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

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

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

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

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

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

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



## APPENDIX THREE- 300

### INSTITUTIONAL PARTICIPATION AGREEMENT

By entering into this Institutional Participation Agreement (“**Institutional Participation Agreement**”), the undersigned institution (“**Institutional Participant**”) agrees to the terms and conditions set forth in the Preferred Supplier Agreement for \_\_\_\_\_ between The University of Texas System and \_\_\_\_\_, Agreement Number UTSSCA\_\_\_\_\_ dated effective \_\_\_\_\_, 2013 (the “**Preferred Supplier Agreement**”). All of the terms and conditions of the Preferred Supplier Agreement are incorporated into this Institutional Participation Agreement for all purposes. Unless otherwise specified in this Institutional Participation Agreement, all defined terms used in this Institutional Participation Agreement have the same meaning as assigned to those terms in the Preferred Supplier Agreement.

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

Benefits from Preferred Supplier Agreement:

Access to \_\_\_\_\_ from Preferred Supplier at prices which should generate significant cost savings for Institutional Participant.

Institutional Participant’s Responsibilities

To the extent authorized by Applicable Law, Institutional Participant will use commercially reasonable efforts to perform the following responsibilities:

- Identify Preferred Supplier as the preferred source of \_\_\_\_\_ services.

[tbd]

Institutional Participant’s notice address and contact information is:

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

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

**INSTITUTIONAL PARTICIPANT: Primary Contact:**

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

**INSTITUTIONAL PARTICIPANT: HUB Contact:**

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

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

**PREFERRED SUPPLIER Primary Contact:**

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

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

The University of Texas \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name and Title: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Street: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
Date: \_\_\_\_\_

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

## APPENDIX FOUR

### ACCESS BY INDIVIDUALS WITH DISABILITIES

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

## APPENDIX FIVE

### ELECTRONIC AND INFORMATION RESOURCES ENVIRONMENT SPECIFICATIONS

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

#### Basic Specifications

If the EIR will be hosted by a UT System institution, please describe the overall environment requirements for the EIR (size the requirements to support the number of concurrent users, the number of licenses and the input/output generated by the application as requested in the application requirements).

- A. Hardware: If Proposer will provide hardware, does the hardware have multiple hard drives utilizing a redundant RAID configuration for fault tolerance? Are redundant servers included as well?
- B. Operating System and Version:
- C. Web Server: Is a web server required? If so, what web application is required (Apache or IIS)? What version? Are add-ins required?
- D. Application Server:
- E. Database:
- F. Other Requirements: Are any other hardware or software components required?
- G. Assumptions: List any assumptions made as part of the identification of these environment requirements.
- H. Storage: What are the space/storage requirements of this implementation?
- I. Users: What is the maximum number of users this configuration will support?
- J. Clustering: How does the EIR handle clustering over multiple servers?
- K. Virtual Server Environment: Can the EIR be run in a virtual server environment?

If the EIR will be hosted by Proposer, describe in detail what the hosted solution includes, and address, specifically, the following issues:

- A. Describe the audit standards of the physical security of the facility; and
- B. Indicate whether Proposer is willing to allow an audit by University or its representative.

If the user and administrative interfaces for the EIR are web-based, do the interfaces support Firefox on Mac as well as Windows and Safari on the Macintosh?

If the EIR requires special client software, what are the environment requirements for that client software?

Manpower Requirements: Who will operate and maintain the EIR? Will additional UT System full time employees (FTEs) be required? Will special training on the EIR be required by Proposer's technical staff? What is the estimated cost of required training?

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

### Security

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

### Integration

1. Is the EIR authentication Security Assertion Markup Language ("**SAML**") compliant? Has Proposer ever implemented the EIR with Shibboleth authentication? If not, does the EIR integrate with Active Directory? Does the EIR support SSL connections to this directory service?
2. Does the EIR rely on Active Directory for group management and authorization or does the EIR maintain a local authorization/group database?
3. What logging capabilities does the EIR have? If this is a hosted EIR solution, will University have access to implement logging with University's standard logging and monitoring tools, RSA's Envision?
4. Does the EIR have an application programming interface ("**API**") that enables us to incorporate it with other applications run by UT System? If so, is the API .Net based? Web Services-based? Other?

5. Will UT System have access to the EIR source code? If so, will the EIR license permit UT System to make modifications to the source code? Will UT System's modifications be protected in future upgrades?
6. Will Proposer place the EIR source code in escrow with an escrow agent so that if Proposer is no longer in business or Proposer has discontinued support, the EIR source code will be available to UT System?

**Accessibility Information**

1. Please complete the Voluntary Product Accessibility Template ("VPAT") found at <http://www.itic.org:8080/dotAsset/5644ecd2-5024-417f-bc23-a52650f47ef8.doc> and submit the VPAT with Proposer's proposal.



## APPENDIX SIX

### **SECURITY CHARACTERISTICS AND FUNCTIONALITY OF PROPOSER'S INFORMATION RESOURCES**

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

**"Information Resources"** means any and all computer printouts, online display devices, mass storage media, and all computer-related activities involving any device capable of receiving email, browsing Web sites, or otherwise capable of receiving, storing, managing, or transmitting Data including, but not limited to, mainframes, servers, Network Infrastructure, personal computers, notebook computers, hand-held computers, personal digital assistant (PDA), pagers, distributed processing systems, network attached and computer controlled medical and laboratory equipment (i.e. embedded technology), telecommunication resources, network environments, telephones, fax machines, printers and service bureaus. Additionally, it is the procedures, equipment, facilities, software, and Data that are designed, built, operated, and maintained to create, collect, record, process, store, retrieve, display, and transmit information.

**"UT System Records"** means records or record systems that Proposer (1) creates, (2) receives from or on behalf of UT System (or any of its institutions), or (3) has access, and which may contain confidential information (including credit card information, social security numbers, and private health information ("PHI") subject to Health Insurance Portability and Accountability Act ("HIPAA") of 1996 (Public Law 104-191), or education records subject to the Family Educational Rights and Privacy Act ("FERPA").

#### **General Protection of University Records**

1. Describe the security features incorporated into Information Resources to be provided or used by Proposer pursuant to this RFP.
2. List all products, including imbedded products that are a part of Information Resources and the corresponding owner of each product.
3. Describe any assumptions made by Proposer in its proposal regarding information security outside those already listed in the proposal.

*Complete the following additional questions if the Information Resources will be hosted by Proposer:*

4. Describe the monitoring procedures and tools used for monitoring the integrity and availability of all products interacting with Information Resources, including procedures and tools used to, detect security incidents and to ensure timely remediation.
5. Describe the physical access controls used to limit access to Proposer's data center and network components.

