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### UT System RFQ - Provide Financial Audit Services for FY 16-17

**\*\*UPDATED 03/09/16\*\***

**Open Date:** 03/31/16 02:00 PM

**Agency Requisition Number:** CON03312016

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

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

- Package 1** size: 684664 (in bytes) Type: Specification Format: Acrobat PDF Files
- Package 2** size: 120306 (in bytes) Type: Addendum Format: Word for Windows 97
- Package 3** size: 304127 (in bytes) Type: Addendum Format: Word for Windows 97
- Package 4** size: 217200 (in bytes) Type: Addendum Format: Acrobat PDF Files
- Package 5** size: 194156 (in bytes) Type: Additional Specification(s) Format: Acrobat PDF Files

**\*\*Update 03/09/16 - post FINAL Q&A document (Package 5) \*\*Update 03/01/16 - add Q&A document (Package 5)** The Board of Regents of The University of Texas System is soliciting proposals in response to this Request for Qualifications No. CON03312016 (this "RFQ") to select a Vendor to provide financial audits, reviews, and compliance audits (the "Audit Services") for the Fiscal Years Ending August 31, 2016 and 2017.

**Agency:** UNIVERSITY OF TEXAS SYSTEM (720)

**Open Date:** 03/31/16 02:00 PM

**Agency Requisition Number:** CON03312016

**Previous Price Paid:** N/A

**Solicitation type:** 14 Days or more for entire solicitation package

**NIGP Commodity Code(s):**

Class-Item: 918 - 04

Class-Item: 946 - 20

**Contact Information:**

**Contact Name:** Kyle Hayes

Upload Date: 2016-02-16 11:04:11.683 Updated date: 2016-03-09 09:53:22.49

# **REQUEST FOR QUALIFICATIONS**

**by**

**The Board of Regents of  
The University of Texas System**

**for**

**Selection of a Vendor to Provide**

**Financial Audit Services**

**For the Fiscal Years Ending  
August 31, 2016 and 2017**

**RFQ No. CON03312016**

**Submittal Deadline: 2:00 p.m. Central Prevailing Time  
March 31, 2016**

**Issued: February 16, 2016**

REQUEST FOR QUALIFICATION

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(Posted Separately)

APPENDIX FOUR: FORM 1295 - CERTIFICATE OF INTERESTED PARTIES  
(Posted Separately)

## SECTION 1

### INTRODUCTION

#### 1.1 Description of UTS

##### **UT System**

The University of Texas System (“**UTS**”) is one of the nation’s largest higher education systems with 14 institutions – including eight academic and six health institutions – and an annual operating budget of \$16.9 billion (FY 2016). With student enrollment exceeding 217,000, the UT System confers more than one-third of the state’s undergraduate degrees, educates almost two-thirds of the state’s health care professionals annually and accounts for almost 70 percent of all research funds awarded to public institutions in Texas. The 14 campuses and the UT System Administration offices together employ over 90,000 faculty and staff, making the UT System one of the largest employers in the state.

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

The following link provides a list of all UT System institutions and their respective websites:  
<http://www.utsystem.edu/institutions>.

##### **UTIMCO**

The University of Texas Investment Management Company (“**UTIMCO**”) is a 501(c)(3) investment management corporation whose sole purpose is the management of investment assets under the fiduciary care of the Board of Regents of the UT System. Created in March 1996, UTIMCO is the first external investment corporation formed by a public system. It invests endowment and operating funds in excess of \$35.1 billion (as of November 30, 2015), including the PUF, GEF, PHF, LTF and the ITF. UTIMCO is governed by a nine-member board consisting of at least three members of the U. T. System Board of Regents, the Chancellor of the System, three independent directors with substantial background and expertise in investments appointed by the U.T. System Board of Regents, and two members appointed by the Texas A&M System Board of Regents, one of whom must have a substantial background and expertise in investments. The fiscal year end of the Funds is August 31.

##### **UTS**

All references to UTS include UT System, UTIMCO, and all institutions.

#### 1.2 Objectives and Special Circumstances

The Board of Regents of The University of Texas System is soliciting proposals in response to this Request for Qualifications No. CON03312016 (this “**RFQ**”) to select a Vendor to provide financial audits, reviews, and compliance audits (the “**Audit Services**”) for the Fiscal Years Ending August 31, 2016 and 2017.

The Audit Services include separate reports, more specifically described in **Section 5.4** (Scope of Work) of this RFQ, and are as follows:

Consolidated Financial Statement Audit:

The University of Texas System – includes UT System Administration, 14 institutions, and UTIMCO

Stand-Alone Financial Statement Audits

The University of Texas Investment Management Company Funds (6 separate funds audits)

The University of Texas at Arlington

The University of Texas at Austin

The University of Texas at Dallas

The University of Texas at El Paso

The University of Texas of the Permian Basin

The University of Texas Rio Grande Valley

The University of Texas at San Antonio

The University of Texas at Tyler

The University of Texas M. D. Anderson Cancer Center

The University of Texas Southwestern Medical Center

The University of Texas Medical Branch at Galveston

The University of Texas Health Science Center at Houston

The University of Texas Health Science Center at San Antonio

The University of Texas Health Science Center at Tyler

Reviews in compliance with requirements of the Southern Association of Colleges and Schools:

The University of Texas Health Science Center at San Antonio

The University of Texas at Arlington

The University of Texas at Dallas

Audit Services for Institutions with grants from the Cancer Prevention & Research Institute of Texas ("CPRIT")

CPRIT requires grant recipients who expend \$500,000 of CPRIT grant funds or a combination of CPRIT and other state grant funds during the grant recipient's fiscal year to have a program specific audit.

Each institution would have a separate report as follows: UT Austin, UT Dallas, UT Medical Branch, UTHSC-Houston, UTHSC-San Antonio, UT MD Anderson, UTHSC-Tyler and UT Southwestern.

**1.4 Group Purchase Authority**

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

## SECTION 2

### NOTICE TO PROPOSER

#### 2.1 Submittal Deadline

UTS will accept proposals submitted in response to this RFQ until **2:00 p.m.**, Central Prevailing Time on Thursday, March 31, 2016 (the “**Submittal Deadline**”).

#### 2.2 Submission of Questions regarding this RFQ

Proposers will direct all questions or concerns regarding this RFQ to the following UTS email address:

<mailto:GRP-RFPVQ@utsystem.edu>

Subject line of email: RFQ CON03312016

UTS specifically instructs all interested parties to restrict all contact and questions regarding this RFQ to written communications. All questions or concerns must be received no later than March 8, 2016. UTS will have a reasonable amount of time to respond to questions or concerns. It is UTS’ intent to respond to all appropriate questions and concerns; however, UTS reserves the right to decline to respond to any question or concern.

