



Texas Comptroller of Public Accounts
Glenn Hegar

Darya Vienne Account ▾

Contracts

SPD Applications

Solicitation Notice

Print

Thank you for using the ESBD, your bid solicitation entry is now complete

Status: Posted

Solicitation ID:720-1902

Solicitation Title:720-1902 Intercollegiate Athletics Consulting and Recruiting Services

[Modify Solicitation](#)

Organization Name: University Of Texas System - 720

Posting Requirements: 21+ Days for Solicitation Notice

[Cancel Solicitation](#)

Solicitation Posting Date: 9/12/2018

Response Due Date:10/10/2018

Response Due Time: 2:30 PM

Solicitation Description: Intercollegiate Athletics Consulting and Recruiting Services

Class/Item Code: 91800-Consulting Services

Record Attachments

#	Name	Description
1	ESBD_File_143709_RFP720-1902 Intercollegiate Athletics Consulting and Recruiting Services.docx	RFP Document
2	ESBD_File_143709_RFP720-1902 APPENDIX TWO - Sample Agreement.docx	Sample Agreement



Texas Comptroller of Public Accounts
Glenn Hegar

- [Home](#)
- [Contact Us](#)

POLICIES

- [Privacy and Security Policy](#)
- [Accessibility Policy](#)
- [Link Policy](#)
- [Texas.gov](#)
- [Search from the Texas State Library](#)
- [Texas Homeland Security](#)
- [Texas Veterans Portal](#)
- [Public Information Act](#)
- [Texas Secretary of State](#)
- [HB855 Browser Statement](#)

OTHER STATE SITES

- [texas.gov](#)
- [Texas Records and Information Locator \(TRAIL\)](#)
- [State Link Policy](#)
- [Texas Veterans Portal](#)



REQUEST FOR PROPOSAL

RFP No. 720-1902 Intercollegiate Athletics Consulting and Recruiting Services

Proposal Submittal Deadline: Wednesday, October 10th, 2018 at 2:30 PM CST

The University of Texas System
Academic Affairs

Prepared By:
Darya Vienne
The University of Texas System
210 West 7th Street
Austin, Texas 78701-2982
dvienne@utsystem.edu
September 12, 2018

REQUEST FOR PROPOSAL

TABLE OF CONTENTS

SECTION 1: INTRODUCTION 1

SECTION 2: NOTICE TO PROPOSER..... 3

SECTION 3: SUBMISSION OF PROPOSAL..... 7

SECTION 4: GENERAL TERMS AND CONDITIONS 9

SECTION 5: SPECIFICATIONS AND ADDITIONAL QUESTIONS 10

SECTION 6: PRICING AND DELIVERY SCHEDULE..... 15

Attachments:

- APPENDIX ONE: PROPOSAL REQUIREMENTS
- APPENDIX TWO: SAMPLE AGREEMENT
- APPENDIX THREE: ACCESS BY INDIVIDUALS WITH DISABILITIES
- APPENDIX FOUR: CERTIFICATE OF INTERESTED PARTIES (FORM 1295)
- APPENDIX FIVE: SAMPLE NON-DISCLOSURE AGREEMENT

SECTION 1

INTRODUCTION

1.1 Description of The University of Texas System

For more than 130 years, The University of Texas System has been committed to improving the lives of Texans and people all over the world through education, research and health care.

The University of Texas System is one of the nation's largest systems of higher education, with 14 institutions that educate more than 230,000 students. Each year, UT institutions award more than one-third of all undergraduate degrees in Texas and almost two-thirds of all health professional degrees. With about 20,000 faculty – including Nobel laureates – and more than 80,000 health care professionals, researchers, student advisors and support staff, the UT System is one of the largest employers in the state.

Life-changing research and invention of new technologies at UT institutions places the UT System among the top 10 "World's Most Innovative Universities," according to Reuters. The UT System ranks eighth in the nation in patent applications, and because of the high caliber of scientific research conducted at UT institutions, the UT System is ranked No. 1 in Texas and No. 3 in the nation in federal research expenditures.

In addition, the UT System is home to three of the nation's National Cancer Institute Cancer Centers – UT MD Anderson, UT Southwestern and UT Health Science Center-San Antonio – which must meet rigorous criteria for world-class programs in cancer research. And the UT System is the only System in the country to have four Clinical and Translational Science Awards (CTSA) from the National Institutes of Health.

Transformational initiatives implemented over the past several years have cemented UT as a national leader in higher education, including the expansion of educational opportunities in South Texas with the opening of The University of Texas Rio Grande Valley in 2015. And UT was the only system of higher education in the nation that established not one, but two new medical schools in 2016 at The University of Texas at Austin and UT Rio Grande Valley.

University of Texas institutions are setting the standard for excellence in higher education and will continue to do so thanks to our generous donors and the leadership of the Chancellor, Board of Regents and UT presidents.

1.2 Background and Special Circumstances

The University's objective in issuing this RFP No. 720-1902 is to enter into one (1) or more cost-effective, flexible, non-exclusive contracts with established firms experienced and knowledgeable in providing intercollegiate athletics consulting and recruiting services to the athletic departments at the UT System academic institutions ("**Institutions**"). These contract(s) are intended to facilitate providing timely services to the Institutions.

Successful respondent(s) will pre-qualify to provide these services, *upon request by an Institution.* Execution of an agreement between UT System and a successful proposer(s)

does not assure that the successful proposer(s) will be requested to provide services. UT SYSTEM DOES NOT REPRESENT OR WARRANT THAT UNIVERSITY WILL SEEK SUCH SERVICES FROM A SUCCESSFUL PROPOSER AND THE SYSTEM SPECIFICALLY DISCLAIMS ANY SUCH REPRESENTATIONS AND WARRANTIES.

1.3 Objective of Request for Proposal

The University of Texas System is soliciting proposals in response to this Request for Proposal No.720-1902 (this “**RFP**”), from qualified vendors to provide athletics consulting and search services (the “**Services**”) more specifically described in **Section 5.3** of this RFP, including the following service areas,

- ✓ Comprehensive Program Reviews or Targeted Reviews
- ✓ Strategic Planning
- ✓ Feasibility Studies
- ✓ Title IX Reviews / Audits
- ✓ Coach and Athletics Administrator Searches
- ✓ NCAA Rules & Regulations Evaluation and Infractions Representation
- ✓ Media Relations and Crisis Management
- ✓ Professional Development, Education and Training

Proposer may select to bid on **any or all** service areas mentioned above. Proposer must indicate which services is Proposing to provide in **Section 5.4**.

1.4 Group Purchase Authority

Texas law authorizes institutions of higher education (defined by [§61.003, Education Code](#)) to use the group purchasing procurement method (ref. §§[51.9335](#), [73.115](#), and [74.008](#), *Education Code*). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Proposer under this RFP. In particular, Proposer should note that University is part of The University of Texas System (**UT System**), which is comprised of fourteen institutions described at <http://www.utsystem.edu/institutions>. UT System institutions routinely evaluate whether a contract resulting from a procurement conducted by one of the institutions might be suitable for use by another, and if so, this RFP could give rise to additional purchase volumes. As a result, in submitting its proposal, Proposer should consider proposing a pricing model and other commercial terms that take into account the higher volumes and other expanded opportunities that could result from the eventual inclusion of other institutions in the purchase contemplated by this RFP. Any purchases made by other institutions based on this RFP will be the sole responsibility of those institutions.

SECTION 2

NOTICE TO PROPOSER

2.1 Submittal Deadline

University will accept proposals submitted in response to this RFP until 2:30 p.m., Central Standard Time (“**CST**”) on Wednesday, October 10th, 2018 (the “**Submittal Deadline**”).

2.2 University Contact Person

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

Darya Vienne
Email: dvienne@utsystem.edu

University specifically instructs all interested parties to restrict all contact and questions regarding this RFP to written communications delivered to (i) University Contact, or (ii) if questions relate to Historically Underutilized Businesses, to HUB Coordinator (ref. **Section 2.5** of this RFP). *University Contact must receive all questions or concerns no later than 2:30 p.m. CST on Thursday, September 20th, 2018.* University will have a reasonable amount of time to respond to questions or concerns. It is University’s intent to respond to all appropriate questions and concerns; however, University reserves the right to decline to respond to any question or concern.

2.3 Criteria for Selection

The successful Proposer, if any, selected by University through this RFP will be the Proposer that submits a proposal on or before the Submittal Deadline that is the most advantageous to University. The successful Proposer is referred to as “**Contractor.**”

Proposer is encouraged to propose terms and conditions offering the maximum benefit to University in terms of (1) service, (2) total overall cost, and (3) project management expertise.

The evaluation of proposals and the selection of Contractor will be based on the information provided in the proposal. University may consider additional information if University determines the information is relevant.

Criteria to be considered by University in evaluating proposals and selecting Contractor, will be these factors:

2.3.1 Threshold Criteria Not Scored

- A. Ability of University to comply with laws regarding Historically Underutilized Businesses; and
- B. Ability of University to comply with laws regarding purchases from persons with disabilities.

2.3.2 Scored Criteria

- A. Cost (30%);
- B. Vendor Experience (20%);
- C. Approach to Project Services (50%).

2.4 Key Events Schedule

Issuance of RFP	Wednesday, September 12 th , 2018
Pre-Proposal Call (ref. Section 2.6 of this RFP)	10:30 a.m. CST on Tuesday, September 18 th , 2018
Deadline for Questions / Concerns (ref. Section 2.2 of this RFP)	2:30 p.m. CST on Thursday, September 20 th , 2018
Submittal Deadline (ref. Section 2.1 of this RFP)	2:30 p.m. CST on Wednesday, October 10 th , 2018

2.5 Historically Underutilized Businesses

- 2.5.1 All agencies of the State of Texas are required to make a good faith effort to assist historically underutilized businesses (each a “**HUB**”) in receiving contract awards. The goal of the HUB program is to promote full and equal business opportunity for all businesses in contracting with state agencies. Pursuant to the HUB program, if under the terms of any agreement or contractual arrangement resulting from this RFP, Contractor subcontracts any of the Services, then Contractor must make a good faith effort to utilize HUBs certified by the Procurement and Support Services Division of the Texas Comptroller of Public Accounts. Proposals that fail to comply with the requirements contained in this **Section 2.5** will constitute a material failure to comply with advertised specifications and will be rejected by University 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 University, 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 University to ensure compliance with the HUB program.
- 2.5.2 University has reviewed this RFP in accordance with [Title 34, Texas Administrative Code, Section 20.285](#), and has determined that subcontracting opportunities (HUB and/or Non-HUB) are probable under this RFP. The HUB participation goal for this RFP is **26%**.
- 2.5.3 A HUB Subcontracting Plan (“**HSP**”) is required as part of, *but submitted separately from*, Proposer’s proposal. The HSP will be developed and administered in accordance with University’s Policy on Utilization of Historically Underutilized Businesses and incorporated for all purposes.

*Each Proposer, **whether self-performing or planning to subcontract**, must complete and return the HSP in accordance with the terms and conditions of this RFP. Proposers that fail to do so will be considered non-responsive to this RFP in accordance with [§2161.252, Government Code](#).*

Questions regarding the HSP may be directed to:

Contact: Kyle Hayes
HUB Coordinator
Phone: 512-322-3745
Email: khayes@utsystem.edu

Contractor will not be permitted to change its HSP after the deadline submittal date unless:
(1) Contractor completes a new HSP, setting forth all modifications requested by

Contractor, (2) Contractor provides the modified HSP to University, (3) University HUB Program Office approves the modified HSP in writing, and (4) all agreements resulting from this RFP are amended in writing to conform to the modified HSP.