6. What procedures and best practices does Proposer follow to harden all systems that would interact with Information Resources, including any systems that would hold or process UT System Records, or from which UT System Records may be accessed?
7. What technical security measures does the Proposer take to detect and prevent unintentional, accidental and intentional corruption or loss of UT System Records?
8. Will the Proposer agree to a vulnerability scan by UT System of the web portal application that would interact with Information Resources, including any systems that would hold or process UT System Records, or from which UT System Records may be accessed? If Proposer objects, explain basis for the objection to a vulnerability scan.
9. Describe processes Proposer will use to provide UT System assurance that the web portal and all systems that would hold or process UT System Records can provide adequate security of UT System Records.
10. Does Proposer have a data backup and recovery plan supported by policies and procedures, in place for Information Resources? If yes, briefly describe the plan, including scope and frequency of backups, and how often the plan is updated. If no, describe what alternative methodology Proposer uses to ensure the restoration and availability of UT System Records.
11. Does Proposer encrypt backups of UT System Records? If yes, describe the methods used by Proposer to encrypt backup data. If no, what alternative safeguards does Proposer use to protect backups against unauthorized access?
12. Describe the security features incorporated into Information Resources to safeguard UT System Records containing confidential information.

*Complete the following additional question if Information Resources will create, receive, or access UT System Records containing PHI subject to HIPAA:*

13. Does Proposer monitor the safeguards required by the HIPAA Security Rule (45 C.F.R. § 164 subpts. A, E (2002)) and Proposer's own information security practices, to ensure continued compliance? If yes, provide a copy of or link to the Proposer's HIPAA Privacy & Security policies and describe the Proposer's monitoring activities and the frequency of those activities with regard to PHI.

### **Access Control**

1. How will users gain access (i.e., log in) to Information Resources?
2. Do Information Resources provide the capability to use local credentials (i.e., federated authentication) for user authentication and login? If yes, describe how Information Resources provide that capability.
3. Do Information Resources allow for multiple security levels of access based on affiliation (e.g., staff, faculty, and student) and roles (e.g., system administrators, analysts, and information consumers), and organizational unit (e.g., college, school, or department)? If yes, describe how Information Resources provide for multiple security levels of access.

4. Do Information Resources provide the capability to limit user activity based on user affiliation, role, and/or organizational unit (i.e., who can create records, delete records, create and save reports, run reports only, etc.)? If yes, describe how Information Resources provide that capability. If no, describe what alternative functionality is provided to ensure that users have need-to-know based access to Information Resources.
5. Do Information Resources manage administrator access permissions at the virtual system level? If yes, describe how this is done.
6. Describe Proposer's password policy including password strength, password generation procedures, password storage specifications, and frequency of password changes. If passwords are not used for authentication or if multi-factor authentication is used to Information Resources, describe what alternative or additional controls are used to manage user access.

*Complete the following additional questions if Information Resources will be hosted by Proposer:*

7. What administrative safeguards and best practices does Proposer have in place to vet Proposer's and third-parties' staff members that would have access to the environment hosting UT System Records to ensure need-to-know-based access?
8. What procedures and best practices does Proposer have in place to ensure that user credentials are updated and terminated as required by changes in role and employment status?
9. Describe Proposer's password policy including password strength, password generation procedures, and frequency of password changes. If passwords are not used for authentication or if multi-factor authentication is used to Information Resources, describe what alternative or additional controls are used to manage user access.

#### Use of Data

*Complete the following additional questions if Information Resources will be hosted by Proposer:*

1. What administrative safeguards and best practices does Proposer have in place to vet Proposer's and third-parties' staff members that have access to the environment hosting all systems that would hold or process UT System Records, or from which UT System Records may be accessed, to ensure that UT System Records will not be accessed or used in an unauthorized manner?
2. What safeguards does Proposer have in place to segregate UT System Records from system data and other customer data and/or as applicable, to separate specific UT System data, such as HIPAA and FERPA protected data, from UT System Records that are not subject to such protection, to prevent accidental and unauthorized access to UT System Records ?
3. What safeguards does Proposer have in place to prevent the unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access, or disclosure of UT System Records?
4. What procedures and safeguards does Proposer have in place for sanitizing and disposing of UT System Records according to prescribed retention schedules or following the conclusion of a project or termination of a contract to render UT System Records unrecoverable and prevent accidental and unauthorized access to UT System Records? Describe the degree to which sanitizing and disposal processes addresses UT System data that may be contained within backup systems. If UT System

data contained in backup systems is not fully sanitized, describe processes in place that would prevent subsequent restoration of backed-up UT System data.

### **Data Transmission**

1. Do Information Resources encrypt all UT System Records in transit and at rest? If yes, describe how Information Resources provide that security. If no, what alternative methods are used to safeguard UT System Records in transit and at rest?

*Complete the following additional questions if Information Resources will be hosted by Proposer:*

2. How does data flow between UT System and Information Resources? If connecting via a private circuit, describe what security features are incorporated into the private circuit. If connecting via a public network (e.g., the Internet), describe the way Proposer will safeguard UT System Records.

3. Do Information Resources secure data transmission between UT System and Proposer? If yes, describe how Proposer provides that security. If no, what alternative safeguards are used to protect UT System Records in transit?

### **Notification of Security Incidents**

*Complete the following additional questions if Information Resources will be hosted by Proposer:*

1. Describe Proposer's procedures to isolate or disable all systems that interact with Information Resources in the event a security breach is identified, including any systems that would hold or process UT System Records, or from which UT System Records may be accessed.

2. What procedures, methodology, and timetables does Proposer have in place to detect information security breaches and notify UT System and other customers? Include Proposer's definition of security breach.

3. Describe the procedures and methodology Proposer has in place to detect information security breaches, including unauthorized access by Proposer's and subcontractor's own employees and agents and provide required notifications in a manner that meets the requirements of the state breach notification law.

### **Compliance with Applicable Legal & Regulatory Requirements**

*Complete the following additional questions if Information Resources will be hosted by Proposer:*

1. Describe the procedures and methodology Proposer has in place to retain, preserve, backup, delete, and search data in a manner that meets the requirements of state and federal electronic discovery rules, including how and in what format UT System Records are kept and what tools are available to UT System to access UT System Records.

2. Describe the safeguards Proposer has in place to ensure that systems (including any systems that would hold or process UT System Records, or from which UT System Records may be accessed) that interact with Information Resources reside within the United States of America. If no such controls,

describe Proposer's processes for ensuring that data is protected in compliance with all applicable US federal and state requirements, including export control.

3. List and describe any regulatory or legal actions taken against Proposer for security or privacy violations or security breaches or incidents, including the final outcome.