A Question and Answer document will be posted as an addendum to the RFQ and updated on a regular basis over the life of the RFQ. UTS highly recommends that interested proposers check the posting site frequently for these updates at [http://esbd.cpa.state.tx.us/bid\\_show.cfm?bidid=122798](http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=122798)

#### 2.3 Criteria for Selection

The successful Proposer, if any, selected by UTS in accordance with the requirements and specifications set forth in this RFQ will be the Proposer that submits a proposal in response to this RFQ on or before the Submittal Deadline that is the most advantageous to UTS. The successful Proposer is referred to as the “**Contractor.**”

Proposer is encouraged to propose terms and conditions offering the maximum benefit to UTS in terms of (1) demonstrated competence and qualifications and (2) fair and reasonable cost. Proposers should describe all educational, state and local government discounts, as well as any other applicable discounts that may be available to UTS in a contract for the Services.

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

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

##### 2.3.1 Threshold Criteria Not Scored

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

2.3.2 Scored Criteria

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

**2.4 Key Events Schedule**

Issuance of RFQ	February 16, 2016
Pre-Proposal Teleconference (ref. <b>Section 2.6</b> of this RFQ)	February 23, 2016 9:00 AM CST
Deadline for Questions/Concerns (ref. <b>Section 2.2</b> of this RFQ)	March 8, 2016
Submittal Deadline (ref. <b>Section 2.1</b> of this RFQ)	2:00 PM CST March 31, 2016
Oral Presentations	April 11-15, 2016

**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 RFQ, Contractor subcontracts any of the Services, then Contractor must make a good faith effort to utilize HUBs certified by the Procurement and Support Services Division of the Texas Comptroller of Public Accounts. Proposals that fail to comply with the requirements contained in this Section 2.5 will constitute a material failure to comply with advertised specifications and will be rejected by UTS as non-responsive. Additionally, compliance with good faith effort guidelines is a condition precedent to awarding any agreement or contractual arrangement resulting from this RFQ. Proposer acknowledges that, if selected by UTS, its obligation to make a good faith effort to utilize HUBs when subcontracting any of the Services will continue throughout the term of all agreements and contractual arrangements resulting from this RFQ. Furthermore, any



subcontracting of the Services by the Proposer is subject to review by UTS to ensure compliance with the HUB program.

- 2.5.2 UTS has reviewed this RFQ in accordance with Title 34, *Texas Administrative Code*, Section 20.14, and has determined that subcontracting opportunities are not probable under this RFQ.
- 2.5.3 A HUB Subcontracting Plan (“HSP”) is required as part of Proposer’s proposal. The HSP will be developed and administered in accordance with UTS’ Policy on Utilization of Historically Underutilized Businesses attached as **APPENDIX THREE** and incorporated for all purposes.

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

*Questions regarding the HSP may be directed to:*

*Contact: Amy Nemetz  
Office of HUB Development  
Phone: 512-499-4485  
Email: anemetz@utsystem.edu*

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

- 2.5.4 Proposer must submit three (3) originals of the HSP to UTS at the same time it submits its proposal to UTS (ref. **Section 3.2** of this RFQ.) The three (3) originals of the HSP must be submitted under separate cover and in a separate envelope (the “HSP Envelope”). Proposer must ensure that the top outside surface of its HSP Envelope clearly shows and makes visible:
- 2.5.4.1 the RFQ No. (ref. **Section 1.3** of this RFQ) and the Submittal Deadline (ref. **Section 2.1** of this RFQ), both located in the lower left hand corner of the top surface of the envelope,
- 2.5.4.2 the name and the return address of the Proposer, and
- 2.5.4.3 the phrase “HUB Subcontracting Plan”.

Any proposal submitted in response to this RFQ that is not accompanied by a separate HSP Envelope meeting the above requirements will be rejected by UTS and returned to the Proposer unopened as that proposal will be considered non-responsive due to material failure to comply with advertised specifications. Furthermore, UTS will open a Proposer’s HSP Envelope prior to opening the proposal submitted by the Proposer, in

order to ensure that the Proposer has submitted the number of completed and signed originals of the Proposer's HSP that are required by this RFQ. A Proposer's failure to submit the number of completed and signed originals of the HSP that are required by this RFQ will result in UTS' rejection of the proposal submitted by that Proposer as non-responsive due to material failure to comply with advertised specifications; such a proposal will be returned to the Proposer unopened (ref. **Section 1.5** of **APPENDIX ONE** to this RFQ). **Note:** The requirement that Proposer provide three originals of the HSP under this **Section 2.5.4** is separate from and does not affect Proposer's obligation to provide UTS with the number of copies of its proposal as specified in **Section 3.1** of this RFQ

## **2.6 Pre-Proposal Conference**

UTS will hold a pre-proposal teleconference at 9:00 AM, Central Prevailing Time on Tuesday, February 23, 2016. The pre-proposal conference will allow all Proposers an opportunity to ask UTS' representatives relevant questions and clarify provisions of this RFQ.

Audio conference access: 800-307-6441

Guest PIN: 223588

## SECTION 3

### SUBMISSION OF PROPOSAL

#### 3.1 Number of Copies

Proposer must submit a total of six (6) complete and identical copies of its *entire* proposal plus six (6) electronic versions on USB flash drives. An *original* signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) of at least one (1) copy of the submitted proposal. The copy of the Proposer's proposal bearing an original signature should contain the mark "original" on the front cover of the proposal.

#### 3.2 Submission

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

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

#### 3.3 Proposal Validity Period

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

#### 3.4 Terms and Conditions

3.4.1 Proposer must comply with the requirements and specifications contained in this RFQ, the Terms and Conditions (ref. **Section 4** of this RFQ), the Notice to Proposer (ref. **Section 2** of this RFQ), Proposal Requirements (ref. **APPENDIX ONE**) and the Specifications and Additional Questions (ref. **Section 5** of this RFQ). If there is a conflict among the provisions in this RFQ, 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 RFQ);
- 3.4.1.2. Terms and Conditions (ref. **Section 4** of this RFQ);
- 3.4.1.3. Proposal Requirements (ref. **APPENDIX ONE**);
- 3.4.1.4. Notice to Proposers (ref. **Section 2** of this RFQ).

### 3.5 Submittal Checklist

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

- 3.5.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**)
- 3.5.2 Signed and Completed Pricing and Delivery Schedule (ref. **Section 6** of this RFQ)
- 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 RFQ)
- 3.5.6 Signed and completed originals of the HUB Subcontracting Plan or other applicable documents (ref. **Section 2.5** of this RFQ and **APPENDIX THREE**).