- 2.5.4 Proposer must submit, **via email**, one (1) HSP in PDF format to University no later than 2:30 p.m. CST on Wednesday, October 10th, 2018 (ref. **Section 3.2** of this RFP) to the email address below:

HSP Submittal Email: utadminHSP@utsystem.edu

Proposer must include the following information in the email submission:

Subject Line: *RFP #720-1902 Intercollegiate Athletics Consulting and Recruiting Services, 2:30 p.m. CST on Wednesday, October 10th, 2018, HUB Subcontracting Plan*

Body: Proposer company name and the name and contact information of the person who prepared the HSP.

Instructions on completing an HSP

Proposer must visit <https://www.utsystem.edu/offices/historically-underutilized-business/hub-forms> to download the most appropriate HUB Subcontracting Plan (HSP) / Exhibit H form for use with this Request for Proposal. Proposer will find, on the HUB Forms webpage, a link to “[Guide to Selecting the Appropriate HSP Option](#)”. **Please click on this link and read the Guide first before selecting an HSP Option.** Proposer shall select, from the four (4) Options available, the Option that is most applicable to Proposer’s subcontracting intentions. These forms are in **fillable** PDF format and must be downloaded and opened with *Adobe Acrobat/ Reader* to utilize the fillable function. If Proposer has any questions regarding which Option to use, Proposer shall contact the HUB Coordinator listed in 2.5.3.

Proposer must complete the HSP, then print, sign and scan *all pages* of the HSP Option selected, with additional support documentation*, **to the submittal email address noted above**. NOTE: signatures must be “wet” signatures. Digital signatures are not acceptable.

Any proposal submitted in response to this RFP that does not have a corresponding HSP meeting the above requirements may be rejected by University and returned to Proposer unopened as non-responsive due to material failure to comply with advertised specifications.

University will send an email confirmation to each Proposer upon receipt of the Proposer’s HSP. Each Proposer’s HSP will be evaluated for completeness and compliance prior to opening the proposal to confirm Proposer compliance with HSP rules and standards. Proposer’s failure to submit one (1) completed and signed HUB Subcontracting Plan **to the email address noted above** may result in University’s rejection of the proposal as non-responsive due to material failure to comply with advertised specifications; such a proposal *may* be returned to the Proposer unopened (ref. **Section 1.5** of **APPENDIX ONE** to this RFP). **Note:** *The requirement that Proposer provide one (1) completed and signed pdf of the HSP under this **Section 2.5.4** is separate from, and does not affect, Proposer’s obligation to provide University with the number of copies of its proposal as specified in **Section 3.1** of this RFP.*

***If Proposer’s submitted HSP refers to specific page(s) / Sections(s) of Proposer’s proposal that explain how Proposer will perform entire contract with its own equipment, supplies, materials and/or employees, Proposer must submit copies of**

those pages with the HSP sent to the HSP Submittal email address noted above. In addition, all *solicitation emails* to potential subcontractors must be included as backup documentation to the Proposer's HSP to demonstrate Good Faith Effort.
Failure to do so will slow the evaluation process and may result in DISQUALIFICATION.

2.6 Pre-Proposal Call

University will hold a pre-proposal conference call at **10:30 a.m. Central Time on Tuesday, September 18th, 2018**. The pre-proposal conference call will allow all Proposers an opportunity to ask University's representatives relevant questions and clarify provisions of this RFP.

Call-in number: (877)226-9790

Participant Code: 6269693#

SECTION 3

SUBMISSION OF PROPOSAL

3.1 Number of Copies

- A. One (1) complete paper copy of its *entire* proposal.

The paper copy of the proposal should contain the mark "original" on the front cover of the proposal. An original signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. Section 2 of APPENDIX ONE) of the submitted paper copy of the proposal.

University does not consider electronic signatures to be valid therefore the original signature must be a "wet signature."

- B. One (1) complete electronic copy of its entire proposal in a single .pdf file on USB Flash Drive. USB Flash Drive must include a protective cover and be labeled with Proposer's name and RFP number. In addition, Proposer must submit one (1) complete electronic copy of the proposal on the same USB Flash Drive on which all proposed pricing information, provided in response to **Section 6**, has been removed.

3.2 Submission

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

The University of Texas System Administration
210 West 7th Street
Austin, Texas 78701-2982
Attn: Darya Vienne

NOTE: Show the Request for Proposal number and submittal date in the lower left-hand corner of sealed bid envelope (box / container).

Proposals must be typed on letter-size (8-1/2" x 11") paper, and must be submitted in a 3-ring binder. Preprinted material should be referenced in the proposal and included as labeled attachments. Sections within a proposal should be divided by tabs for ease of reference.

3.3 Proposal Validity Period

Each proposal must state that it will remain valid for University's acceptance for a minimum of one hundred and twenty (120) days after the Submittal Deadline, to allow time for evaluation, selection, and any unforeseen delays.

3.4 Terms and Conditions

- 3.4.1 Proposer must comply with the requirements and specifications contained in this RFP, including the Agreement (ref. **APPENDIX TWO**), the Notice to Proposer (ref. **Section 2** of this RFP), Proposal Requirements (ref. **APPENDIX ONE**) and the Specifications and Additional Questions (ref. **Section 5** of this RFP). If there is a conflict among the provisions in this RFP, the provision requiring Proposer to supply the better quality or greater quantity of services will prevail, or if such conflict

does not involve quality or quantity, then interpretation will be in the following order of precedence:

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

3.5 Submittal Checklist

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

- 3.5.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**)
- 3.5.2 Signed and Completed Pricing and Delivery Schedule (ref. **Section 6** of this RFP)
- 3.5.3 Responses to Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**)
- 3.5.4 Signed and Completed Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**)
- 3.5.5 Responses to questions and requests for information in the Specifications and Additional Questions Section (ref. **Section 5** of this RFP)
- 3.5.6 Completed **Voluntary Product Accessibility Template** document. This document is required **ONLY** if Proposer will be providing an EIR. See EIR description in **Section 5.2.4**. VPAT document to complete is located at the following website: <https://www.itic.org/dotAsset/d432b9da-3696-47fe-a521-7d0458d48202.doc>

SECTION 4

GENERAL TERMS AND CONDITIONS

The terms and conditions contained in the attached Agreement (ref. **APPENDIX TWO**) or, in the sole discretion of University, terms and conditions substantially similar to those contained in the Agreement, will constitute and govern any agreement that results from this RFP. If Proposer takes exception to any terms or conditions set forth in the Agreement, Proposer will submit redlined **APPENDIX TWO** as part of its proposal in accordance with **Section 5.2.1** of this RFP. Proposer's exceptions will be reviewed by University and may result in disqualification of Proposer's proposal as non-responsive to this RFP. If Proposer's exceptions do not result in disqualification of Proposer's proposal, then University may consider Proposer's exceptions when University evaluates the Proposer's proposal.

SECTION 5

SPECIFICATIONS AND ADDITIONAL QUESTIONS

5.1 General

The minimum requirements and the specifications for the Services, as well as certain requests for information to be provided by Proposer as part of its proposal, are set forth below. As indicated in **Section 2.3** of this RFP, the successful Proposer is referred to as the “**Contractor.**”

Contract Term: University intends to enter into an agreement with the Contractor to perform the Services for five (5) years.

Approval by the Board of Regents: No Agreement resulting from this RFP will be effective for amounts exceeding one million dollars (\$1,000,000) until approved by the Board of Regents of The University of Texas System.

Multiple Awards: University reserves the right to make multiple awards against this RFP.

5.2 Additional Questions Specific to this RFP

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

5.2.1 If Proposer takes exception to any terms or conditions set forth in the Agreement (ref. **APPENDIX TWO**), Proposer must redline APPENDIX TWO and include **APPENDIX TWO** as part of its Proposal. If Proposer agrees with terms or conditions set forth in the **APPENDIX TWO**, Proposer will submit a written statement acknowledging it.

5.2.2 By signing the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**), Proposer agrees to comply with Certificate of Interested Parties laws (ref. [§2252.908, Government Code](#)) and [1 TAC §§46.1 through 46.5](#)) as implemented by the Texas Ethics Commission (“TEC”), including, among other things, providing TEC and University with information required on the form promulgated by TEC and set forth in **APPENDIX FOUR**. *Proposer may learn more about these disclosure requirements, including applicable exceptions and use of the TEC electronic filing system, by reviewing [§2252.908, Government Code](#), and information on the TEC website at https://www.ethics.state.tx.us/whatsnew/FAQ_Form1295.html. **The Certificate of Interested Parties must only be submitted by Contractor upon delivery to University of a signed Agreement.***

5.2.3 *This Section applies only if Proposer will provide Information Resources as defined in **Section 5.2.4.***

In its proposal, Proposer must indicate whether it will consent to include in the Agreement the “Access by Individuals with Disabilities” language that is set forth in **APPENDIX THREE, Access by Individuals with Disabilities**. If Proposer objects to the inclusion of the “Access by Individuals with Disabilities” language in the Agreement, Proposer must, as part of its proposal, specifically identify and describe in detail all of the reasons for Proposer’s objection. NOTE THAT A GENERAL OBJECTION IS NOT AN ACCEPTABLE RESPONSE TO THIS QUESTION.

5.2.4 [UTS165](#) defines “**Information Resources**” as 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.

5.2.5 The University of Texas System Institutions routinely handle and have sensitive information located in various areas around a campus department and Contractor may encounter such information, files, or overhear conversations containing personally identifiable information as defined under the Family Educational Rights and Privacy Act (**FERPA**). Awarded Proposer will be required to sign a Non-Disclosure Agreement (**NDA**) indicating an understanding of the sensitive nature of the information and attest to treat such information according to the NDA. Sample Non-Disclosure Agreement is provided in **APPENDIX FIVE**.

5.3 Scope of Work

Provide expert consulting and search services to support Requesting Institution in one (1) or more of the of the following eight (8) areas:

5.3.1 Comprehensive Program Reviews or Targeted Reviews.

Subject matter areas include, but are not limited to, the following:

- Organizational Structure;
- Finance / Business Operations;
- Department Climate and Culture;
- Academic Programs, Support and Eligibility;
- Recruiting, Admissions and Financial Aid;
- Student-Athlete Experience and Welfare;
- Compliance;
- Medical Services and Athletic Training;
- Performance – Strength & Conditioning, Nutrition;
- Ticketing & Premium / Priority Seating;
- Branding, Marketing, Licensing & Trademark;
- Multi Media Rights;
- Policies and Procedures;
- Facilities;
- Event Operations;
- Security;
- Camps & Clinics Operations;
- Youth Safety Policies;
- Sport Program Analysis;
- Conference Affiliation.

5.3.2 Strategic Planning.

Subject matter areas include, but are not limited to, the following:

- Organizational Structure;
- Vision and Mission;
- Finance / Business Operations;
- Facilities;
- Sport Program Analysis;
- Conference Realignment / Affiliation;
- Compliance;
- Recruiting, Admissions and Financial Aid;
- Academic Support and Eligibility;
- Multi Media Rights;
- Branding, Marketing, Licensing & Trademark;
- Ticketing & Premium / Priority Seating.

5.3.3 Feasibility Studies

- Market Research and Benchmarking services;
- Conference Affiliation;
- Initiation of Intercollegiate Athletics Program;
- Initiation and sponsorship of football or another sport;
- Corporate Sponsorships;
- Fundraising & Development;
- Facilities.