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



**UT System Administration  
Historically Underutilized Subcontracting Plans (HSP)  
Commodities**

All Texas State agencies and institutions of higher education (universities) are required to make a good faith effort to include minority and/or women owned businesses in their procurement opportunities. The State of Texas uses the term Historically Underutilized Businesses (HUB) to distinguish State certified minority and/or women owned businesses.

**Procurement Goal- Commodities – 34%**

**Statement of Probability**

- Sub-consulting Opportunities are **probable** in connection with this solicitation

Choose **ONLY ONE** of the options below and follow the directions below the appropriate section.

**Option 1 - Complete a Self-Performing HSP as follows:**

**Section 1**

- Respondent and Requisition Information. Complete as indicated on the form. VID # refers to the tax ID number.

**Section 2A**

- Mark the 'NO', I will not be sub-consulting any portion of the contract, and I will be fulfilling the entire contract with my own resources. Continue to Section 3.

**Section 3**

- Mark the "NO" box and in the space provided indicate how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.  
\_\_\_\_\_ has the resources to complete all scopes of this RFP with our own equipment, supplies, materials and personnel. If sub-contracting opportunities are identified at a future date, we will immediately contact the project manager and HUB Coordinator and commit to perform a Good Faith Effort through solicitation of HUB firms and submit an amended HUB Subcontracting Plan.

**Section 4**

- Sign the form. Include your e-mail address and contact phone number should UT System HUB have any questions.

**Option 2 – Complete if all sub-consulting opportunities are performed by ONLY HUB vendors.**

**Section 1**

- Respondent and Requisition Information. Complete as indicated on the form. VID # refers to the tax ID number.

**Section 2A**

- Mark the 'YES', I will be sub-contracting 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 HUB vendors.

**Section 2C**

- Mark "YES".

**Section 4**

- Sign the form. Include your e-mail address and contact phone number should UT System HUB have any questions.

**Good-Faith Effort (Attachment A)**

**Section A-1**

- Complete this attachment for each sub-consulting opportunity listed in Section 2B.

**Section A2**

- List the sub-consultants you selected to perform this subcontracting opportunity listed above in Section A-1. Please include their VID #, State of Texas HUB certificate, the appropriate \$ amount. And the contract percentage.

**Option 3 – Complete if sub-consulting opportunities by both HUB and non-HUB vendors meet or exceed the HUB goals stated above.**

**Section 1**

- Respondent and Requisition Information. Complete as indicated on the form. VID # refers to the tax ID number.

**Section 2A**

- Mark the '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 HUB vendors and Non HUB vendors

**Section 2C**

- Mark "NO".

**Section 2D**

- Mark "YES".

**Section 4**

- Sign the form. Include your e-mail address and contact phone number should UT System HUB have any questions.

**Good-Faith Effort (Attachment A)**

- Complete this attachment for each sub-consulting opportunity listed in Section 2B.

**Section A1**

- List the name of the sub-consulting opportunity listed on the corresponding line in Section 2B.

**Section A2**

- List the sub-consultants you selected to perform this subcontracting opportunity listed above in Section A-1. Please include their VID #, State of Texas HUB certificate, the appropriate \$ amount. And the contract percentage.

**Option 4 - Complete a Sub-Contracting HSP as follows:**

**Section 1**

- Respondent and Requisition Information. Complete as indicated on the form. VID # refers to the tax ID number.

**Section 2A**

- Mark the '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 HUB vendors and Non HUB vendors

**Section 2C**

- Mark "NO".

## Section 2D

- Mark "NO".

## Section 4

- Sign the form. Include your e-mail address and contact phone number should UT System HUB have any questions.

## Good-Faith Effort (Attachment B)

- Complete this attachment for each sub-consulting opportunity listed in Section 2B.

## Section B1

- List the name of the sub-consulting opportunity listed on the corresponding line in Section 2B.

## Section B3

- Subsection (b) - List 3 three HUBs you notified regarding the portion of work indicated in Section B1. NOTE: Attach addressed and dated supporting documentation in the form of letters, fax transmittals, e-mails etc. demonstrating evidence of the Good Faith Effort performed. Please note that you must give the subcontractor 7 working days to respond to your request. Holidays and skeleton crew days do not count as working days.

Subsection (d) – Indicate the names of two minority or women's organization you contacted. NOTE: Include copies of correspondence as well as the date the notice is sent and indicate if the notice was accepted or rejected. A list of minority organizations is attached to the HSP document. In addition, the minority organizations at the link below, have expressed their willingness to accept notices of subcontracting opportunities from vendors to distribute to their minority and woman-owned business members. <http://www.cpa.state.tx.us/procurement/prog/hub/mwb-links-1/>

## Section B4

- List the sub-consultant you selected to perform the portion of the work indicated in Section 3. Include the expected percentage of work to be subcontracted, the dollar value and whether company selected is a HUB. If company selected is not a HUB, provide written justification of your selection process in Section B4, sub-section b.

## HUB Sub-consulting Plan Required Documents

- Respondents shall submit:
  - UT System Letter of Transmittal
  - HUB Sub-consulting Plan

## Changes to the Plan

- Once the HUB Plan has been submitted any changes to the HSP must be approved in writing by UT System **prior** to any work commencing. Once the contract has been awarded the HSP is considered part of the contract. Violations to the Plan can be deemed by UT System as a breach of the contract.

## Reporting – After Award

- Prime contractor payment requests shall include:
  - Prime Contractor Progress Assessment Report – A condition of payment

***Responses that do not include an HSP will be rejected as a material failure to comply with advertised specifications in accordance with the request for qualifications.***

For any questions regarding completion of the HSP contact:

Stephanie Park  
UT System  
Office of Hub Development  
(512)-499-4378  
[spark@utsystem.edu](mailto:spark@utsystem.edu)



RFP Submittal Deadline: **Dec. 11<sup>th</sup>** at **3:00 PM** (CST)

Addendum Issue Date: **Nov. 29<sup>th</sup>**, 2012

**ADDENDUM 1**  
REQUEST FOR PROPOSAL  
UTS/A33  
Patient Privacy Monitoring Solution

DIRECT QUESTIONS TO: Miguel F. Machado, Telephone (713) 792-0210 or via the Ariba System

ACKNOWLEDGEMENT OF THIS ADDENDUM 1 IS REQUIRED IN ACCORDANCE WITH **SECTION 3 OF APPENDIX ONE**, TO THE RFP. THIS RFP ADDENDUM IS A FURTHERANCE OF RFP **UTS/A33** AND IS NOT A CONTRACT OR OFFER TO CONTRACT.