## SECTION 4

### GENERAL TERMS AND CONDITIONS

#### 4.1 General

The terms and conditions contained in **APPENDIX TWO – AGREEMENT** or, in the sole discretion of UTS, terms and conditions substantially similar to these terms and conditions, will be included in any contract or agreement that results from this RFQ (ref. **APPENDIX TWO - AGREEMENT**). If Proposer takes exception to any terms or conditions set forth in **APPENDIX TWO - AGREEMENT**, Proposer will submit a redlined version of the **APPENDIX TWO – AGREEMENT** as part of its proposal in accordance with **Section 5.3.1** of this RFQ. A Microsoft Word version of **APPENDIX TWO – AGREEMENT** is posted along with the RFQ. Proposer's exceptions will be reviewed by UTS and may result in disqualification of Proposer's proposal as non-responsive to this RFQ. If Proposer's exceptions do not result in disqualification of Proposer's proposal, then UTS may consider Proposer's exceptions when UTS evaluates the Proposer's proposal.

## SECTION 5

### SPECIFICATIONS AND ADDITIONAL QUESTIONS

#### 5.1 General

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

#### 5.2 Minimum Requirements

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

- 5.2.1 UTS wishes to obtain the services of an appropriately licensed Certified Public Accounting firm to perform the Services described in **Section 5.4** of the RFQ.
- 5.2.2 The engagement is to perform Audit Services to meet all regulatory requirements, including, but not limited to:

Audits in accordance with auditing standards generally accepted in the United States of America (“generally accepted auditing standards”) and the standards applicable to financial audits contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States. In connection with these standards, Contractor will perform such procedures as required to comply with the Comptroller of Public Accounts’ *Reporting Requirements for Annual Financial Reports of State Agencies and Universities*.

Program Audits as prescribed by the Cancer Prevention & Research Institute of Texas.

Reviews in accordance with the requirements of the Southern Association of Colleges and Schools Commission on Colleges, in accordance with *Statements on Standards for Accounting and Review Services* established by the American Institute of Certified Public Accountants (AICPA) (the “review standards”).

- 5.2.3 The audit services will be performed in accordance with U.S. generally accepted auditing standards or generally accepted government auditing standards (GAGAS) as set forth in the Government Accountability Office’s Government Auditing Standards as appropriate.
- 5.2.4 The audits will be planned and performed to obtain reasonable assurance about whether the financial statements are free of material misstatement, whether caused by error or fraud. The audits will include obtaining an understanding of internal controls sufficient to plan the audit and to determine the nature, timing, and extent of audit procedures to be performed. The audits will include examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements and the

audit will also include assessing the accounting principles used and significant estimates made by management, as well, as evaluating the overall financial statement presentation.

- 5.2.5 The scope of the independent auditor's opinion must encompass, at a minimum, the fair presentation of the financial statements in conformity with accounting principles generally accepted in the United States of America.

The CPRIT reports must satisfy requirements prescribed by the Cancer Prevention & Research Institute of Texas

The Southern Association of Colleges and Schools Commission on Colleges requirements must be met for the institutions with SACS accreditation reviews, which include a management letter.

- 5.2.6 The Successful Respondent will have related experience with large, not-for-profit healthcare systems, large academic medical centers, and/or large academic research institutions.
- 5.2.7 Respondent shall maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this Contract. Personnel assigned to perform the audit services shall have extensive experience with standards established by the Governmental Accounting Standards Board as well as the Financial Accounting Standards Board.
- 5.2.8 Respondent will outline how they will utilize the internal audit staff to reduce the cost of the external audit. Internal audit will contribute up to 5,000 hours of assistance.

#### **Additional Requirements Related to UTIMCO**

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

The Respondent will have client experience and technical expertise in the investment industry, including understanding complex accounting issues arising from investment asset classes including marketable alternative investments (hedge funds, arbitrage, distressed debt, etc.), private investments, and the use of derivatives.

Respondent will have knowledge of performance measurement in accordance with standards published by the CFA Institute.

The separate financial statements of the PUF, GEF, PHF, LTF, and ITF are accounted for as a fiduciary fund and may differ in presentation from the Texas Comptroller of Public Accounts' Annual Financial Reporting Requirements. The financial statements are prepared in accordance with the requirements of GASB.

## Additional Requirements Related to M. D. Anderson

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

The Respondent will have client experience and technical expertise in the Academic Healthcare Industry and be familiar with Medicare TEFRA Based Reimbursement regulations.

Respondent shall provide assistance in submitting the appropriate materials for the GFOA Certificate of Achievement for Excellence in Financial Reporting.

### 5.3 Additional Questions Specific to this RFQ

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

- 5.3.1 If Proposer takes exception to any terms or conditions set forth in **Section 4 (APPENDIX TWO - AGREEMENT)** of this RFQ, Proposer will submit a redlined version of the terms and conditions noting exceptions. A Word version of the Agreement is posted along with the RFQ.
- 5.3.2 By signing the Execution of Offer, Proposer agrees to comply with [Section 2252.908, Texas Government Code](#) ("Disclosure of Interested Parties Statute") and [1 Texas Administration Code Sections 46.1 through 46.5](#) ("Disclosure of Interested Parties Regulations") as implemented by the Texas Ethics Commission ("TEC"), including, among other things, providing the TEC and UTS with the information required on the form promulgated by the TEC and set forth in **APPENDIX FOUR**. **Proposers may learn more about these disclosure requirements, including the use of the TEC electronic filing system, by reviewing the information on the TEC website at [https://www.ethics.state.tx.us/whatsnew/FAQ\\_Form1295.html](https://www.ethics.state.tx.us/whatsnew/FAQ_Form1295.html).**

### 5.4 Scope of Work

#### 5.4.1 The University of Texas System (UT System)

Contractor will audit and report on the consolidated system-wide financial statements of The University of Texas System for the fiscal years ending August 31, 2016 and August 31, 2017, subject to the delegation of authority from the State Auditor's Office for the second year.

This audit will include the fourteen institutions of The University of Texas System and System Administration. Contractor shall focus primarily on the three (3) basic financial statements:

Statement of Net Position  
Statement of Revenues, Expenses and Changes in Net Position  
Cash Flow Statement



The financial statements also include footnotes. The financial statements prepared at UT System are in accordance with Governmental Accounting Standards Board requirements and the State Comptroller of Public Accounts Reporting Requirements for Annual Financial Reports. Copies of the UT System Annual Financial Report can be found at UT System's website at:

<http://www.utsystem.edu/documents/docs/controller/consolidated-annual-financial-report-fy-2015>

Contractor will follow-up on known significant findings and recommendations from previous financial audits, attestation engagements, performance audits, or other studies that directly relate to the objectives of the current audit to determine the effect on the risk assessment and audit procedures.