5.3.4 Title IX Reviews / Audits.

5.3.5 Coach and Athletics Administrator Searches.

5.3.6 NCAA Rules & Regulations Evaluation and Infractions Representation.

5.3.7 Media Relations and Crisis Management.

5.3.8 Professional Development, Education and Training.

5.3.9 Provide services in accordance with a schedule established in the Project Addendum.

5.3.10 Promptly notify The University of Texas System Office of Academic Affairs (Attn: Associate Vice Chancellor of Academic Affairs and Athletics Counsel) of any request for services by an Institution and provide a copy of the complete Project Addendum within ten (10) business days after it is fully executed.

5.4 Types of Services Offered by Proposer

Proposer shall place an "X" on the appropriate line below to indicate which Services Proposer is proposing to provide:

Comprehensive Program Reviews or Targeted Reviews

Strategic Planning

Feasibility Studies

Title IX Reviews / Audits

Coach and Athletics Administrator Searches

NCAA Rules & Regulations Evaluation and Infractions Representation

Media Relations and Crisis Management
Professional Development, Education and Training
Other (Please describe in detail).

5.5 Additional Questions Specific to this RFP

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

Vendor Experience (20%)

1. Provide references from three (3) of Proposer's customers from the past five (5) years for services that are similar in scope, size, and complexity to the Services described in this RFP.

Provide the following information for each customer:

- Customer name and address;
 - Contact name with email address and phone number;
 - Time period in which work was performed;
 - Short description of work performed.
2. Has Proposer worked with an athletic department at a UT System institution in the past five (5) years? If "yes," state the Institution name, department contact, and provide a brief description of work performed.
 3. Provide a detailed description of the firm's experience in providing the services listed in **Section 5.3**, including a list of some of the customers.
 4. Provide detailed information on the organizational structure of Proposer's firm, the history and market position of the firm, and the philosophy and value the firm would add to the consulting and search processes for the University.
 5. Indicate key positions in Proposer's firm Proposer believes will be required to perform the Services described in this RFP and describe what those positions will be responsible for.
 6. Provide names and resumes demonstrating the qualifications of personnel from Proposer's firm that will perform the Services described in this RFP. Include:
 - Role in Proposer's firm;
 - Position in Proposer's firm;
 - Education;
 - Background, etc.
 7. Disclose whether Proposer has ever had a contract terminated and if so, provide a detailed explanation of the contract and circumstances surrounding termination.
 8. Provide overall client satisfaction scores from surveys of past organizations for which Proposer has conducted services.

Approach to Project Services (50%)

9. Provide a detailed plan for each of the services that Proposer offers in **Section 5.3**. If Proposer is providing services listed in **Sections 5.3.1-5.3.3**, include the major areas the reviews / plans / studies typically encompass, and the goals and outcomes of a typical review / plan / study.
10. Provide an example, if any, of a unique technology used by Proposer that aids in providing the consulting and search services. Refer to **Sections 5.2.3** and **5.2.4** to determine if Proposer will provide an Electronic Information Resource (EIR) as a part of Service(s). Submit completed VPAT (**Section 3.5.6**) if Proposer will provide an EIR.

*If Proposer is providing services listed in **Section 5.3.5**, respond to questions 11-14.*

11. State Proposer's capabilities in providing assistance during the interview process. Examples of assistance will include but not be limited to: assisting with correspondence between applicants, nominators and nominees, and coordinating between applicants, nominators, nominees and University.
12. If requested, explain how Proposer would assist with or handle the contract negotiation with the candidate of choice.
13. Describe Proposer's internal screening methodology (video conference / in person / telephone, etc.) and how it produces the most viable candidates.
14. Provide Proposer's policy on the confidentiality of its search process.

*Respond to questions 15-16 for any of the Services Proposer provides as per **Section 5.3**.*

15. Indicate if Proposer will offer a multiple-consulting/search discount to a UT System institution if the institution utilizes Proposer's firm on more than one occasion during the calendar year. (Do not include discount percentage. Discount percentage should be stated in **Section 6**).
16. Describe Proposer's billing policy for each service provided.

SECTION 6

PRICING AND DELIVERY SCHEDULE

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System

RFP No.: 720-1902 Intercollegiate Athletics Consulting and Recruiting Services

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFP and any attachments thereto, the undersigned proposes to furnish the required pursuant to the above-referenced Request for Proposal upon the terms quoted (firm fixed price) below. The University will not accept proposals which include assumptions or exceptions to the work identified in this RFP.

6.1 Explanation of Pricing Schedule

Proposer must complete pricing for all Services Proposer intends to provide. Follow examples below on how to complete **Section 6.2**.

Example if Services not provided:

- A. Comprehensive Program Reviews or Targeted Reviews

_____ **will** provide Services for Comprehensive Program Reviews or Targeted Reviews

__X__ **will not** provide Services for Comprehensive Program Reviews or Targeted Reviews

Example if Services provided:

- B. Strategic Planning

__X__ **will** provide Strategic Planning

_____ **will not** provide Strategic Planning

Use space below to explain Proposer's fee structure.

6.2 Pricing for Services Offered (30%)

A. Comprehensive Program Reviews or Targeted Reviews

_____ **will** provide Comprehensive Program Reviews or Targeted Reviews

_____ **will not** provide Comprehensive Program Reviews or Targeted Reviews

Use space below to explain Proposer's fee structure.

B. Strategic Planning

_____ **will** provide Strategic Planning services

_____ **will not** provide Strategic Planning services

Use space below to explain Proposer's fee structure.

C. Feasibility Studies

_____ **will** provide Feasibility Studies

_____ **will not** provide Feasibility Studies

Use space below to explain Proposer's fee structure.

D. Title IX Reviews / Audits

_____ **will** provide Title IX Reviews / Audits

_____ **will not** provide Title IX Reviews / Audits

Use space below to explain Proposer's fee structure.

E. Coach and Athletics Administrator Searches

_____ **will** provide Coach and Athletics Administrator Searches

_____ **will not** provide Coach and Athletics Administrator Searches

Use space below to explain Proposer's fee structure.

F. NCAA Rules & Regulations Evaluation and Infractions Representation

_____ **will** provide NCAA Rules & Regulation Evaluation and Infractions Representation

_____ **will not** provide NCAA Rules & Regulation Evaluation and Infractions Representation

Use space below to explain Proposer's fee structure.

G. Media Relations and Crisis Management

_____ **will** provide Crisis Management services

_____ **will not** provide Crisis Management services

Use space below to explain Proposer's fee structure.

H. Professional Development, Education and Training

_____ **will** provide Professional Development, Education and Training

_____ **will not** provide Professional Development, Education and Training

Use space below to explain Proposer's fee structure.

I. Other Services

_____ **will** provide Other Services

_____ **will** not provide Other Services

Use space below to explain Proposer's fee structure.

6.3 Expense Reimbursement: Contractor will not be reimbursed for expenses, except as follows:

Contractor will be reimbursed without mark-up for reasonable expenses (including meals, rental car or mileage, coach class airfare, and lodging) validly incurred directly and solely in support of the recruitment, approved by University in advance, and for which Contractor submits requisite supporting documentation. Reimbursement is subject to then-current Travel Reimbursement Rates promulgated by the Comptroller of Public Accounts for the State of Texas at <https://fm.xcpa.state.tx.us/fm/travel/travelrates.php> with regard to meals, mileage, rental car, airfare, lodging and all other expenses related to travel. Contractor will not be reimbursed by University for expenses that are prohibited, that exceed the allowable amounts set forth in the then-current Travel Reimbursement Rates, or that are payable or reimbursable/reimbursed to Contractor by a someone other than University.

Reimbursable expenses to include only:

1. _____
2. _____
3. _____
4. _____

Total reimbursable expenses (“**Expense Cap**”) will not exceed \$_____ for any one recruitment.

6.4 Discounts

Describe all discounts that may be available to University, including, educational, federal, state and local discounts.

6.5 Delivery Schedule of Events and Time Periods

Indicate number of calendar days needed to commence the Services from the execution of the services agreement:

_____ Calendar Days

6.6 Payment Terms

University’s standard payment terms are “net 30 days” as mandated by the *Texas Prompt Payment Act* (ref. [Chapter 2251, Government Code](#)).

Indicate below the prompt payment discount that Proposer offers:

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

[Section 51.012, Education Code](#), authorizes University to make payments through electronic funds transfer methods. Proposer agrees to accept payments from University through those methods, including the automated clearing house system (“ACH”). Proposer agrees to provide Proposer’s banking information to University in writing on Proposer letterhead signed by an authorized representative of Proposer. Prior to the first payment, University will confirm Proposer’s banking information. Changes to Proposer’s bank information must be communicated to University in writing at least thirty (30) days before the effective date of the change and must include an [IRS Form W-9](#) signed by an authorized representative of Proposer.

University, an agency of the State of Texas, is exempt from Texas Sales and Use Tax on goods and services in accordance with [Section 151.309, Tax Code](#), and [Title 34 TAC Section 3.322](#). Pursuant to [34 TAC Section 3.322\(c\)\(4\)](#), University is not required to provide a tax exemption certificate to establish its tax exempt status.

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

**APPENDIX ONE
PROPOSAL REQUIREMENTS**

TABLE OF CONTENTS

SECTION 1: GENERAL INFORMATION..... 1

SECTION 2: EXECUTION OF OFFER 4

SECTION 3: PROPOSER'S GENERAL QUESTIONNAIRE 7

SECTION 4: ADDENDA CHECKLIST 9

SECTION 1

GENERAL INFORMATION

1.1 Purpose

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

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

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

1.2 Inquiries and Interpretations

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

Proposers are required to acknowledge receipt of each Addendum as specified in this Section. The Proposer must acknowledge all Addenda by completing, signing and returning the Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**). The Addenda Checklist must be received by University prior to the Submittal Deadline and should accompany the Proposer's proposal.

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

1.3 Public Information

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

University 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, University 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* (ref. [Chapter 552, Government Code](#)). 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 §§[552.101](#), [552.104](#), [552.110](#), [552.113](#), and [552.131](#), *Government Code*.

1.4 Type of Agreement

Contractor, if any, will be required to enter into a contract with University in a form substantially similar to the Agreement between University and Contractor (the "**Agreement**") attached to this RFP as **APPENDIX TWO** and incorporated for all purposes.

1.5 Proposal Evaluation Process

University will select Contractor by using the competitive sealed proposal process described in this Section. Any proposals that are not submitted by the Submittal Deadline or that are not accompanied by required number of completed and signed originals of the HSP will be rejected by University as non-responsive due to material failure to comply with this RFP (ref. **Section 2.5.4** of this RFP). Upon completion of the initial review and evaluation of proposals, University may invite one or more selected Proposers to participate in oral presentations. University will use commercially reasonable efforts to avoid public disclosure of the contents of a proposal prior to selection of Contractor.

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

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

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

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

1.6 Proposer's Acceptance of RFP Terms

Proposer (1) accepts [a] Proposal Evaluation Process (ref. **Section 1.5** of **APPENDIX ONE**), [b] Criteria for Selection (ref. **2.3** of this RFP), [c] Specifications and Additional Questions (ref. **Section 5** of this RFP), [d] terms and conditions of the Agreement (ref. **APPENDIX TWO**), and [e] all other requirements and specifications set forth in this RFP; and (2) acknowledges that some subjective judgments must be made by University 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 University has made no representation written or oral that one or more agreements with University will be awarded under this RFP; (2) University issues this RFP predicated on University's anticipated requirements for the Services, and University has made no representation, written or oral, that any particular scope of services will actually be required by University; 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 University.
- 1.8.3 University will not provide compensation to Proposer for any expenses incurred by the Proposer for proposal preparation or for demonstrations or oral presentations that may be made by Proposer. Proposer submits its proposal at its own risk and expense.
- 1.8.4 Proposals that (i) are qualified with conditional clauses; (ii) alter, modify, or revise this RFP in any way; or (iii) contain irregularities of any kind, are subject to disqualification by University, at University'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 University makes no warranty or guarantee that an award will be made as a result of this RFP. University reserves the right to accept or reject any or all proposals, waive any formalities, procedural requirements, or minor technical inconsistencies, and delete any requirement or specification from this RFP or the Agreement when deemed to be in University's best interest. University 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 University, at University'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 University, in University's sole discretion.