**Item One:**

The Pre-proposal PowerPoint slide presentation has been posted in Section 28 of the Survey section to the Ariba tool. This document is available for downloading.

**Item Two:**

The Pre-proposal conference attendee list has been posted in Section 28 of the Survey section to the Ariba tool. This document is available for downloading.

**Item Three:**

The HSP Checklist has been posted in Section 28 of the Survey section to the Ariba tool. This document is available for downloading.

**END OF ADDENDUM 1**



RFP Submittal Deadline: **Dec. 11<sup>th</sup>** at **3:00 PM** (CST)

Addendum Issue Date: **Dec 6<sup>th</sup>**, 2012

**ADDENDUM 2**  
REQUEST FOR PROPOSAL  
UTS/A33  
Patient Privacy Monitoring Solution

DIRECT QUESTIONS TO: Miguel F. Machado, Telephone (713) 792-0210 or via the Ariba System

ACKNOWLEDGEMENT OF THIS ADDENDUM 2 IS REQUIRED IN ACCORDANCE WITH **SECTION 3 OF APPENDIX ONE**, TO THE RFP. THIS RFP ADDENDUM IS A FURTHERANCE OF RFP **UTS/A33** AND IS NOT A CONTRACT OR OFFER TO CONTRACT.

**Supplier Questions & Answers**

1. Section 9.1 refers to "Sample Preferred Supplier Agreement" which is attached in APPENDIX THREE and APPENDIX THREE – 300. If we have exceptions, do we click "acknowledge" in Section 9.1 but then submit those exceptions within Section 5.3.4 by "attaching a file"? Please clarify where we submit those exceptions to the "Sample Preferred Supplier Agreement".  
A: Yes click "Acknowledge" and please submit any exceptions in section 5.3.4 via attached file.
2. In what section do we attach our EULA (End User License Agreement)?  
A: We do not need any End User License Agreement at this time. It will be requested when needed.
3. Per the RFP, the pricing must be valid for 180 days after submittal deadline, what is the purchase schedule per each of the five remaining UT Health Institutes described in "PPM Potential Scope of Opportunity"? Further, please confirm each of the 5 individual institutes will buy separately?  
A: The purpose of requesting the 180 day hold on pricing is to ensure the pricing presented in RFP will hold true until contract negotiations are completed. Once the contract is in place each institution will develop an implementation strategy & and such strategy may vary. At this time we cannot determine whether the individual institutions will be purchasing separately or if there will be a purchase by UT System. That decision will be made during contract negotiations.
4. Are there any applications that are hosted centrally across the UT System, or is any type of an interface engine deployed centrally, or plans to?  
A: No, not at this time.
5. Are there any plans for the monitoring of the Participants centrally or will each Participant essentially run their privacy monitoring independently?  
A: Each institution will run privacy monitoring solutions independently.

**Supplier Questions & Answers - continued**

6. In section 18.1 technical capabilities, can you please elaborate per each of the below:
- A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- a. AllScripts, which specific products and/or versions? Which AllScripts solutions are currently being utilized? Are any Add-Ons being used today?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- b. Aria, which specific products and/or version(s)?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- c. Axiom, which specific products and/or version(s)? Which Axiom products are currently being utilized?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- d. Cerner, which specific products and/or version(s)? Which Cerner solutions are currently being utilized?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- e. EPIC, which specific products and/or version(s)? Which EPIC modules are currently being utilized?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- f. ePrescribe, Can you please elaborate on the specific brand name? Is this an Allscripts product? Which specific products and/or version(s)? Is this the ePrescribe functionality from AllScripts or another vendor?  
A: We do not have any further information from the application owners at this time.
- g. GE Healthcare - Centricity Enterprise EMR, which version(s)?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- h. I2B2, Which specific products and/or version(s)?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- i. IDX, Which specific products and/or version(s)?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- j. Kronos, which version(s)? What functions of Kronos are you using?  
A: Timekeeping and logging of activity access expected by some clinical staff
- k. McKesson, which specific products and/or version(s)? Which McKesson solutions are currently being utilized?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- l. Medication Dispensing System, Can you please elaborate on the specific brand/vendor name? Which specific products and/or version(s)? Is this the Medication Dispensing System from McKesson or another vendor?



**Supplier Questions & Answers - continued**

- A: We do not have any further information from the application owners at this time.
- m. Meditech, which specific products and/or version(s)? Which Meditech solutions are currently being utilized?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- n. MiPACs, Which specific products and/or version(s)?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- o. Mosaiq, Which specific products and/or version(s)?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- p. Non-standard institutionally designed EMR systems, which specific products and/or version(s)? Do these produce an audit log? What platforms do these EMR systems run on? What are the Database types?  
A: These could be any number of applications but could be institutionally developed EMR solutions. The solutions will produce audit logs if they don't already and will be some type of flat file.
- q. Novell Identity Manager, Which specific version(s)?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- r. Oracle Document Capture, which version(s)? Does this application produce an audit log?  
A: We do not have any further information from the application owners at this time for version information. For purposes of responses, audit logs will be provided for all applications.
- s. Oracle Imaging and Process Management, which version(s)? Does this application produce an audit log?  
A: We do not have any further information from the application owners at this time for version information. For purposes of responses, audit logs will be provided for all applications.
- t. PeopleSoft, which version(s)? Can you elaborate on if this will this be used for auditing/monitoring the audits logs of People i.e. who is viewing records within PeopleSoft or will this be to be used as an authoritative user data feed i.e. which is used to append the audit logs for advance analytics and filtering?  
A: Should be functional with last 3 stable versions / products for solutions. PeopleSoft may be used for both viewing records & / or authoritative source for HR data.
- u. Practice Partners, Can you please elaborate on the specific brand/vendor name? Is this a McKesson product? Which specific product(s) and/or version(s)? Is this the Practice Partner solution from McKesson or another vendor?  
A: We do not have any further information from the application owners at this time.
- v. Radiology PACs System, Can you please elaborate on the specific brand/vendor name? Which specific product(s) and/or version(s)?  
A: We do not have any further information from the application owners at this time.