#### **5.4.2 The University of Texas Investment Management Company (UTIMCO)**

Fiduciary responsibility for the Funds managed by UTIMCO rests with the Board of Regents of The University of Texas System. The day-to-day operational responsibilities of PUF Investments, GEF, PHF, LTF, and ITF are managed by The University of Texas Investment Management Company (UTIMCO).

Contractor will audit and report on the financial statements of the following funds (the "Funds") for the fiscal years ending August 31, 2016 and August 31, 2017, subject to the delegation of authority from the State Auditor's Office for the second year:

- Permanent University Fund of The University of Texas System (PUF) and The Texas A&M University System (excluding the asset values of the Permanent University Fund lands),
- Permanent University Fund Detail Schedules of Investment Securities,
- The University of Texas System General Endowment Fund (GEF),
- The Permanent Health Fund (PHF),
- The University of Texas System Long Term Fund (LTF), and
- The University of Texas System Intermediate Term Fund (ITF).

The financial statements for each of the Funds include the statement of fiduciary net position, statement of changes in fiduciary net position, notes to the financial statements, and supplemental schedules. In addition, management's discussion and analysis is included. The separate financial statements of the PUF, GEF, PHF, LTF, and ITF are accounted for as fiduciary funds and may differ in presentation from the Texas Comptroller of Public Accounts' Annual Financial Reporting Requirements.

Additionally, Contractor will also audit the schedules of investment performance statistics of the Funds for the fiscal years ending August 31, 2016 and August 31, 2017, subject to the delegation of authority from the State Auditor's Office for the second year of this two year extension. These schedules are the responsibility of management of the Funds. Contractor's responsibility will be to express an opinion on the schedules based on the audits.

Issuance of Reports: The report issuance dates will be no later than October 28, 2016 for the fiscal year ending August 31, 2016; and no later than October 27, 2017 for the fiscal year ending August 31, 2017.

Background and specific requirements by Fund are as follows:

#### 5.4.2.1 Permanent University Fund

The PUF is a public endowment contributing to the support of 19 institutions and 6 agencies in The University of Texas System and The Texas A&M University System (TAMU System). The Texas Constitution of 1876 established the PUF through the appropriation of land grants previously designated to The University of Texas, as well as an additional one million acres. Another state grant of one million acres was made in 1883. Today, the PUF contains over 2.1 million acres of land located in 19 counties primarily in West Texas (PUF Lands).

As mandated by the Texas Constitution, all surface lease income is deposited in the Available University Fund, and all income from the sale of PUF Lands and leasing of mineral interests is retained within the PUF and invested in PUF Investments.

PUF Investments are invested in a broadly diversified portfolio including publicly traded equity and fixed income securities, and various types of securities where a readily determinable fair value does not exist. Distributions from the PUF Investments are allocated two-thirds for the benefit of eligible institutions of the UT System and one-third for the benefit of eligible institutions of the TAMU System. As of November 30, 2015, the net asset value of PUF Investments was \$17,550 million.

PUF Investments are required to be audited by Section 66.08(f) of the *Texas Education Code*. Specifically, the language in the code states "If an investment contract entered into under Subsection (b) includes the permanent university fund within the scope of funds under the control and management of the board to be invested by the corporation, the board shall provide for an annual financial audit of the permanent university fund. The audit shall be performed by the auditors of The University of Texas System and The Texas A&M University System and presented to the board." Section 66.05 of the *Texas Education Code* requires that the PUF annual report be prepared before December 1 of each year.

The asset value of the PUF lands and the income produced from the PUF lands are not required to be audited as part of the individual PUF investment but would be included in the audit of UT System.

Contractor shall perform the annual audit in accordance with standards issued by the Governmental Accounting Standards Board (GASB). The required financial statements include the Statements of Fiduciary Net Assets and the Statements of Changes in Fiduciary Net Assets. A Schedule of Changes in Cost of Investments and Investment Income is required for the purpose of complying with the reporting requirement of Section 66.05 of the *Texas Education Code*.

Contractor shall issue a separate report on the PUF's Detail Schedules of Investment Securities, including the par value, shares, value, and cost of investments.

#### 5.4.2.2 GEF, PHF, LTF, and ITF

Although not required by State law, these Funds are included in the RFQ to assist both the Board of Regents and the UTIMCO Board in their fiduciary responsibilities.

The PUF Investments and GEF are measured by the same benchmark, have identical investment objectives and follow the same asset allocation. Therefore, both funds have the same external investment managers and hold many of the same investments which should allow for greater audit efficiency. The PHF and LTF hold GEF units as investments. The ITF has many of the same external investment managers but does not invest in private equities.

##### 5.4.2.2.1 General Endowment Fund

The GEF, created March 1, 2001, is a pooled fund established for the collective investment of long-term funds under the control and management of the Board of Regents. The GEF is organized as a mutual fund and has two participants, the PHF and LTF. The PHF and LTF initially purchased units of the Fund on March 1, 2001, in exchange for the contribution of their investment assets. The GEF provides for greater diversification of investments than would be possible if each account were managed separately. The GEF is invested in a broadly diversified portfolio including equity, fixed income, and absolute return investments. As of November 30, 2015, the net asset value of the GEF was \$8,142 million.

Contractor shall perform the annual audit in accordance with standards issued by the Governmental Accounting Standards Board. The required financial statements include the Statement of Fiduciary Net Assets and the Statement of Changes in Fiduciary Net Assets.

##### 5.4.2.2.2 Permanent Health Fund

The PHF is an internal UT System mutual fund for the pooled investment of state endowment funds for health-related institutions of higher education, created August 30, 1999, with proceeds from state tobacco litigation. The 76<sup>th</sup> Legislature established three permanent funds and thirteen higher education endowments. The PHF participants consist of one of the permanent endowments and eight of the thirteen higher education endowments. On March 1, 2001, the PHF purchased units in the newly created GEF in exchange for the contribution of its investment assets. The PHF does not invest in individual securities, only GEF units and a negligible amount of cash. Cash distributions are paid quarterly. As of November 30, 2015, the net asset value of the PHF was \$1,057 million.

Contractor shall perform the annual audit in accordance with standards issued by the Governmental Accounting Standards Board.

The required financial statements include the Statement of Fiduciary Net Assets and the Statement of Changes in Fiduciary Net Assets.