1.9 Preparation and Submittal Instructions

1.9.1 Specifications and Additional Questions

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

1.9.2 Execution of Offer

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

1.9.3 Pricing and Delivery Schedule

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

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

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

1.9.4 Proposer's General Questionnaire

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

1.9.5 Addenda Checklist

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

1.9.6 Submission

*Proposer should submit all proposal materials as instructed in **Section 3** of this RFP. RFP No. (ref. **Title Page** of this RFP) and Submittal Deadline (ref. **Section 2.1** of this RFP) should be clearly shown (1) in the Subject line of any email transmitting the proposal, and (2) in the lower left-hand corner on the top surface of any envelope or package containing the proposal. In addition, the name and the return address of the Proposer should be clearly visible in any email or on any envelope or package.*

University will not under any circumstances consider a proposal that is received after the Submittal Deadline or which is not accompanied by the HSP as required by **Section 2.5** of this RFP. University will not accept proposals submitted by email, telephone or FAX transmission.

Except as otherwise provided in this RFP, no proposal may be changed, amended, or modified after it has been submitted to University. 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 University's consent, which will be based on Proposer's written request explaining and documenting the reason for withdrawal, which is acceptable to University.

SECTION 2

EXECUTION OF OFFER

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

- 2.1 Representations and Warranties.** Proposer represents, warrants, certifies, acknowledges, and agrees as follows:
- 2.1.1 Proposer will furnish the Services to University and comply with all terms, conditions, requirements and specifications set forth in this RFP and any resulting Agreement.
 - 2.1.2 This RFP is a solicitation for a proposal and is not a contract or an offer to contract. Submission of a proposal by Proposer in response to this RFP will not create a contract between University and Proposer. University has made no representation or warranty, written or oral, that one or more contracts with University will be awarded under this RFP. Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
 - 2.1.3 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
 - 2.1.4 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
 - 2.1.5 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 relating to performance of the Services.
 - 2.1.6 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in the Agreement under which Proposer will be required to operate.
 - 2.1.7 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.
 - 2.1.8 Proposer will maintain any insurance coverage required by the Agreement during the entire term.
 - 2.1.9 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. University will rely on such statements, information and representations in selecting Contractor. If selected by University, Proposer will notify University immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
 - 2.1.10 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, INDEMNIFY, AND HOLD HARMLESS UNIVERSITY, 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.
 - 2.1.11 Pursuant to §§[2107.008](#) and [2252.903](#), *Government Code*, any payments owing to Proposer under the Agreement 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.
 - 2.1.12 Any terms, conditions, or documents attached to or referenced in Proposer's 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 University that are not set forth in this RFP. Submission of a proposal is Proposer's good faith intent to enter into the Agreement with University as specified in this RFP and that Proposer's intent is not contingent upon University's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.
 - 2.1.13 Pursuant to [Chapter 2270, Government Code](#), Proposer certifies Proposer (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of the Agreement. Proposer acknowledges the Agreement may be terminated and payment withheld if this certification is inaccurate.
 - 2.1.14 Pursuant to [Subchapter F, Chapter 2252, Government Code](#), Proposer certifies Proposer is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Proposer acknowledges the Agreement may be terminated and payment withheld if this certification is inaccurate.
- 2.2 No Benefit to Public Servants.** Proposer 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 proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting Agreement, and Proposer may be removed from all proposer lists at University.
- 2.3 Tax Certification.** Proposer is not currently delinquent in the payment of any taxes due under [Chapter 171, Tax Code](#), or Proposer is exempt from the payment of those taxes, or 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 University's option, may result in termination of any resulting Agreement.

- 2.4 Antitrust Certification.** Neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, nor anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in [§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.
- 2.5 Authority Certification.** The individual signing this document and the documents made a part of this RFP, is authorized to sign the documents on behalf of Proposer and to bind Proposer under any resulting Agreement.
- 2.6 Child Support Certification.** Under [§231.006, Family Code](#), relating to child support, the individual or business entity named in Proposer's proposal is not ineligible to receive award of the Agreement, and any Agreements resulting from this RFP may be terminated if this certification is inaccurate.
- 2.7 Relationship Certifications.**
- No relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture, or the members or managers of any Proposer that is a limited liability company, on one hand, and an employee of any member institution of University, on the other hand, other than the relationships which have been previously disclosed to University in writing.
 - Proposer has not been an employee of any member institution of University within the immediate twelve (12) months prior to the Submittal Deadline.
 - 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. [§669.003, Government Code](#)).
 - All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before University enters into any Agreement resulting from this RFP with Proposer.
- 2.8 Compliance with Equal Employment Opportunity Laws.** Proposer is in compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 2.9 Compliance with Safety Standards.** All products and services offered by Proposer to University 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.
- 2.10 Exceptions to Certifications.** Proposer will and has disclosed, as part of its proposal, any exceptions to the information stated in this [Execution of Offer](#). All information will be subject to administrative review and approval prior to the time University makes an award or enters into any Agreement with Proposer.
- 2.11 Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act Certification.** If Proposer will sell or lease computer equipment to University under any Agreement resulting from this RFP then, pursuant to [§361.965\(c\), Health & Safety Code](#), Proposer 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 [30 TAC Chapter 328, §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.
- 2.12 Conflict of Interest Certification.**
- Proposer is not a debarred vendor or the principal of a debarred vendor (i.e. owner, proprietor, sole or majority shareholder, director, president, managing partner, etc.) either at the state or federal level.
 - Proposer's provision of services or other performance under any Agreement resulting from this RFP will not constitute an actual or potential conflict of interest.
 - Proposer has disclosed any personnel who are related to any current or former employees of University.
 - Proposer has not given, 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 an officer or employee of University in connection with this RFP.
- 2.13 Proposer should complete the following information:**

If Proposer is a Corporation, then State of Incorporation: _____

If Proposer is a Corporation, then Proposer's Corporate Charter Number: _____

RFP No.: 720-1902 Intercollegiate Athletics Consulting and Recruiting Services

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 [§§552.021 AND 552.023, GOVERNMENT CODE](#), INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER [§559.004, GOVERNMENT CODE](#), INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Submitted and Certified By:

(Proposer Institution's Name)

(Signature of Duly Authorized Representative)

(Printed Name / Title)

(Date Signed)

(Proposer's Street Address)

(City, State, Zip Code)

(Telephone Number)

(FAX Number)

(Email Address)

SECTION 3

PROPOSER'S GENERAL QUESTIONNAIRE

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

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

3.1 Proposer Profile

3.1.1 Legal name of Proposer company:

Address of principal place of business:

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

Number of years in Business: _____

State of incorporation: _____

Number of Employees: _____

Annual Revenues Volume: _____

Name of Parent Corporation, if any _____

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

- 3.1.2 State whether Proposer will provide a copy of its financial statements for the past two (2) years, if requested by University.
- 3.1.3 Proposer will provide a financial rating of the Proposer entity and any related documentation (such as a Dunn and Bradstreet analysis) that indicates the financial stability of Proposer.
- 3.1.4 Is Proposer currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, Proposer will explain the expected impact, both in organizational and directional terms.
- 3.1.5 Proposer will provide any details of all past or pending litigation or claims filed against Proposer that would affect its performance under the Agreement with University (if any).
- 3.1.6 Is Proposer currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, Proposer will specify the pertinent date(s), details, circumstances, and describe the current prospects for resolution.
- 3.1.7 Proposer will provide a customer reference list of no less than three (3) organizations with which Proposer currently has contracts and / or to which Proposer has previously provided services (within the past five (5) years) of a type and scope similar to those required by University's RFP. Proposer will include in its customer reference list the customer's company name, contact person, telephone number, project description, length of business relationship, and background of services provided by Proposer.

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

3.2 Approach to Project Services

- 3.2.1 Proposer will provide a statement of the Proposer's service approach and will describe any unique benefits to University from doing business with Proposer. Proposer will briefly describe its approach for each of the required services identified in **Section 5.3** Scope of Work of this RFP.
- 3.2.2 Proposer will provide an estimate of the earliest starting date for services following execution of the Agreement.
- 3.2.3 Proposer will submit a work plan with key dates and milestones. The work plan should include:
- 3.2.3.1 Identification of tasks to be performed;
 - 3.2.3.2 Time frames to perform the identified tasks;
 - 3.2.3.3 Project management methodology;
 - 3.2.3.4 Implementation strategy; and
 - 3.2.3.5 The expected time frame in which the services would be implemented.
- 3.2.4 Proposer will describe the types of reports or other written documents Proposer will provide (if any) and the frequency of reporting, if more frequent than required in this RFP. Proposer will include samples of reports and documents if appropriate.

3.3 General Requirements

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

3.4 Service Support

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

3.5 Quality Assurance

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

3.6 Miscellaneous

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

SECTION 4

ADDENDA CHECKLIST

Proposal of: _____
(Proposer Company Name)

To: The University of Texas System

Ref.: Intercollegiate Athletics Consulting and Recruiting Services

RFP No.: 720-1902

Ladies and Gentlemen:

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

Note: If there was only one (1) Addendum, initial just the first blank after No. 1, not all five (5) blanks below.

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

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

APPENDIX TWO
SAMPLE AGREEMENT
(INCLUDED AS SEPARATE ATTACHMENT)

APPENDIX THREE

ACCESS BY INDIVIDUALS WITH DISABILITIES

Contractor represents and warrants (**EIR Accessibility Warranty**) the electronic and information resources and all associated information, documentation, and support Contractor provides to University under this Agreement (**EIRs**) comply with applicable requirements set forth in [1 TAC Chapter 213](#), and [1 TAC §206.70](#) (ref. [Subchapter M, Chapter 2054, Government Code](#).) To the extent Contractor becomes aware that EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants it will, at no cost to University, either (1) perform all necessary remediation to make EIRs satisfy the EIR Accessibility Warranty or (2) replace EIRs with new EIRs that satisfy the EIR Accessibility Warranty. If Contractor fails or is unable to do so, University may terminate this Agreement and, within thirty (30) days after termination, Contractor will refund to University all amounts University paid under this Agreement.

APPENDIX FOUR

**CERTIFICATE OF INTERESTED PARTIES
(Texas Ethics Commission Form 1295)**

This is a sample Texas Ethics Commission's FORM 1295 – CERTIFICATE OF INTERESTED PARTIES. If not exempt under [Section 2252.908\(c\), Government Code](https://www.ethics.state.tx.us/whatsnew/FAQ_Form1295.html), Contractor must use the Texas Ethics Commission electronic filing web page (at https://www.ethics.state.tx.us/whatsnew/FAQ_Form1295.html) to complete the most current Certificate of Interested Parties form and submit the form as instructed to the Texas Ethics Commission and University. **The Certificate of Interested Parties will be submitted only by Contractor to University with the signed Agreement.**

CERTIFICATE OF INTERESTED PARTIES		FORM 1295	
Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.		OFFICE USE ONLY	
1 Name of business entity filing form, and the city, state and country of the business entity's place of business.			
2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.			
3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.			
4	Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)
			<input type="checkbox"/> Controlling <input type="checkbox"/> Intermediary
5 Check only if there is NO Interested Party. <input type="checkbox"/>			
6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.			
_____ Signature of authorized agent of contracting business entity			
AFFIX NOTARY STAMP / SEAL ABOVE			
Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20____, to certify which, witness my hand and seal of office.			
_____ Signature of officer administering oath Printed name of officer administering oath Title of officer administering oath			
ADD ADDITIONAL PAGES AS NECESSARY			

APPENDIX FIVE

SAMPLE NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement is between The University of Texas System

("Institution") and _____,
("Consultant") a company organized under Texas law located at
_____.