**Supplier Questions & Answers - continued**

- w. Retail Pharmacy, Can you please elaborate on the specific brand/vendor name? Which specific product(s) and/or version(s)?  
A: We do not have any further information from the application owners at this time.
- x. Siemens, which specific product(s) and/or version(s)? Which Siemens solutions or Products are currently being utilized?  
A: All standard commercial EMR systems should be functional with last 3 stable versions / products for solutions.
- y. Sleep Lab, Can you please elaborate on the specific brand/vendor name? Which specific product(s) and/or version(s)?  
A: We do not have any further information from the application owners at this time.
- z. Sunrise Clinical Manager (SCM), which version(s)? Is this the Sunrise Clinical Manager from Eclipsys, AllScripts or another vendor?  
A: We do not have any further information from the application owners at this time.
7. In Section 16 Company References, the request is to refer to 3 non-UT Systems but if we have Participant's that are already using our system where should we reference those? Additionally, our experience is that 3 production references may not represent a wide enough spectrum in an RFP. Since the request is to provide 3 and it specifies that they should be 'comparable', could you please elaborate? For example, criteria to be considered as comparable could be type of health system, regional or national, primary EHR, similar size of employees, number of beds and/or data sources in production. Where do we provider additional references beyond the initial 3?  
A: Please use your best judgment with choice of 3 non-UT System references.
8. **Section 18.2** Does your company's proposed solution support log data extraction for systems that do not use standard logging methods?  
Q: In what format are these logs?  
A: These will vary, but some examples would be database extractions & comma delimited or some other form of flat file.  
  
Q: Is there a way to discern the end of one log entry from another (Comma delimited, Tab delimited, CR/LF delimited)?  
A: Yes, please refer to answer above.
9. **Section 18.3** Does your company's proposed solution support Snort security signatures?  
Q: What are you looking to do with the Snort signatures within the PPM solution?  
A: We will be using Snort signatures in some instances because Snort is a standard as well as possible integration with IDS, IPS, and other SIEM solutions.  
  
Q: Are you looking to correlate the event logs from Snort and the PPM Solution?  
A: Please see answer above.

**Supplier Questions & Answers - continued**

10. Section 18.30 Explain how the proposed solution is scalable from less than 100 users to over 30,000 users. Can you please elaborate on what you consider a user?

A: In this question, User will be people that can log into EMR systems.

11. **Section 18.31** Does the solution allow multiple users to be logged-in at once?

Q: Are you referring to multiple authorized users into the PPM solution or one of MD Anderson's Healthcare Systems?

A: This question is in reference to users logged into PPM Solution simultaneously as admins, super users & read only user access.

12. **Section 18.37** Does the proposed solution include the ability to accept flat files of data from HR systems and append that information in real-time to the application audit log?

Q: Since altering log files can negate their admissibility in court, please describe the manner in which you are looking to "append" the audit log.

A: An HR flat file audit log will not be used in court. It will be used only to provide clarification on user identity.

Q: Does the question refer to using outside flat file sources as a data point for creating Incidents or Alerts?

A: The HR flat files will be used to reference user information to help create incidents or alerts.

13. **Section 18.54** Please describe the proposed solution's support of medical device logging.

Q: In what format are these logs?

A: Sys log or Windows log

Q: Is there a way to discern the end of one log entry from another (Comma delimited, Tab delimited, CR/LF delimited)?

A: Yes.

14. In section 15 Company Background Information – the question was asked to provide the top 5 customers – can you specify that these top 5 are the largest customers currently using the PPM in this RFP, and specify how to quantify the size – such as employees, beds, hospitals, or hospital revenue? Additionally, in this same section the question is asked about what percentage of the overall business is dedicated to PPM. Please specify if you would like the percentage of employees and/or revenue (and if revenue over what time periods)?

A: Please use your best judgment to provide examples of customers. With regards to percentage of overall business, please include time period over last 5 years based on percentage of revenue.

15. In section 1, under references, attachment "PPM Potential Scope of Opportunity" can you please specify the numbers of licensed beds and number of physicians in each of the five institutions?

A: It appears that this question is a solution sizing question. None of the institutions in UT System use number of beds or number of physicians for sizing purposes. Our patients are often clinical or outpatient and number of physicians is not a good indicator either.

***Supplier Questions & Answers - continued***

16. In section 19, Service Offerings, 19.1 if we offer some of these services directly and then also through certified partners who may or may not be a subcontractor, how should we describe this? And where would we indicate this in this section?

A: Please indicate whether you offer the service directly or if it is offered by a certified partner. Please provide the costs and descriptions in this section via an attached file.

**END OF ADDENDUM 2**

# Pre-Proposal Conference Patient Privacy Monitoring Solution

November 27, 2012



# Teleconference Number

1-877-226-9790

Participant Code: 7277429#



# Pre-Proposal Conference Agenda

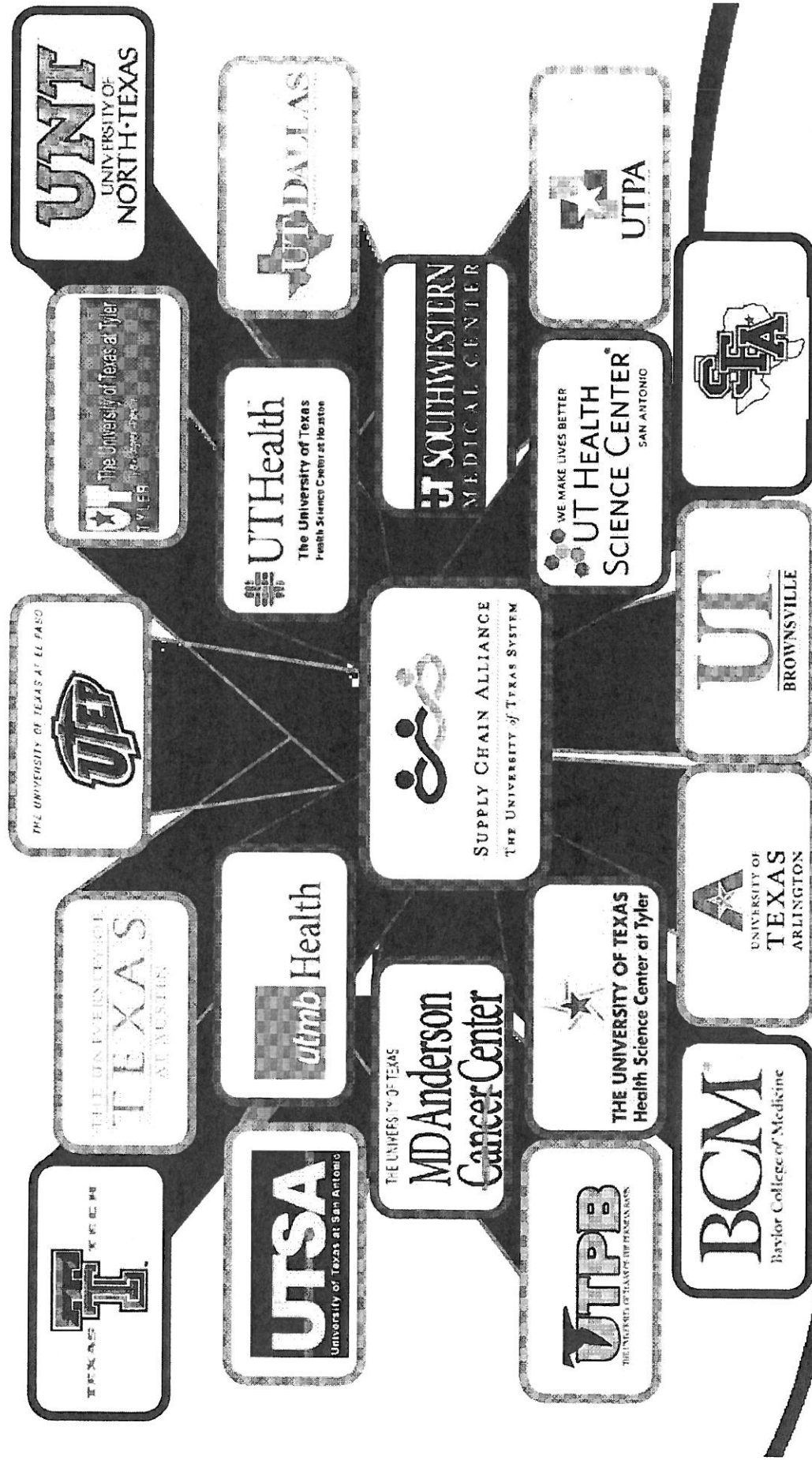
- Introductions
- Opening Remarks
- Supply Chain Alliance Overview
- Sourcing Event Overview
- Key Events Schedule
- Historically Underutilized Businesses
- Sourcing Event Contacts
- Question and Answer Session