#### 5.4.2.2.3 Long Term Fund

The LTF is an internal UT System mutual fund for the pooled investment of over 11,700 privately raised endowments and other long-term funds supporting various programs and purposes of the 14 institutions comprising UT System. The LTF was formerly known as the Common Trust Fund. The LTF was established February 9, 1995, by the Board of Regents to succeed the Common Trust Fund pooled investment fund. The Common Trust Fund was established by the Board of Regents in 1932. The LTF is structured as a mutual fund in which each endowment or account purchases units at the LTF's market value per unit. Cash distributions are paid quarterly directly to the UT System institution of record based on a per unit payout established by the Board of Regents. On March 1, 2001, the LTF purchased units in the newly created GEF in exchange for the contribution of its investment assets. The LTF does not invest in individual securities, only GEF units and a negligible amount of cash. As of November 30, 2015, the net asset value of the LTF was \$7,085 million.

Contractor shall perform the annual audit in accordance with standards issued by the Governmental Accounting Standards Board. The required financial statements include the Statement of Fiduciary Net Assets and the Statement of Changes in Fiduciary Net Assets.

#### 5.4.2.2.4 Intermediate Term Fund

The ITF was established February 1, 2006. The ITF is a pooled fund for the collective investment of operating funds and other intermediate and long term funds held by UT System institutions and System Administration. The Fund was created to improve the efficiency of operating funds management and to improve investment returns on UT System operating reserves. The ITF functions as a mutual fund in which each eligible account purchases and redeems ITF units on the first business day of each month at the market value per unit at the time of purchase or redemption. A distribution is paid the first day of each month based on a percentage of each unit holder's prior month beginning balance. As of November 30, 2015, the net asset value of the ITF was \$7,095 million.

Contractor shall perform the annual audit in accordance with standards issued by the Governmental Accounting Standards Board. The required financial statements include the Statement of Fiduciary Net Assets and the Statement of Changes in Fiduciary Net Assets.

#### 5.4.2.3 Performance Statistics

Contractor shall perform the annual audit in accordance with standards established by the American Institute of Certified Public Accountants of

investment performance statistics in total and by component of the PUF Investments, GEF, PHF, LTF and ITF. The investment performance statistics are computed net of investment management fees using recommended methods published by the CFA Institute.

Copies of audited financial statements are available at UTIMCO's website at [http://www.utimco.org/scripts/internet/funds\\_e.asp](http://www.utimco.org/scripts/internet/funds_e.asp).

#### **5.4.3 The University of Texas M. D. Anderson Cancer Center**

Contractor will audit and report on the financial statements of The University of Texas M. D. Anderson Cancer Center for the fiscal years ending August 31, 2016 and August 31, 2017.

Contractor shall provide assistance in submitting the appropriate materials for the GFOA Certificate of Achievement for Excellence in Financial Reporting.

M. D. Anderson received stand-alone audit opinions from 2002 through 2015.

#### **5.4.4 The University of Texas Southwestern Medical Center**

Contractor will audit and report on the financial statements of The University of Texas Southwestern Medical Center for the fiscal years ending August 31, 2016 and August 31, 2017.

UT Southwestern Medical received stand-alone audit opinions from 2012 through 2015.

#### **5.4.5 The University of Texas Medical Branch at Galveston**

Contractor will audit and report on the financial statements of The University of Texas Medical Branch - Galveston for the fiscal years ending August 31, 2016 and August 31, 2017.

UT Medical Branch – Galveston received stand-alone audit opinions from 2012 through 2015.

#### **5.4.6 The University of Texas at Arlington**

Contractor will perform a review of the Statement of Net Position of the University of Texas at Arlington as of August 31, 2016, and the related statements of revenues, expenses and change in net position, and cash flows for the year then ending, in accordance with Statements on Standards for Accounting and Review Services established by the American Institute of Certified Public Accountants (AICPA) (the "review standards") to satisfy the requirements of the Southern Association of colleges and Schools commission on Colleges ("SACS"). Contractor will issue a written institutional management letter for the fiscal year ending August 31, 2016.

#### **5.4.7 The University of Texas at Dallas**

Contractor will perform a review of the Statement of Net Position of the University of Texas at Dallas as of August 31, 2017, and the related statements of revenues, expenses and change in net position, and cash flows for the year then ending, in accordance with Statements on Standards for Accounting and Review Services established by the American Institute of Certified Public Accountants (AICPA) (the “review standards”) to satisfy the requirements of the Southern Association of colleges and Schools commission on Colleges (“SACS”). Contractor will issue a written institutional management letter for the fiscal year ending August 31, 2017.

#### **5.4.8 The University of Texas Health Science Center at San Antonio**

Contractor will perform a review of the Statement of Net Position of the University of Texas Health Science Center at San Antonio for the years ended August 31, 2016 and August 31, 2017, and the related statements of revenues, expenses and change in net position, and cash flows for the years then ending, in accordance with Statements on Standards for Accounting and Review Services established by the American Institute of Certified Public Accountants (AICPA) (the “review standards”) to satisfy the requirements of the Southern Association of colleges and Schools commission on Colleges (“SACS”). Contractor will issue a written institutional management letter for the fiscal years ending August 31, 2016 and August 31, 2017.

#### **5.4.9 Additional Audit Services**

Contractor will audit and report on the financial statements for each of the following for the fiscal years ending August 31, 2016 and August 31, 2017.

UT Arlington (must comply with SACS requirements)  
UT Austin  
UT Dallas (must comply with SACS requirements)  
UT El Paso  
UT Permian Basin  
UT Rio Grande Valley  
UT San Antonio  
UT Tyler  
UT Health Science Center at Houston  
UT Health Science Center at San Antonio (must comply with SACS requirements)  
UT Health Science Center at Tyler

#### **5.4.10 CPRIT**

Contractor will perform procedures to comply with the requirements prescribed by the Cancer Prevention & Research Institute of Texas for each of the following institutions: UT Austin, UT Dallas, UT Medical Branch, UTHSC-Houston, UTHSC-San Antonio, UT MD Anderson, UTHSC-Tyler, and UT Southwestern. The current requirement allows for program specific audits, and can be found here:

[http://www.cprit.state.tx.us/images/uploads/policies\\_and\\_procedures\\_amendment\\_audit\\_requirement.pdf](http://www.cprit.state.tx.us/images/uploads/policies_and_procedures_amendment_audit_requirement.pdf)

**SECTION 6**

**PRICING AND DELIVERY SCHEDULE**

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

**To:** The University of Texas System Administration

**Ref.:** \_\_\_\_\_ Services related to the \_\_\_\_\_  
\_\_\_\_\_

**RFQ No.:** CON03312016

Ladies and Gentlemen:

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

**6.1 Pricing for Audit and Review Services**

UT System - Audit	FY 2016	FY 2017
Proposed fee, not to exceed	\$	\$
Estimation of out-of-pocket expenses		
<b>Total</b>	\$	\$

UTIMCO - Audits	Funds FY 2016					Performance Statistics
	PUF	GEF	PHF	LTF	ITF	
Proposed fee, not to exceed	\$	\$	\$	\$	\$	\$
Estimation of out-of-pocket expenses						
<b>Total</b>	\$	\$	\$	\$	\$	\$

UTIMCO - Audits	Funds FY 2017					Performance Statistics
	PUF	GEF	PHF	LTF	ITF	
Proposed fee, not to exceed	\$	\$	\$	\$	\$	\$
Estimation of out-of-pocket expenses						
<b>Total</b>	\$	\$	\$	\$	\$	\$

<b>M.D. Anderson - Audit</b>	<b>FY 2016</b>	<b>FY 2017</b>
Proposed fee, not to exceed	\$	\$
Estimation of out-of-pocket expenses		
<b>Total</b>	\$	\$

<b>UT Southwestern - Audit</b>	<b>FY 2016</b>	<b>FY 2017</b>
Proposed fee, not to exceed	\$	\$
Estimation of out-of-pocket expenses		
<b>Total</b>	\$	\$

<b>UT Medical Branch Galveston - Audit</b>	<b>FY 2016</b>	<b>FY 2017</b>
Proposed fee, not to exceed	\$	\$
Estimation of out-of-pocket expenses		
<b>Total</b>	\$	\$

<b>UT Health Science Center - San Antonio - SACS Review</b>	<b>FY 2016</b>	<b>FY 2017</b>
Proposed fee, not to exceed	\$	\$
Estimation of out-of-pocket expenses		
<b>Total</b>	\$	\$

<b>UT Dallas - SACS Review</b>	<b>FY2017</b>
Proposed fee, not to exceed	\$
Estimation of out-of-pocket expenses	
<b>Total</b>	\$

<b>UT Arlington – SACS Review</b>	<b>FY 2016</b>
Proposed fee, not to exceed	\$
Estimation of out-of-pocket expenses	
<b>Total</b>	\$



6.2 Pricing for Additional Audit Services

Additional Audit Services	FY2016			FY2017		
	Proposed Fees- not to exceed	Estimation of out-of-pocket expenses	Total	Proposed Fees- not to exceed	Estimation of out-of-pocket expenses	Total
UT Arlington	\$	\$	\$	\$	\$	\$
UT Austin						
UT Dallas						
UT El Paso						
UT Permian Basin						
UT Rio Grande Valley						
UT San Antonio						
UT Tyler						
UT HSC - Houston						
UT HSC - San Antonio						
UT HSC - Tyler						

Cancer Prevention & Research Institute of Texas Program Audits	FY2016		
	Proposed Fees- not to exceed	Estimation of out-of-pocket expenses	Total
UT Austin	\$	\$	\$
UT Dallas			
UT Medical Branch			
Health Science Center - Houston			
Health Science Center - San Antonio			
MD Anderson Cancer Center			
Health Science Center - Tyler			
UT Southwestern Medical			

**6.3 UTS' Payment Terms**

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

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

Respectfully submitted,

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

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

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

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

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

**APPENDIX ONE**

**PROPOSAL REQUIREMENTS**

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## APPENDIX ONE

## SECTION 1

**GENERAL INFORMATION & PROPOSAL REQUIREMENTS****1.1 Purpose**

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

By submitting a proposal, Proposer certifies that it understands this RFQ 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 RFQ will be the sole responsibility of the Proposer.

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

**1.2 Inquiries and Interpretations**

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

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

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

**1.3 Public Information**

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

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

Upon execution of a final agreement, UTS will consider all information, documentation, and other materials requested to be submitted in response to this RFQ, to be of a non-confidential and non-proprietary nature and, therefore, subject to public disclosure under the *Texas Public Information Act (Government Code, Chapter 552.001, et seq.)*. Proposer will be advised of a request for public information that implicates their materials and will have the opportunity to raise any objections to disclosure to the Texas Attorney General. Certain information may be protected from release under Sections 552.101, 552.110, 552.113, and 552.131, *Government Code*.

#### 1.4 Type of Agreement

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

#### 1.5 Proposal Evaluation Process

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

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

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

After submission of a proposal but before final selection of Contractor is made, UTS may permit a Proposer to revise its proposal in order to obtain the Proposer's best and final offer. In that event, representations made by Proposer in its revised proposal, including price and fee quotes,

will be binding on Proposer. UTS will provide each Proposer within the competitive range with an equal opportunity for discussion and revision of its proposal. UTS is not obligated to select the Proposer offering the most attractive economic terms if that Proposer is not the most advantageous to UTS overall, as determined by UTS.

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

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

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

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

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

## **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 RFQ will become the property of UTS.
- 1.8.3 UTS will not provide compensation to Proposer for any expenses incurred by the Proposer for proposal preparation or for demonstrations or oral presentations that may be made by Proposer. Proposer submits its proposal at its own risk and expense.
- 1.8.4 Proposals that (i) are qualified with conditional clauses; (ii) alter, modify, or revise this RFQ in any way; or (iii) contain irregularities of any kind, are subject to disqualification by UTS, at UTS' sole discretion.
- 1.8.5 Proposals should be prepared simply and economically, providing a straightforward, concise description of Proposer's ability to meet the requirements and specifications of

this RFQ. Emphasis should be on completeness, clarity of content, and responsiveness to the requirements and specifications of this RFQ.

- 1.8.6 UTS makes no warranty or guarantee that an award will be made as a result of this RFQ. UTS reserves the right to accept or reject any or all proposals, waive any formalities, procedural requirements, or minor technical inconsistencies, and delete any requirement or specification from this RFQ or the Agreement when deemed to be in UTS' best interest. UTS reserves the right to seek clarification from any Proposer concerning any item contained in its proposal prior to final selection. Such clarification may be provided by telephone conference or personal meeting with or writing to UTS, at UTS' sole discretion. Representations made by Proposer within its proposal will be binding on Proposer.
- 1.8.7 Any proposal that fails to comply with the requirements contained in this RFQ may be rejected by UTS, in UTS' sole discretion.

## 1.9 Preparation and Submittal Instructions

### 1.9.1 Specifications and Additional Questions

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

### 1.9.2 Execution of Offer

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

### 1.9.3 Pricing and Delivery Schedule

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

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

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

#### 1.9.4 Proposer's General Questionnaire

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

#### 1.9.5 Addenda Checklist

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

#### 1.9.6 Submission

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

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

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

UTS will not accept proposals submitted by telephone, proposals submitted by Facsimile ("FAX") transmission, or proposals submitted by electronic transmission (i.e., e-mail) in response to this RFQ.