Whereas, the parties desire to allow Consultant to provide services described in the Statement of Work included with the Underlying Agreement;

Whereas, Institution maintains, stores, receives, and provides services to students containing personally identifiable information, as that term is defined in the Family Educational Rights and Privacy Act (FERPA), 20 United States Code (USC) §1232g and other confidential information as that term is defined by UTS 165, Standard 9 ("Confidential Information"), <https://www.utsystem.edu/sites/policy-library/uts165-standards#s9>;

Whereas, the work to be performed by Consultant may require Consultant to be on the premises of an Institution, Consultant is not, however, permitted to receive Confidential Information. Consultant may occasionally, by nature of being present on campus, view records or record systems containing Confidential Information, including overhearing verbal conversations;

Now Therefore, as a condition to providing services delineated in the Underlying Agreement, and in consideration of these promises and of the mutual promises herein, the parties agree as follows:

1. Consultant agrees to protect any Confidential Information encountered with the same degree of care that it employs for protection of its own proprietary and confidential information; and further agrees that any information encountered will not be duplicated in any way or communicated to outside parties without the express consent of Institution;
2. Consultant understands that incidental access or exposure to Confidential Information shall in no way be considered a grant of access from Institution to receive or collect such information, unless the Underlying Agreement is amended to provide for such instances;
3. Consultant agrees to sign and provide a copy of this Non-Disclosure Agreement to the Institution prior to commencement of services;
4. This agreement shall be governed and construed in accordance with the laws of the State of Texas. Any amendments to the Underlying Agreement must require review and amendment to this Agreement when applicable;
5. This agreement shall terminate upon termination of Consultant's services for Institution;

By my signature, Consultant represents that Consultant understands and accepts the provisions of this Agreement and understands that disclosure of Confidential Information in violation of this Agreement could result in immediate termination of the Underlying Agreement.

Consultant Signature

Date

Address
Phone
Fax
Email

The University of Texas _____

Date

Address
Phone
Fax
Email

NON-EXCLUSIVE SERVICES AGREEMENT

This NON-EXCLUSIVE SERVICES AGREEMENT (this "**Agreement**") is made and entered into effective as of _____, 2018 (the "**Effective Date**"), by and between **The University of Texas System**, an agency and institution of higher education established under the laws of the State of Texas ("**University**"), for and on behalf of each of the fourteen University of Texas System institutions and The University of Texas System Administration (collectively, "Institutions" or "University," and each an "Institution"), and _____, a _____ ("**Contractor**").

University and Contractor hereby agree as follows:

1. **Scope of Work.**

- 1.1 Contractor acknowledges that this Agreement is a non-exclusive agreement. Neither University nor an Institution is obligated to request services from Contractor under this Agreement. CONTRACTOR UNDERSTANDS AND AGREES THAT UNIVERSITY HAS MADE NO REPRESENTATION, ASSURANCE, WARRANTY OR GUARANTY THAT UNIVERSITY OR AN INSTITUTION WILL REQUEST CONTRACTOR TO PERFORM ANY SERVICE AND THAT UNIVERSITY HAS AND DOES SPECIFICALLY DISCLAIM ANY SUCH REPRESENTATIONS, WARRANTIES, ASSURANCES OR GUARANTIES.
- 1.2 Contractor will perform services within the scope of the work ("**Work**") set forth in **Exhibit A**, Scope of Work, attached and incorporated for all purposes, only on request of an Institution (the "**Requesting Institution**") and in accordance with a fully executed Project Addendum, as described in Paragraph 2 below. Contractor will perform the Work to the satisfaction of the Requesting Institution and in accordance with the schedule ("**Schedule**") for the Work set out in the executed Project Addendum. Time is of the essence in connection with this Agreement and each Project Addendum. University and the Requesting Institution will have no obligation to accept late performance or waive timely performance by Contractor.
- 1.3 Contractor will not replace or substitute staff for those staff Contractor has identified to University without notifying University, including the reasons for such replacement or substitution and the qualifications of replacement personnel. Any such substitution or replacement that University reasonably finds unacceptable, and which is not rectified to University's satisfaction, may result in election of University not to enter into a Project Addendum with Contractor or to terminate an affected active Project Addendum without liability to University.
- 1.4 Contractor will obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local, laws, statutes, regulations and ordinances ("**Applicable Laws**"), for the performance of the Work.

2. **Term.**

The term this Agreement will begin on the Effective Date and expire on _____, 20____. ("**Term**").

3. **Project(s).**

- 3.1 Prior to Contractor's commencement of any work, the Contractor and the Requesting Institution must complete and enter into the Project Addendum attached hereto as **Exhibit B**, which will contain a description of the Project and a schedule for performance of Work to be completed by Contractor. All terms and conditions contained in this Agreement are incorporated into each Project Addendum for all purposes. Contractor will provide all Services identified in a Project Addendum in accordance with the terms and conditions of this Agreement and that Project Addendum. In the event of any conflict between a Project Addendum and this Agreement, this Agreement will control. Provided, however, a UT Institution and Contractor may agree to include additional business terms and conditions in a Project Addendum to further specify or clarify the Services and pricing provided under that a Project Addendum or to provide more beneficial pricing than that set forth in this Agreement.

Contractor and a UT Institution can enter into a Project Addendum at any time during the Term. Such a Project Addendum shall specify the term during which Contractor will perform Services under that Project Addendum ("**Project Addendum Term**"), as well as identify specific terms and conditions related to the Services to be provided by Contractor to the UT Institution under that Project Addendum. To the extent that this Agreement expires or terminates prior to the end of a Project Addendum Term for a Project Addendum then that Project Addendum will survive any such termination or expiration of the Agreement and the terms and conditions of this Agreement will continue to be incorporated for all purposes into that Project Addendum throughout its Project Addendum Term.

- 3.2 To enable University to make a determination whether to request the service of Contractor for any particular Project, Contractor, at the request of University and at a mutually convenient time and place, will make an oral presentation of no more than two hours to University personnel. The purpose of the presentation will be to summarize Contractor's proposal for and approach to the specific leadership search/recruitment being considered.

If services to be provided are Search and Recruiting, include this paragraph:

- 3.3 In keeping with University's commitment to diversity and inclusion, Contractor will deliver a diverse slate of candidates for the Requesting Institution's consideration for each Project. In each instance, Contractor will take all actions necessary to assure that the search / recruitment conforms to UTS 187 (<http://www.utsystem.edu/bor/procedures/policy/policies/uts187.html>). Contractor will document and inform University of all efforts and outreach undertaken to deliver and maintain a diverse candidate pool through the selection of finalists for every Project.

4. **Contractor's Obligations.**

- 4.1 Contractor will perform Work in compliance with (a) all Applicable Laws, and (b) the Board of Regents of The University of Texas System *Rules and Regulations* (<http://www.utsystem.edu/offices/board-regents/regents-rules-and-regulations>) the policies of The University of Texas System (<http://www.utsystem.edu/board-of-regents/policy-library>); and the institutional rules, regulations **APPENDIX TWO - RFP #720-1902 Intercollegiate Athletics Consulting and Recruiting Services**

and policies of University (_____) (collectively, **University Rules**). Contractor represents and warrants that neither Contractor nor any firm, corporation or institution represented by Contractor, or anyone acting for the firm, corporation or institution, (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 Contractor's response to University's procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for this Agreement.

4.1.1 Contractor acknowledges that University is entering into this Agreement in reliance on Contractor's special and unique knowledge and abilities with respect to performing the Work. Contractor accepts the relationship of trust and confidence established between it and University by this Agreement.

4.1.2 Contractor represents that there are no obligations, commitments, or impediments of any kind that will limit or prevent Contractor's performance of the Work.

4.2 Contractor represents, warrants and agrees that (a) it will use commercially reasonable efforts to perform the Work in a good and workmanlike manner and in accordance with the highest standards of Contractor's profession or business, and (b) all of the Work to be performed will be of the quality that prevails among similar businesses of superior knowledge and skill engaged in providing similar services in major United States urban areas under the same or similar circumstances.

4.3 Contractor will call to University's attention in writing all information in any materials supplied to Contractor (by University or any other party) that Contractor regards as unsuitable, improper or inaccurate in connection with the purposes for which the material is furnished.

4.4 Contractor warrants and agrees that the Work will be accurate and free from any material defects. Contractor's duties and obligations under this Agreement will at no time be in any way diminished by reason of any approval by University nor will Contractor be released from any liability by reason of any approval by University, it being agreed that University at all times is relying upon Contractor's skill and knowledge in performing the Work.

4.5 Contractor will, at its own cost, correct all material defects in the Work as soon as practical after Contractor becomes aware of the defects. If Contractor fails to correct material defects in the Work within a reasonable time, then University may correct the defective Work at Contractor's expense. This remedy is in addition to, and not in substitution for, any other remedy for defective Work that University may have at law or in equity.

4.6 Contractor will maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this Agreement. Contractor will cause all persons connected with Contractor directly in charge of the Work to be duly registered and/or licensed under all Applicable Laws. Contractor will assign to the Project a designated representative who will be responsible for the administration and coordination of the Work.

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

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

4.9 Contractor will provide to The University of Texas System Associate Vice Chancellor for Academic Affairs and Athletics Counsel a copy of the Project Addendum within 10 days after execution of a Project Addendum with a Requesting Institution.

4.10 This section intentionally left blank.

4.11 If and when Contractor is present on University's premises or in University's facilities, Contractor agrees to cause its employees, representatives, agents, or subcontractors to become aware of, fully informed about, and in full compliance with all applicable University Rules, including those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.

5. **The Contract Amount.**

5.1 Provided that Contractor has provided Requesting Institution its current and accurate Federal Tax Identification Number in writing, and is in good standing with the State of Texas, Requesting Institution will pay Contractor for the performance of the Work as more particularly set forth in **Exhibits B and C**, attached and incorporated for all purposes.

5.2 The Contract Amount includes all applicable federal, state or local sales or use taxes payable as a result of the execution or performance of this Agreement.

5.3 University (a State agency) is exempt from Texas Sales & Use Tax on Work in accordance with [§151.309, Texas Tax Code](#) and [34 Texas Administrative Code \(TAC\) §3.322](#). Pursuant to 34 TAC §§3.322(c)(4) and (g)(3), this Agreement is sufficient proof of University's tax exempt status and University is not required to provide further evidence of its exempt status.

- 5.4 This Agreement is not valid or effective for amounts in excess of \$1,000,000 without the approval of The University of Texas System Board of Regents and Contractor's appropriate completion and submission of Texas Ethics Commission Form 1295.