# OVERVIEW

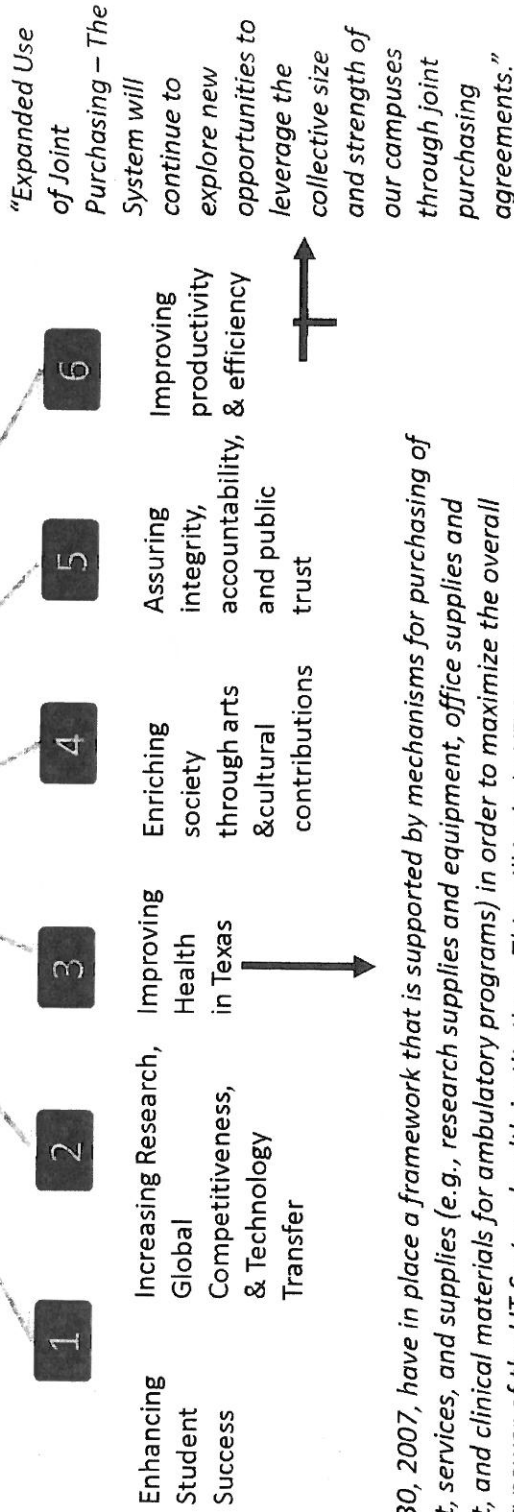


UNIVERSITY OF THE PACIFIC  
SCHOOL OF BUSINESS

# Supply Chain Alliance Overview

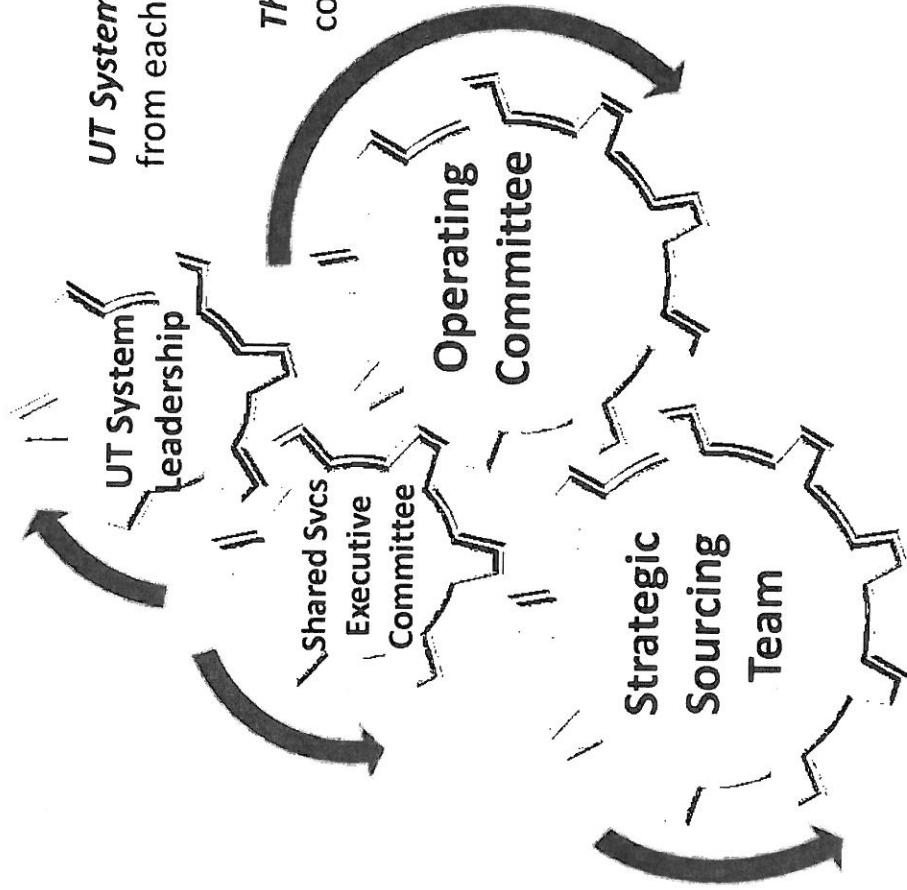


# Board of Regents 2006 -2015 Strategic Plan



*“By June 30, 2007, have in place a framework that is supported by mechanisms for purchasing of equipment, services, and supplies (e.g., research supplies and equipment, office supplies and equipment, and clinical materials for ambulatory programs) in order to maximize the overall purchasing power of the UT System health institutions. This will include UT System supply chain activities as well as purchasing by specific institutions to serve multiple campuses, when cost effective.”*