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

By signing the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) and submitting a proposal, Proposer certifies that any terms, conditions, or documents attached to or



referenced in its proposal are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFQ and (b) do not place any requirements on UTS that are not set forth in this RFQ or in the Appendices to this RFQ. Proposer further certifies that the submission of a proposal is Proposer's good faith intent to enter into the Agreement with UTS as specified herein and that such intent is not contingent upon UTS' acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.

#### 1.9.7 Page Size, Binders, and Dividers

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

#### 1.9.8 Table of Contents

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

#### 1.9.9 Pagination

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

#### 1.9.10 Suggested Outline of Proposal

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

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

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

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

## SECTION 2

EXECUTION OF OFFER

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

- 2.1** By signature hereon, Proposer represents and warrants the following:
- 2.1.1 Proposer acknowledges and agrees that (1) this RFQ is a solicitation for a proposal and is not a contract or an offer to contract; (2) the submission of a proposal by Proposer in response to this RFQ will not create a contract between UTS and Proposer; (3) UTS has made no representation or warranty, written or oral, that one or more contracts with UTS will be awarded under this RFQ; and (4) Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFQ.
  - 2.1.2 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
  - 2.1.3 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
  - 2.1.4 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.
  - 2.1.5 Proposer understands (i) the requirements and specifications set forth in this RFQ and (ii) the terms and conditions set forth in Section 4 of this RFQ and **APPENDIX TWO**, under which Proposer will be required to operate.
  - 2.1.6 If selected by UTS, Proposer will not delegate any of its duties or responsibilities under this RFQ or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
  - 2.1.7 If selected by UTS, Proposer will maintain any insurance coverage as required by the Agreement during the term thereof.
  - 2.1.8 All statements, information and representations prepared and submitted in response to this RFQ are current, complete, true and accurate. Proposer acknowledges that UTS will rely on such statements, information and representations in selecting Contractor. If selected by UTS, Proposer will notify UTS immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
  - 2.1.9 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UTS, INDEMNIFY, AND HOLD HARMLESS UTS, THE UTS OF TEXAS SYSTEM, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES

INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFQ.

- 2.1.10 Pursuant to Sections 2107.008 and 2252.903, *Government Code*, any payments owing to Proposer under any contract or agreement resulting from this RFQ may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- 2.2 By signature hereon, Proposer offers and agrees to furnish the Services to UTS and comply with all terms, conditions, requirements and specifications set forth in this RFQ.
- 2.3 By signature hereon, Proposer affirms that it has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its submitted proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting contracts, and the Proposer may be removed from all proposal lists at UTS.
- 2.4 By signature hereon, Proposer certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, *Tax Code*, or that Proposer is exempt from the payment of those taxes, or that Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at UTS' option, may result in termination of any resulting contract or agreement.
- 2.5 By signature hereon, Proposer hereby certifies that neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et seq., *Business and Commerce Code*, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.
- 2.6 By signature hereon, Proposer certifies that the individual signing this document and the documents made a part of this RFQ, is authorized to sign such documents on behalf of Proposer and to bind Proposer under any agreements and other contractual arrangements that may result from the submission of Proposer's proposal.
- 2.7 By signature hereon, Proposer certifies as follows:
- "Under Section 231.006, *Family Code*, relating to child support, Proposer certifies that the individual or business entity named in the Proposer's proposal is not ineligible to receive the specified contract award and acknowledges that any agreements or other contractual arrangements resulting from this RFQ may be terminated if this certification is inaccurate."
- 2.8 By signature hereon, Proposer certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors

of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture or the members or managers of any Proposer that is a limited liability company, on one hand, and an employee of any component of The UTS of Texas System, on the other hand, other than the relationships which have been previously disclosed to UTS in writing; (ii) Proposer has not been an employee of any component institution of The UTS of Texas System within the immediate twelve (12) months prior to the Submittal Deadline; and (iii) no person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Proposer's proposal or any contract resulting from this RFQ (ref. Section 669.003, *Government Code*). All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before UTS enters into a contract or agreement with Proposer.

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

**2.10** By signature hereon, Proposer represents and warrants that all products and services offered to UTS in response to this RFQ 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 RFQ.

**2.11** Proposer will and has disclosed, as part of its proposal, any exceptions to the certifications stated in this Execution of Offer. All such disclosures will be subject to administrative review and approval prior to the time UTS makes an award or enters into any contract or agreement with Proposer.

**2.12** If Proposer will sell or lease computer equipment to the UTS under any agreements or other contractual arrangements that may result from the submission of Proposer's proposal then, pursuant to Section 361.965(c), *Health & Safety Code*, Proposer certifies that it is in compliance with the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in Chapter 361, Subchapter Y, *Health & Safety Code* and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in Title 30, Chapter 328, Subchapter I, *Texas Administrative Code*. Section 361.952(2), *Health & Safety Code*, states that, for purposes of the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act, the term "computer equipment" means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.

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

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

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

RFQ No.: CON03312016

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

**Submitted and Certified By:**

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

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

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

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

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

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

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

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

**SECTION 3**

**PROPOSER'S GENERAL QUESTIONNAIRE**

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

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

**3.1 Proposer Profile**

3.1.1 Legal name of Proposer company:

\_\_\_\_\_

Address of principal place of business:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Number of years in Business: \_\_\_\_\_

State of incorporation: \_\_\_\_\_

Number of Employees: \_\_\_\_\_

Annual Revenues Volume: \_\_\_\_\_

Name of Parent Corporation, if any \_\_\_\_\_

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

- 3.1.2 State whether Proposer will provide a copy of its financial statements for the past two (2) years, if requested by UTS.
- 3.1.3 Proposer will provide a financial rating of the Proposer entity and any related documentation (such as a Dunn and Bradstreet analysis) that indicates the financial stability of Proposer.
- 3.1.4 Is Proposer currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, Proposer will explain the expected impact, both in organizational and directional terms.
- 3.1.5 Proposer will provide any details of all past or pending litigation or claims filed against Proposer that would affect its performance under the Agreement with UTS (if any).
- 3.1.6 Is Proposer currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, Proposer will specify the pertinent date(s), details, circumstances, and describe the current prospects for resolution.
- 3.1.7 Proposer will provide a customer reference list of no less than three (3) organizations with which Proposer currently has contracts and/or to which Proposer has previously provided services (within the past five (5) years) of a type and scope similar to those required by UTS' RFQ. Proposer will include in its customer reference list the customer's company name, contact person, telephone number, project description, length of business relationship, and background of services provided by Proposer.
- 3.1.8 Does any relationship exist (whether by family kinship, business association, capital funding agreement, or any other such relationship) between Proposer and any employee of UTS? If yes, Proposer will explain.
- 3.1.9 Proposer will provide the name and Social Security Number for each person having at least 25% ownership interest in Proposer. This disclosure is mandatory pursuant to Section 231.006, *Family Code*, and will be used for the purpose of determining whether an owner of Proposer with an ownership interest of at least 25% is more than 30 days delinquent in paying child support. Further disclosure of this information is governed by the *Texas Public Information Act*, Chapter 552, *Government Code*, and other applicable law.