6. Payment Terms.

- 6.1 **[to be completed based on payment terms and payment application requirements in the RFP/proposal]** Contractor will submit to University an invoice at the appropriate time covering the services performed for University in compliance with **Exhibit C and the Project Addendum**. Each invoice will be accompanied by documentation that University may reasonably request to support the invoice amount. University will, within 21 days from the date it receives an invoice and supporting documentation, approve or disapprove the amount reflected in the invoice. If University approves the amount or any portion of the amount, University will promptly pay (each a "**Progress Payment**") to Contractor the amount approved so long as Contractor is not in default under this Agreement. If University disapproves any invoice amount, University will give Contractor specific reasons for its disapproval in writing.
- 6.2 Within 10 days after final completion of the Work and acceptance of the Work by University or as soon thereafter as possible, Contractor will submit a final invoice ("**Final Invoice**") setting forth all amounts due and remaining unpaid to Contractor. Upon approval of the Final Invoice by University, University will pay ("**Final Payment**") to Contractor the amount due under the Final Invoice.
- 6.3 Notwithstanding any provision of this Agreement to the contrary, University will not be obligated to make any payment (whether a Progress Payment or Final Payment) to Contractor if Contractor is in default under this Agreement or the Project Addendum.
- 6.4 The cumulative amount of all Progress Payments and the Final Payment (defined below) will not exceed the Contract Amount as more particularly set forth in **Exhibit C**, Payment for Services.
- 6.5 No payment made by University will (a) be construed to be final acceptance or approval of that part of the Work to which the payment relates, or (b) relieve Contractor of any of its duties or obligations under this Agreement.
- 6.6 The acceptance of Final Payment by Contractor will constitute a waiver of all claims by Contractor except those previously made in writing and identified by Contractor as unsettled at the time of the Final Invoice for payment.
- 6.7 University will have the right to verify the details set forth in Contractor's invoices and supporting documentation, either before or after payment, by (a) inspecting the books and records of Contractor at mutually convenient times; (b) examining any reports with respect to the Project; and (c) other reasonable action.
- 6.8 [Section 51.012, Texas Education Code](#), authorizes University to make payments through electronic funds transfer methods. Contractor agrees to accept payments from University through those methods, including the automated clearing house system (ACH). Contractor agrees to provide Contractor's banking information to University in writing on Contractor letterhead signed by an authorized representative of Contractor. Prior to the first payment, University will confirm Contractor's banking information. Changes to Contractor's bank information must be communicated to University in accordance with **Section 12.14** in writing at least thirty (30) days before the effective date of the change and must include an [IRS Form W-9](#) signed by an authorized representative of Contractor.
- 6.9 In the event of any conflict concerning prices, fees, costs, or amounts between or within this Agreement, a Project Addendum entered into under this Agreement, or an Invoice or quote associated with a Project Addendum, a UT Institution will only be obligated to pay the lesser price, fee, cost, or amount notwithstanding any such conflict. Each UT Institution will only be obligated to pay Contractor any amounts provided for in the Project Addendums that are entered into between Contractor and that UT Institution (including any amounts required by the terms and conditions of this Agreement as incorporated into such a Project Addendum.) In no event will a UT Institution be responsible for paying Contractor under any of the Project Addendums that Contractor enters into with other UT Institutions. These terms and conditions regarding payment will control over any other payment provisions set forth in any a Project Addendum entered into under this Agreement
- 6.10 **[Option (Include if University is entitled to a prompt payment discount.):** Notwithstanding any other provision of this Agreement, University is entitled to a discount of ____% (**Prompt Payment Discount**) off of each payment that University submits within ____days after University's receipt of Contractor's invoice for that payment.]

7. Ownership and Use of Work Material.

- 7.1 All drawings, specifications, plans, computations, sketches, data, photographs, tapes, renderings, models, publications, statements, accounts, reports, studies, and other materials prepared by Contractor or any subcontractors in connection with the Work (collectively, "**Work Material**"), whether or not accepted or rejected by University, are the sole property of University and for its exclusive use and re-use at any time without further compensation and without any restrictions.
- 7.2 Contractor grants and assigns to University all rights and claims of whatever nature and whether now or hereafter arising in and to the Work Material and will cooperate fully with University in any steps University may take to obtain or enforce patent, copyright, trademark or like protections with respect to the Work Material.
- 7.3 Contractor will deliver all Work Material to University upon expiration or termination of this Agreement. University will have the right to use the Work Material for the completion of the Work or otherwise. University may, at all times, retain the originals of the Work Material. The Work Material will not be used by any person other than University on other projects unless expressly authorized by University in writing.
- 7.4 The Work Material will not be used or published by Contractor or any other party unless expressly authorized by University in writing. Contractor will treat all Work Material as confidential.

8. Default and Termination.

- 8.1 In the event of a material failure by a party to this Agreement to perform in accordance with the terms of this Agreement or an executed Project Addendum (“**default**”), the other party may terminate this Agreement upon 15 days’ written notice of termination setting forth the nature of the material failure; provided that the material failure is through no fault of the terminating party. The termination will not be effective if the material failure is fully cured prior to the end of the 15-day period.
 - 8.1.1 Contractor’s failure to maintain staff identified to University for the completion of Services or reasonable substitute or replacement staff, in the reasonable discretion of University or Requesting Institution, will be deemed a material failure by Contractor.
- 8.2 University may, without cause, terminate this Agreement, and at the same time any open Project Addendum, at any time by giving seven days’ advance written notice to Contractor. Upon termination pursuant to this Section, Contractor will be entitled to payment of an amount that will compensate Contractor for the Work satisfactorily performed prior to the termination date in accordance with this Agreement; provided that Contractor has delivered all Work Material to University. Notwithstanding any provision in this Agreement to the contrary, University will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor.
- 8.3 Termination under **Sections 8.1** or **8.2** will not relieve Contractor from liability for any default or breach under this Agreement or any other act or omission of Contractor.
- 8.5 If Contractor fails to cure any default within fifteen days after receiving written notice of the default, University will be entitled (but will not be obligated) to cure the default and will have the right to offset against all amounts due to Contractor under this Agreement, any and all reasonable expenses incurred in connection with University’s curative actions.
- 8.6 In the event that this Agreement is terminated, then within thirty days after termination, Contractor will reimburse University for all fees paid by University to Contractor that were (a) not earned by Contractor prior to termination, or (b) for goods or services that University did not receive from Contractor prior to termination. University does not anticipate making any payment not earned by Contractor or for goods and services not received and this provision is intended only to assure that, should such a payment actually be made, Contractor will reimburse University.

9. Indemnification.

- 9.1 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS THE UNIVERSITY OF TEXAS SYSTEM, AND EACH OF THE UNIVERSITY OF TEXAS SYSTEM INSTITUTIONS AND THEIR RESPECTIVE AFFILIATED ENTERPRISES, REGENTS, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND AGENTS (COLLECTIVELY “**INDEMNITEES**”) FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS’ FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING (COLLECTIVELY “**CLAIMS**”) BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED BY, OR RESULTING FROM CONTRACTOR’S PERFORMANCE UNDER OR BREACH OF THIS AGREEMENT AND THAT ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION OR WILLFUL MISCONDUCT OF CONTRACTOR, ANYONE DIRECTLY EMPLOYED BY CONTRACTOR OR ANYONE FOR WHOSE ACTS CONTRACTOR MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.
- 9.2 IN ADDITION, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY INTEREST ARISING BY OR OUT OF THE PERFORMANCE OF SERVICES OR THE PROVISION OF GOODS BY CONTRACTOR, OR THE USE BY INDEMNITEES, AT THE DIRECTION OF CONTRACTOR, OF ANY ARTICLE OR MATERIAL; PROVIDED THAT UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR INFRINGEMENT, UNIVERSITY WILL PROMPTLY NOTIFY CONTRACTOR AND CONTRACTOR WILL BE GIVEN THE OPPORTUNITY TO NEGOTIATE A SETTLEMENT. IN THE EVENT OF LITIGATION, UNIVERSITY AGREES TO REASONABLY COOPERATE WITH CONTRACTOR. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

10. Relationship of the Parties.

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

11. Insurance.

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

- 11.1.1 Workers’ Compensation Insurance with statutory limits, and Employer’s Liability Insurance with limits of not less than \$1,000,000:

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

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

11.1.2	Commercial General Liability Insurance with limits of not less than:	
	Each Occurrence Limit	\$1,000,000
	Damage to Rented Premises	\$ 300,000
	Personal & Advertising Injury	\$1,000,000
	General Aggregate	\$2,000,000
	Products - Completed Operations Aggregate	\$2,000,000

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

11.1.3 Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 single limit of liability per accident for Bodily Injury and Property Damage;

If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.

11.1.4 Professional Liability (Errors & Omissions) Insurance with limits of not less than \$1,000,000 each occurrence, \$3,000,000 aggregate. Such insurance will cover all Work performed by or on behalf of Contractor and its subcontractors under this Agreement. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of this Agreement. If coverage is written on a claims-made basis, Contractor agrees to purchase an Extended Reporting Period Endorsement, effective twenty-four (24) months after the expiration or cancellation of the policy. No Professional Liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least twenty-four (24) months after the expiration or termination of this Agreement for any reason.

11.1.5 **[TO BE APPLIED IF CONTRACTOR PROVIDES ELECTRONIC INFORMATION RESOURCE – see Section 5.3.4 of the RFP document]** Cyber Liability Insurance with limits of not less than \$10,000,000 for each wrongful act. This policy must cover:

- Liability for network security failures or privacy breaches, including loss or unauthorized access, use or disclosure of University data, whether by Contractor or any of subcontractor or cloud service provider used by Contractor;
- Costs associated with a privacy breach, including notification of affected individuals, customer support, forensics, crises management / public relations consulting, legal services of a privacy attorney, credit monitoring and identity fraud resolution services for affected individuals;
- Expenses related to regulatory compliance, government investigations, fines, fees assessments and penalties;
- Liability for technological products and services;
- PCI fines, fees, penalties and assessments;
- Cyber extortion payment and response costs;
- First and Third Party Business Interruption Loss resulting from a network security failure;
- Liability for technological products and services;
- Costs of restoring, updating or replacing data; and
- Liability losses connected to network security, privacy, and media liability.

11.2 Contractor will deliver to University:

11.2.1 Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all required insurance policies after the execution and delivery of this Agreement and prior to the performance of any Work by Contractor under this Agreement. Additional evidence of insurance will be provided verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

11.2.1.1 **All insurance policies** (with the exception of workers' compensation, employer's liability and professional liability) will be endorsed and name the Board of Regents of The University of Texas System and University as Additional Insureds for liability caused in whole or in part by Contractor's acts or omissions with respect to its on-going and completed operations up to the actual liability limits of the required insurance policies maintained by Contractor. Commercial General Liability Additional Insured endorsement including ongoing and completed operations coverage will be submitted with the Certificates of Insurance. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage.