# Shared Services Governance



*UT System Administration Leadership and the Presidents from each UT System institution.*

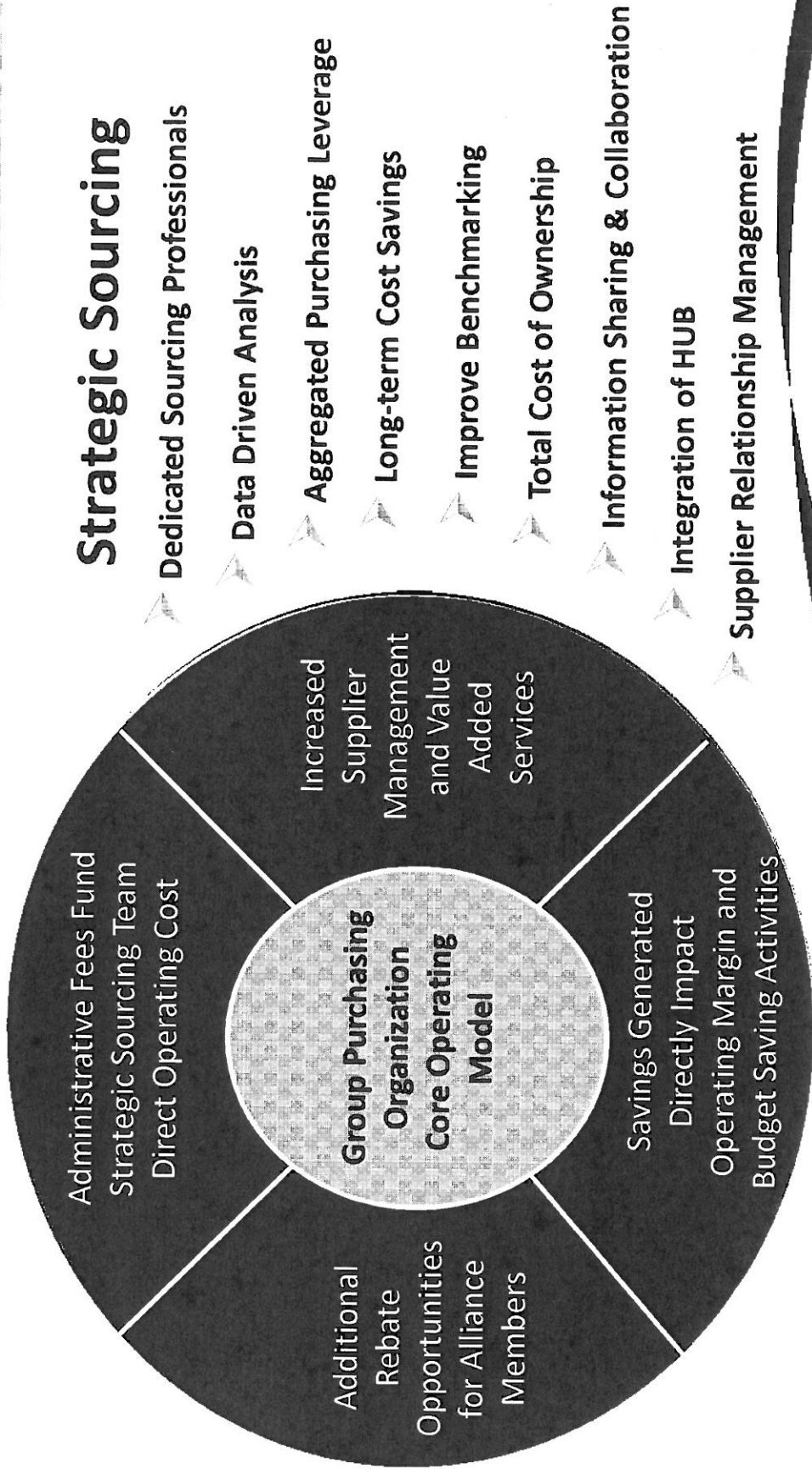
*The Shared Services Executive Committee is comprised of the Chief Business Officers*

*The Operating Committee is comprised of the Chief Supply Chain Officers*

*The Strategic Sourcing Team dedicated group of supply chain professionals with a combined 150 years of experience*



# Alliance Business Model





# SOURCING EVENT



Ministry of Economic Planning and Economic Development  
of the State of Palestine

# Sourcing Event Overview

- Objective and Background
- Scope of Work
- Price Schedule (Attachment A)

# Objective

- Comprehensive and guaranteed service and pricing structure
- Leverage the aggregate purchasing volumes of participants
- Achieve cost savings for participants
- Enhance relationships between Preferred Supplier and participants

# Background

- To administer care and ensure patient safety, a wide range of specialized healthcare personnel require access to a patient's Protected Health Information ("PHI")
- Illegal activities regarding Electronic Health Records ("EHR") and other private patient information are on the rise in the healthcare industry
- These activities, many of which are internal to an organization, include EHR snooping, identity theft, selling patient information, as well as other inappropriate behaviors
- Existing processes within UT System institutions do not easily allow for proactive monitoring of usage patterns in EHRs. Therefore, an objective of UT System is to identify a technology solution that will systematically discern users who are engaging in inappropriate patient access patterns

# Scope of Work

- A dedicated solution that will assist in improving the efficiency and effectiveness of monitoring and reporting activities related to the detection of impermissible access
- The solution should have the capability of identifying users who are engaging in patient access patterns that are indicative of snooping, identity theft, selling patient information or other unauthorized activity
- The solution should facilitate the filtering out of false positives, and bring the remaining potential incidents to the attention of the privacy or compliance personnel



# Price Schedule

- Must specify all hardware, software, enterprise licensing costs, and sizing specifications to facilitate pricing a solution for a given institution
- Detailed descriptions of software and hardware with all associated costs must be itemized, and architectural drawings with explanations must be included
- List all the services and pricing options with costs, including all required travel costs. This would include maintenance and support, software hosting, software installation, interface design, technical support, and training, where applicable





# HISTORICALLY UNDERUTILIZED BUSINESS



Ministry of Economic Planning  
and Economic Cooperation

# Historically Underutilized Businesses

Stephanie Park  
UT System HUB Coordinator  
[spark@utsystem.edu](mailto:spark@utsystem.edu)  
(512) 499-4378

- All HUB Plans should be reviewed prior to submittal
- Responses that do not include an HSP will be rejected as a material failure to comply with advertised specifications in accordance with the request for qualifications

HUB Subcontractor Training Presentation can be found at:

<http://www.cpa.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

# Sourcing Event Key Dates

Date	Time	Event
Thursday November 15 <sup>th</sup>	3:00 pm	RFP Issue Date
Tuesday November 27 <sup>th</sup>	10:00 am	Pre-Proposal Meeting
Monday December 3 <sup>rd</sup>	5:00 pm	Deadline to Submit Questions for clarification to RFP requirements - Section 2.2 of this RFP.
Tuesday December 11 <sup>th</sup>	3:00pm	RFP SUBMISSION DEADLINE
Early January 2013		Selection Finalists
Early February 2013		Anticipated date for notification of intent to award contract(s).

Note: If selected for contract award, Proposer should have its chief legal and business officers available for commencement of contract negotiations. Such negotiations will take place face-to-face in order to expedite the contracting phase. The anticipated location of this activity is Austin, Texas.

# Sourcing Event Contacts

## RFP Contacts

### Primary Contact

**Miguel F. Machado**

Phone: 713-792-0210

E-mail: [mfmachad@mdanderson.org](mailto:mfmachad@mdanderson.org)

### Secondary Contact

**Jason Stanford**

Phone: 713-563-1021

E-mail: [jpstanford@mdanderson.org](mailto:jpstanford@mdanderson.org)

## MDA Ariba Support Team

### Primary Contact

**Ace Nguyen**

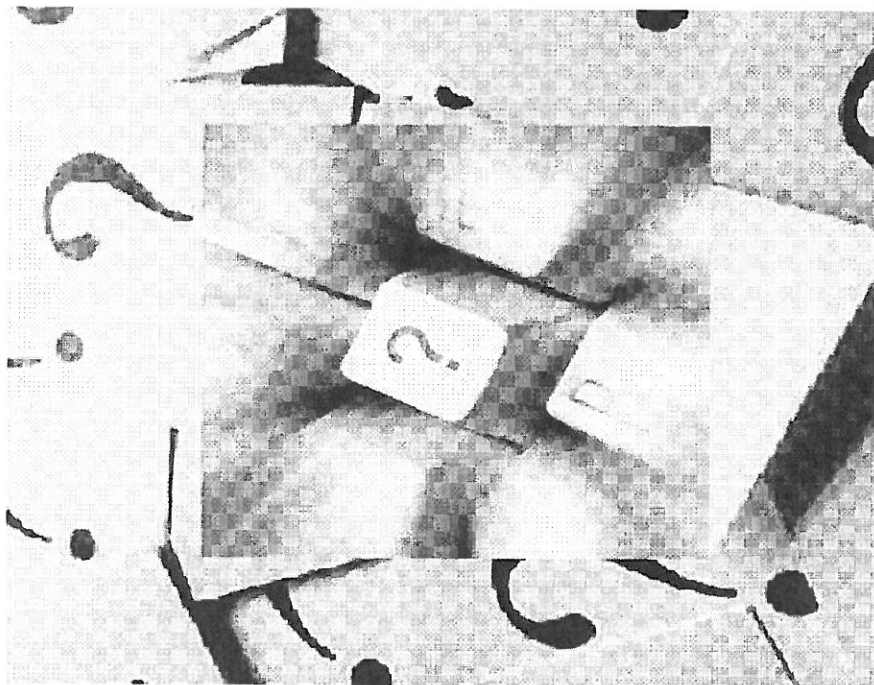
Phone: 713-745-8386

E-mail: [acenguyen@mdanderson.org](mailto:acenguyen@mdanderson.org)

For Technical Issues Contact Ariba Helpdesk  
1-866-218-2155 or [help.sourcing@ariba.com](mailto:help.sourcing@ariba.com)



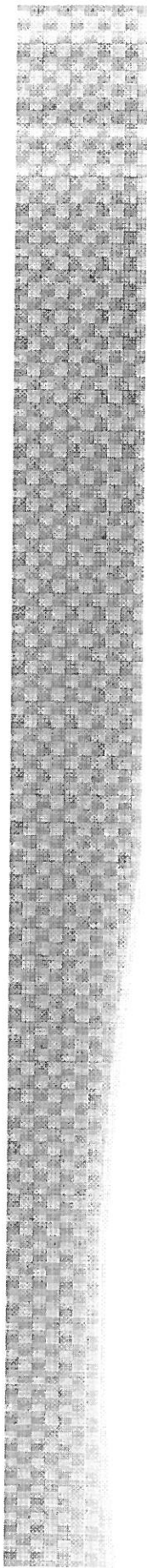
# Questions and Answers



## Q & A



الوزارة  
التربية والتعليم  
Ministry of Education



The UT System Supply Chain Alliance  
&  
The IT Security PPM Workgroup

*Thanks you for your Attendance  
and  
Participation*





# GoToWebinar - Attendee Report

## General Information

**Webinar Name** Patient Privacy Monitoring Pre-Proposal  
**Total Attended** 12  
**Actual Start Date/Time** Nov 27, 2012 09:47 AM CST  
**Actual Duration (minutes)** 42

## Session Details

First Name	Last Name	Email	Organization
Jim	Tefft	jim.tefft@attachmate.com	Attachmate Corp
Larry	Meeusen	larry.meeusen@attachmate.com	Attachmate Corp
Mark	Reeder	mark.reeder@attachmate.com	Attachmate Corp
Tony	Corradi	tonyc@attachmate.com	Attachmate Corp
Ashley	Hefner	ashley.hefner@cerner.com	Cerner Corp
Kindra	Allen	kindraallen@deloitte.com	Deloitte & Touche
Donna	Gustafson	dgustafson@deloitte.com	Deloitte & Touche
Shane	Whitlatch	shane@fairwarning.com	FairWarning Software, Inc.
Tiffany	McLauchlin	tiffany@fairwarning.com	FairWarning Software, Inc.
Karen	Pursch	karen.pursch@iatric.com	Iatric Systems
Stephanie	Park	spark@utsystem.edu	UT System
Nicole	Borner	nborner@veriphys.com	Veriphys