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

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

- 11.2.1.4 Contractor or Contractor's insurance provider on behalf of Contractor will mail or Certificates of Insurance and Additional Insured Endorsements as required by this Agreement will be mailed or emailed to the following University contact:

Attn: Eric Agnew
210 West 7th Street,
Austin, TX 78701
eagnew@utsystem.edu

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

12. Miscellaneous.

- 12.1 **Assignment and Subcontracting.** Except as specifically provided in [Exhibit E](#), Historically Underutilized Business Subcontracting Plan, attached and incorporated for all purposes, Contractor's interest in this Agreement (including Contractor's duties and obligations under this Agreement, and the fees due to Contractor under this Agreement) may not be subcontracted, assigned, delegated, or otherwise transferred to a third party, in whole or in part, and any attempt to do so will (a) not be binding on University; and (b) be a breach of this Agreement for which Contractor will be subject to all remedial actions provided by Applicable Laws, including [Chapter 2161, Texas Government Code](#), and [34 TAC §§20.285\(g\)\(5\), 20.585 and 20.586](#). The benefits and burdens of this Agreement are assignable by University.
- 12.2 **Texas Family Code Child Support Certification.** Pursuant to [§231.006, Texas Family Code](#), Contractor certifies it is not ineligible to receive the award of or payments under this Agreement, and acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 12.3 **Tax Certification.** If Contractor is a taxable entity as defined by [Chapter 171, Texas Tax Code](#), then Contractor certifies it is not currently delinquent in the payment of any taxes due under Chapter 171, Contractor is exempt from the payment of those taxes, or Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.
- 12.4 **Payment of Debt or Delinquency to the State.** Pursuant to [§§2107.008 and 2252.903, Texas Government Code](#), Contractor agrees any payments owing to Contractor under this Agreement may be applied directly toward any debt or delinquency Contractor owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until paid in full.
- 12.5 **Loss of Funding.** University performance of its duties and obligations under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "**Legislature**") and/or allocation of funds by the Board of Regents of The 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 University will issue written notice to Contractor and University may terminate this Agreement without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of University.
- 12.6 **Entire Agreement; Modifications.** The terms and conditions of this Agreement are incorporated for all purposes into each Project Addendum entered into between a UT Institution and Contractor under this Agreement. Each Project Addendum entered into between Contractor and a UT Institution under the Agreement constitutes a separate contract between Contractor and that UT Institution, and such a Project Addendum supersedes all prior agreements, written or oral, between Contractor and that UT Institution concerning the subject matter of that Project Addendum, and constitutes the entire agreement and understanding between Contractor and that UT Institution with respect to the subject matter of that Project Addendum. Each Project Addendum entered into by Contractor and a UT Institution and each of that Project Addendum's provisions shall be binding upon Contractor and that UT Institution and may not be waived, modified, amended or altered except by a writing signed by Contractor and that UT Institution.
- 12.7 **Force Majeure.** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character ("**force majeure occurrence**").
- 12.8 **Captions.** The captions of sections and subsections in this Agreement are for convenience only and will not be considered or referred to in resolving questions of interpretation or construction.
- 12.9 **Venue; 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 to this Agreement and all of the terms and conditions of this Agreement will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.
- 12.10 **Waivers.** No delay or omission in exercising any right accruing upon a default in performance of this Agreement will impair any right or be construed to be a waiver of any right. A waiver of any default under this Agreement will not be construed to be a waiver of any subsequent default under this Agreement.
- 12.11 **Confidentiality and Safeguarding of University Records; Press Releases; Public Information.** Under this Agreement, Contractor may (1) create, (2) receive from or on behalf of University, or (3) have access to, 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 Laws. Contractor 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 this Agreement, (b) required by Applicable Laws, or (c) otherwise authorized by University in writing; (2) safeguard University Records according to reasonable administrative, physical and technical standards (such
- APPENDIX TWO - RFP #720-1902 Intercollegiate Athletics Consulting and Recruiting Services**

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

If to University: UT System Administration
210 W. 7th Street
Austin, Texas 78701
Attention: Dr. Scott Kelley
Executive Vice Chancellor for Business Affairs

with copy to: Office of Academic Affairs
210 West 7th Street,
Austin, TX 78701
Attention: Alan Marks, Associate Vice Chancellor of Academic Affairs and Athletics Counsel
amarks@utsystem.edu
512-322-3770

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

- 12.15 **Severability.** In case any provision of this Agreement will, for any reason, be held invalid or unenforceable in any respect, the invalidity or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if the invalid or unenforceable provision had not been included.
- 12.16 **State Auditor's Office.** Contractor understands acceptance of funds under this Agreement constitutes acceptance of authority of the Texas State Auditor's Office or any successor agency (Auditor), to conduct an audit or investigation in connection with those funds (ref. §§[51.9335\(c\)](#), [73.115\(c\)](#) and [74.008\(c\)](#), *Texas Education Code*). Contractor agrees to cooperate with Auditor in the conduct of the audit or investigation, including providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.
- 12.17 **Limitation of Liability.** EXCEPT FOR UNIVERSITY'S OBLIGATION (IF ANY) TO PAY CONTRACTOR CERTAIN FEES AND EXPENSES UNIVERSITY WILL HAVE NO LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT. NOTWITHSTANDING ANY DUTY OR OBLIGATION OF UNIVERSITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR, NO PRESENT OR FUTURE AFFILIATED ENTERPRISE, SUBCONTRACTOR, AGENT, OFFICER, DIRECTOR, EMPLOYEE, REPRESENTATIVE, ATTORNEY OR REGENT OF UNIVERSITY, OR THE UNIVERSITY OF TEXAS SYSTEM, OR ANYONE CLAIMING UNDER UNIVERSITY HAS OR WILL HAVE ANY PERSONAL LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT.
- 12.18 **Survival of Provisions.** No expiration or termination of this Agreement will relieve either party of any obligations under this Agreement that by their nature survive expiration or termination, including **Sections 6.7, 9, 12.5, 12.9, 12.10, 12.11, 12.13, 12.16, 12.17, 12.19 and 12.21.**
- 12.19 **Breach of Contract Claims.**
- 12.19.1 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 Laws, the dispute resolution process provided for in Chapter 2260 will be used, as further described herein, by University and Contractor to attempt to resolve any claim for breach of contract made by Contractor:
- 12.19.1.1 Contractor's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business will be submitted to the negotiation process provided in [subchapter B](#) of Chapter 2260. To initiate the process, Contractor will submit written notice, as required by [subchapter B](#) of Chapter 2260, to University in accordance with the notice provisions in this Agreement. Contractor's notice will specifically state that the provisions of [subchapter B](#) of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that University allegedly breached, the amount of damages Contractor seeks, and the method used to calculate the damages. Compliance by Contractor with [subchapter B](#) of Chapter 2260 is a required prerequisite to Contractor's filing of a contested case proceeding under [subchapter C](#) of Chapter 2260. The chief business officer of University, or another officer of University as may be designated from time to time by University by written notice to Contractor in accordance with the notice provisions in this Agreement, will examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve the claims.
- 12.19.1.2 If the parties are unable to resolve their disputes under **Section 12.19.1.1**, the contested case process provided in [subchapter C](#) of Chapter 2260 is Contractor's sole and exclusive process for seeking a remedy for any and all of Contractor's claims for breach of this Agreement by University.
- 12.19.1.3 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, Texas Civil Practices and Remedies Code](#). The parties hereto specifically agree that (i) neither the execution of this Agreement by University nor any other conduct, action or inaction of any representative of University relating to this Agreement constitutes or is intended to

constitute a waiver of University's or the state's sovereign immunity to suit and (ii) University has not waived its right to seek redress in the courts.

- 12.19.2 The submission, processing and resolution of Contractor's claim is governed by the published rules adopted by the Texas Attorney General pursuant to [Chapter 2260](#), as currently effective, thereafter enacted or subsequently amended.
- 12.19.3 University and Contractor agree that any periods set forth in this Agreement for notice and cure of defaults are not waived.
- 12.20 **Undocumented Workers.** The *Immigration and Nationality Act* ([8 USC §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 CFR §274a](#)). Among other things, Contractor is required to: (1) have all employees complete and sign the I-9 Form certifying that they are eligible for employment; (2) examine verification documents required by the I-9 Form to be presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the I-9 Form, and complete the certification portion of the I-9 Form; and (4) retain the I-9 Form as required by Applicable Laws. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status. If Contractor employs unauthorized workers during performance of this Agreement in violation of the Immigration Act then, in addition to other remedies or penalties prescribed by Applicable Laws, University may terminate this Agreement in accordance with **Section 8**. Contractor represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.
- 12.21 **Limitations.** THE PARTIES ARE AWARE THAT THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF UNIVERSITY (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS THAT MAY BE A PART OF THIS AGREEMENT, INCLUDING THOSE TERMS AND CONDITIONS RELATING TO LIENS ON UNIVERSITY'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY (COLLECTIVELY, THE "LIMITATIONS"), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON UNIVERSITY EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.
- 12.22 **Ethics Matters; No Financial Interest.** Contractor and its employees, agents, representatives and subcontractors have read and understand University's Conflicts of Interest Policy available at <http://www.utsystem.edu/board-of-regents/policy-library/policies/int180-conflicts-interest-conflicts-commitment-and-outside->, University's Standards of Conduct Guide available at <https://www.utsystem.edu/documents/docs/policies-rules/ut-system-administration-standards-conduct-guide> and applicable state ethics laws and rules available at <https://www.utsystem.edu/offices/systemwide-compliance/ethics>. Each Institution also has a Conflicts of Interest Policy and s Standards of Conduct Guide and Contractor and its employees, agents, representatives, and subcontractors will read and understand those policies and guides before accepting work under a Project Addendum for a particular Institution. Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause University employees to violate University's Conflicts of Interest Policy, provisions described by University's Standards of Conduct Guide, or applicable state ethics laws or rules. Contractor represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.
- 12.23 and 12.24 Intentionally left blank
- 12.25 **Access by Individuals with Disabilities.** Contractor represents and warrants (**EIR Accessibility Warranty**) the electronic and information resources and all associated information, documentation, and support Contractor provides to University under this Agreement (**EIRs**) comply with applicable requirements in [1 TAC Chapter 213](#) and [1 TAC §206.70](#) (ref. [Subchapter M, Chapter 2054, Texas Government Code](#)). To the extent Contractor becomes aware the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants it will, at no cost to University, 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. If Contractor fails or is unable to do so, University may terminate this Agreement and, within thirty (30) days after termination, Contractor will refund to University all amounts University paid under this Agreement.
- 12.26. Intentionally left blank.
- 12.27 **Historically Underutilized Business Subcontracting Plan.** Contractor agrees to use good faith efforts to subcontract the Work in accordance with the Historically Underutilized Business Subcontracting Plan ("HSP") (ref. **Exhibit E**). Contractor agrees to maintain business records documenting its compliance with the HSP and to submit a monthly compliance report to University in the format required by Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts or any successor agency (collectively, "TPSS"). Submission of compliance reports will be required as a condition for payment under this Agreement. If University determines that Contractor has failed to subcontract as set out in the HSP, University will notify Contractor of any deficiencies and give Contractor an opportunity to submit documentation and explain why the failure to comply with the HSP should not be attributed to a lack of good faith effort by Contractor. If University determines that Contractor failed to implement the HSP in good faith, University, in addition to any other remedies, may report nonperformance to the TPSS in accordance with 34 TAC [§§20.285\(g\)\(5\)](#), [20.585](#) and [20.586](#). University may also revoke this Agreement for breach and make a claim against Contractor.
- 12.27.1 **Changes to the HSP.** If at any time during the Term of this Agreement, Contractor desires to change the HSP, before the proposed changes become effective (a) Contractor must comply with [34 TAC §20.285](#); (b) the changes must be reviewed and approved by University; and (c) if University approves changes to the

HSP, this Agreement must be amended in accordance with **Section 12.6** to replace the HSP with the revised subcontracting plan.

12.27.2

Expansion of Work. If University expands the scope of Work through a change order or any other amendment, University will determine if the additional Work contains probable subcontracting opportunities *not* identified in the initial solicitation for Work. If University determines additional probable subcontracting opportunities exist, Contractor will submit an amended subcontracting plan covering those opportunities. The amended subcontracting plan must comply with the provisions of [34 TAC §20.285](#) before (a) this Agreement may be amended to include the additional Work; or (b) Contractor may perform the additional Work. If Contractor subcontracts any of the additional subcontracting opportunities identified by University without prior authorization and without complying with [34 TAC §20.285](#), Contractor will be deemed to be in breach of this Agreement under **Section 8** and will be subject to any remedial actions provided by Applicable Laws, including [Chapter 2161, Texas Government Code](#), and [34 TAC §20.285](#). University may report nonperformance under this Agreement to the SPSS in accordance with [34 TAC §§20.285\(q\)\(5\)](#), [20.585](#) and [20.586](#).

12.28

Responsibility for Individuals Performing Work; Criminal Background Checks. Each individual who is assigned to perform the Work under this Agreement will be an employee of Contractor or an employee of a subcontractor engaged by Contractor. Contractor is responsible for the performance of all individuals performing the Work under this Agreement. Prior to commencing the Work, Contractor will provide University with a list ("**List**") of all individuals who may be assigned to perform the Work. All Contractor and sub-contractor employees assigned to the Services operation at Client's Premises shall be subject to pre-employment background checks, to include criminal records check. The background checks shall be administered in accordance with state law and University of Texas System's personnel policies addressing disqualifying offenses, which will be provided to Contractor in writing. The background checks shall be conducted and paid for by Contractor. Contractor will determine on a case-by-case basis whether each individual assigned to perform the Work is qualified to provide the services. Contractor will not knowingly assign any individual to provide services on University's campus who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses. Contractor will update the List each time there is a change in the individuals assigned to perform the Work.

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

12.29

Contractor Certification regarding Boycotting Israel. Pursuant to [Chapter 2270, Texas Government Code](#), Contractor certifies Contractor (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

12.30

Contractor Certification regarding Business with Certain Countries and Organizations. Pursuant to [Subchapter F, Chapter 2252, Texas Government Code](#), Contractor certifies Contractor is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

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

UNIVERSITY:

CONTRACTOR:

THE UNIVERSITY OF TEXAS SYSTEM

By: _____
Dr. Scott C. Kelley, Executive Vice
Chancellor for Business Affairs

By: _____
Name: _____
Title: _____

Attach:

- EXHIBIT A** – Scope of Work
- EXHIBIT B** – Project Addendum
- EXHIBIT C** – Payment for Services
- EXHIBIT D** – Intentionally Left Blank
- EXHIBIT E** – HUB Subcontracting Plan

EXHIBIT A

SCOPE OF WORK

Contractor will provide the following services to University:

Provide expert consulting and search services to support Requesting Institution in one or more of the of the following eight areas:

5.3.1 Comprehensive Program Reviews or Targeted Reviews.

Subject matter areas include, but are not limited to, the following:

- Organizational Structure;
- Finance / Business Operations;
- Department Climate and Culture;
- Academic Programs, Support and Eligibility;
- Recruiting, Admissions and Financial Aid;
- Student-Athlete Experience and Welfare;
- Compliance;
- Medical Services and Athletic Training;
- Performance – Strength & Conditioning, Nutrition;
- Ticketing & Premium / Priority Seating;
- Branding, Marketing, Licensing & Trademark;
- Multi Media Rights;
- Policies and Procedures;
- Facilities;
- Event Operations;
- Security;
- Camps & Clinics Operations;
- Youth Safety Policies;
- Sport Program Analysis;
- Conference Affiliation.

5.3.2 Strategic Planning.

Subject matter areas include, but are not limited to, the following:

- Organizational Structure;
- Vision and Mission;
- Finance / Business Operations;
- Facilities;
- Sport Program Analysis;
- Conference Realignment / Affiliation;
- Compliance;
- Recruiting, Admissions and Financial Aid;
- Academic Support and Eligibility;
- Multi Media Rights;
- Branding, Marketing, Licensing & Trademark;
- Ticketing & Premium / Priority Seating.

5.3.3 Feasibility Studies

- Market Research and Benchmarking services;
- Conference Affiliation;
- Initiation of Intercollegiate Athletics Program;
- Initiation and sponsorship of football or another sport;
- Corporate Sponsorships;
- Fundraising & Development;
- Facilities.

5.3.4 Title IX Reviews / Audits.

5.3.5 Coach and Athletics Administrator Searches.

5.3.6 NCAA Rules & Regulations Evaluation and Infractions Representation.

5.3.7 Media Relations and Crisis Management.

5.3.8 Professional Development, Education and Training.

5.3.9 Provide services in accordance with a schedule established in the Project Addendum.

EXHIBIT B

TEMPLATE FOR PROJECT ADDENDUM

This Project Addendum (this "**Addendum**") is attached to and incorporated into the previously executed Non-Exclusive Services Agreement (the "Agreement"), dated effective ____, 20__, between The University of Texas System (the "University") an agency and institution of higher education organized under the laws of the State of Texas, and _____, a _____ ("Contractor").

This Addendum has an Addendum Effective Date (herein so called) of _____, 20__

By entering into this Addendum the undersigned Requesting Institution and Contractor agree to the terms and conditions set forth in the Agreement. All of the terms and conditions of the Agreement are incorporated into this Addendum for all purposes. Unless otherwise specified in this Addendum, all defined terms used in this Addendum have the same meaning as assigned to those terms in the Agreement.

If services to be provided are Search and Recruiting, include this paragraph:

While the Agreement is non-exclusive in terms of University's ability to work with other firms, this Addendum establishes a search for the particular recruitment described in this Addendum. In addition to termination of a recruitment in accordance with the Agreement, the Requesting Institution may elect to terminate a recruitment and related Project Addendum following delivery of a diverse pool of qualified candidates or any other milestone. In the event of a termination of this Project Addendum for any reason, any exclusivity created by the Project Addendum is extinguished and University may renew, continue, or begin another search for the position covered by the Project Addendum and Contractor will have no rights based on the terminated Project Addendum.

Contractor is aware of the Requesting Institution's Conflicts of Interest Policy and Standards of Conduct Guide, and Contractor and its employees, agents, representatives, and subcontractors understand and will comply with these policies.

Contractor is aware of UTS 187 (<http://www.utsystem.edu/bor/procedures/policy/policies/uts187.html>) and understands the University's commitment to diversity in recruiting. In performing the Services, Contractor agrees to take all actions necessary to support this commitment.

Project:

Subject to the terms of the Agreement, Contractor will perform the following services:

[Designate services to be performed based on the list of services in **EXHIBIT A** to the Agreement.]

If services to be provided are Search and Recruiting, include this paragraph:

Background Checks & Protected Information:

The University will pay reasonable costs for any and all comprehensive background checks which are authorized by the University. Contractor shall not utilize any form of social media when conducting background checks and all checks need to be conducted in accordance with the Fair Credit Reporting Act. In accordance with UTS 187, however, Contractor shall request that applicants voluntarily disclose their membership in an underrepresented group and gender.

Schedule:

Contractor will commence performance of the Project beginning on _____, 20__, and complete the Project no later than _____, 20__, at which time any exclusive rights of Contractor based on this Addendum will be terminated. Contractor will deliver the Project in accordance with the following schedule of delivery dates:

[Specify each service and the corresponding delivery date.]

Project Notification:

Contractor will, upon execution this Addendum, send a fully executed copy of the Addendum to the attention of the University at the following address:

with copy to:

UT System
Office of Academic Affairs
Attn: Alan Marks, Associate Vice Chancellor of Academic Affairs and Athletics Counsel
210 West 7th Street,
Austin, TX 78701

Fees and Reimbursable Expenses and Disbursements (note: may not exceed cap specified in Exhibit C):

The Fee Cap for this Project is equal to \$

The Expense Cap for this Project is \$

If services to be provided are Search and Recruiting, include this paragraph:

Guarantee

Contractor will guarantee each placement for a period of twelve months, beginning on the start date of the appointment. If a placed candidate is released by the Requesting Institution for performance related issues during the first twelve months of his/her employment, Contractor will conduct a new search to replace the candidate for no additional retainer, charging only expenses as incurred. This excludes candidates who leave for reasons other than job performance, such as a change in ownership, organizational realignment, and restructuring or due to a material change in job duties, compensation or title.

Texas Public Information Act:

In accordance with the Texas Public Information Act "TPIA" and Texas Government Code Section 2252.907, and at no additional cost to University, Contractor will make any information created or exchanged with University pursuant to this Agreement (and not otherwise exempt from disclosure under the TPIA) available in a format reasonably requested by University that is accessible by the public.

Miscellaneous:

If services to be provided are Search and Recruiting, include the following 2 sentences:

Placed candidates are considered off-limits for future recruitment by Contractor during their tenure with the Requesting Institution.

In the event that more than one executive is hired as a result of the work performed by Contractor, a full professional fee, based upon actual first year compensation, will be due for each individual hired.

IN WITNESS WHEREOF, the Requesting Institution and Contractor have executed and delivered this Addendum to be effective as of the Addendum Effective Date.

[NAME OF REQUESTING INSTITUTION]

[NAME OF CONTRACTOR]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT C

PAYMENT FOR SERVICES

SERVICE FEES: To be completed based on accepted proposals

ADDENDUM 1

DATE: January 10, 2019
PROJECT: Intercollegiate Athletics Consulting and Recruiting Services
RFP NO: 720-1902
OWNER: The University of Texas System Administration
TO: Prospective Bidders

This Addendum forms part of Contract Documents and modifies Bid Documents dated September 12th, 2018 with amendments and additions noted below.

Revision to Section 6.3

This Section have been revised to read as follows:

6.3 Expense Reimbursement: Contractor will not be reimbursed for expenses, except as follows:

Contractor will be reimbursed without mark-up for reasonable expenses (including meals, rental car or mileage, coach class airfare, and lodging) validly incurred directly and solely in support of the Services, approved by University in advance, and for which Contractor submits requisite supporting documentation. Reimbursement is subject to then-current Travel Reimbursement Rates promulgated by the Comptroller of Public Accounts for the State of Texas at <https://fmx.cpa.state.tx.us/fm/travel/travelrates.php> with regard to meals, mileage, rental car, airfare, lodging and all other expenses related to travel. Contractor will not be reimbursed by University for expenses that are prohibited, that exceed the allowable amounts set forth in the then-current Travel Reimbursement Rates, or that are payable or reimbursable/reimbursed to Contractor by a someone other than University.

Reimbursable expenses to include only:

1. _____
2. _____
3. _____
4. _____

Total reimbursable expenses (“**Expense Cap**”) will not exceed \$_____ for any one recruitment.

Questions and Answers:

1. Question: We were curious, is this an RFP to pre-approve future vendors or are there specific projects in mind with one or more of your system institutions?

Answer: *This RFP is to pre-approve future vendors for a variety of services (See Section 5 of the RFP for a list of Services). The Services will be rendered to the UT Institutions.*

2. Question: This notes firm fixed price, however, the variety and scope of possible projects within each area and type of institution within the System can vary greatly. Can we provide a range of pricing and/or an hourly rate?

Answer: *YES, please provide a range of pricing and/or an hourly rate.*

3. Question: This section 6.3 notes that expenses are only reimbursable "solely in support of the recruitment." What does the RFP consider "Recruitment" is this in reference to pricing item E. Coach and Athletics Administrator Searches only? Or does this include all the services proposer intends to provide under 6.2 Services Offered.

Answer: *This includes all the services proposer intends to provide under 6.2 Services Offered.*

4. Question: Is the University of Texas System open to other options that flat free pricing? Examples being monthly retainer and/or percentage based payments off revenue generation contracts or other services?

Answer: *Yes, you may provide other pricing options.*

5. Question: For the Scope of Services an "Other" category is listed. Can the University of Texas System offer insight as to what limitations or expectations are for any proposals that may fall within this category?

Answer: *University is looking to see what additional services, that are not listed in Section 5, are offered by Proposer. These Services may be completely different from the Services listed in the RFP, or these Services may be the Services that enhance the Services listed in this RFP.*

END OF ADDENDUM 1