## **3.2 Approach to Project Services**

- 3.2.1 Proposer will provide a statement of the Proposer's service approach and will describe any unique benefits to UTS from doing business with Proposer. Proposer will briefly describe its approach for each of the required services identified in **Section 5.4** Scope of Work of this RFQ.
- 3.2.2 Proposer will provide an estimate of the earliest starting date for services following execution of the Agreement.
- 3.2.3 Proposer will submit a work plan with key dates and milestones. The work plan should include:
  - 3.2.3.1 Identification of tasks to be performed;

- 3.2.3.2 Time frames to perform the identified tasks;
- 3.2.3.3 Project management methodology;
- 3.2.3.4 Implementation strategy; and
- 3.2.3.5 The expected time frame in which the services would be implemented.

3.2.4 Proposer will describe the types of reports or other written documents Proposer will provide (if any) and the frequency of reporting, if more frequent than required in the RFQ. Proposer will include samples of reports and documents if appropriate.

### **3.3 General Requirements**

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

### **3.4 Service Support**

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

### **3.5 Quality Assurance**

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

### **3.6 Miscellaneous**

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



**SECTION 4**

**ADDENDA CHECKLIST**

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

**To:** The University of Texas System Administration

**Ref.:** \_\_\_\_\_ Services related to the \_\_\_\_\_

**RFQ No.:** CON03312016

Ladies and Gentlemen:

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

No. 1 \_\_\_\_\_ No. 2 \_\_\_\_\_ No. 3 \_\_\_\_\_ No. 4 \_\_\_\_\_ No. 5 \_\_\_\_\_ No. 6 \_\_\_\_\_

Respectfully submitted,

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

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

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

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

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

## APPENDIX TWO

### AGREEMENT BETWEEN THE UNIVERSITY OF TEXAS SYSTEM AND CONTRACTOR

This Agreement between UTS and Contractor ("**Agreement**") is made and entered into effective as of Month DD, 2016 (the "**Effective Date**"), by and between **The University of Texas System**, an agency and institution of higher education established under the laws of the State of Texas ("**UTS**"), and **Name of Contractor**, ("**Contractor**").

UTS and Contractor hereby agree as follows:

#### 1. Scope of Work.

- 1.1 Contractor will perform the scope of the work ("**Work**") set forth in **Exhibit A**, Scope of Work, attached and incorporated for all purposes, to the satisfaction of UTS and in accordance with the schedule ("**Schedule**") for the Work set forth in **Exhibit B**, Schedule, attached and incorporated for all purposes. Time is of the essence in connection with this Agreement. UTS will have no obligation to accept late performance or waive timely performance by Contractor.
- 1.2 Contractor will obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, for the performance of the Work.
- 1.3 Upon execution of this Agreement, all services previously performed by Contractor on behalf of UTS and included in the description of the Work, will become a part of the Work and will be subject to the terms and conditions of this Agreement.

#### 2. The Project.

The Work will be performed in connection with valuation services in accordance with Governmental Accounting Standards Board (GASB) Statement No. 72, *Fair Value Measurement and Application*. The valuation services will be limited to certain non-publically traded, privately held, investments, more specifically described in **Exhibit A - Scope of Work**.

#### 3. Time for Commencement and Completion.

The term of this Agreement will begin on the Effective Date and expire on **Month DD, YYYY**. Subject to delegation of authority from the State Auditor's Office, UTS shall have the option to renew this Agreement for five (5) additional (1) year terms; provided, however, that UTS' exercise of each such option shall be conditional upon UTS and Contractor first reaching mutual agreement on the terms for such additional one (1) year term and entering into a written agreement.

#### 4. Contractor's Obligations.

- 4.1 Contractor will perform the Work in compliance with all applicable federal, state and local, laws, regulations, and ordinances. Contractor represents and warrants that neither Contractor nor any firm, corporation or institution represented by Contractor, or anyone acting for the firm, corporation or institution, has violated the antitrust laws of the State of Texas, Chapter 15, *Texas Business and Commerce Code*, or federal antitrust laws, or (2) has communicated directly or indirectly the content of Contractor's response to UTS' procurement solicitation to any

competitor or any other person engaged in a similar line of business during the procurement process for this Agreement.

- 4.2 Contractor represents, warrants and agrees that (a) it will use commercially reasonable efforts to perform the Services in a good and workmanlike manner and in accordance with commercially reasonable standards of Contractor's profession or business, and (b) all of the Services to be performed will be of the quality that prevails among similar businesses engaged in providing similar services in major United States urban areas under the same or similar circumstances.
- 4.3 Contractor will call to UTS' attention in writing all information in any materials supplied to Contractor (by UTS or any other party) that Contractor regards as unsuitable, improper or inaccurate in connection with the purposes for which the material is furnished.
- 4.4 Contractor warrants and agrees that the Services will be accurate and free from any material defects. Contractor's duties and obligations under this Agreement will at no time be in any way diminished by reason of any approval by UTS nor will Contractor be released from any liability by reason of any approval by UTS, it being agreed that UTS at all times is relying upon Contractor's skill and knowledge in performing the Services.
- 4.5 Contractor will, at its own cost, correct all material defects in the Services as soon as practical after Contractor becomes aware of the defects. If Contractor fails to correct material defects in the Services within a reasonable time, then UTS may correct the defective Services at Contractor's expense. This remedy is in addition to, and not in substitution for, any other remedy for defective Services that UTS may have at law or in equity.
- 4.6 Contractor will furnish efficient business administration and coordination and perform the Work in an expeditious and economical manner consistent with the interests of UTS.
- 4.7 Contractor represents that if (i) it is a corporation, then it is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, or a foreign corporation or limited liability company duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary corporate power and has received all necessary corporate approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor; or (ii) if it is a partnership, limited partnership, limited liability partnership, or limited liability company then it has all necessary power and has secured all necessary approvals to execute and deliver this Agreement and perform all its obligations hereunder, and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.
- 4.8 Contractor represents and warrants that neither the execution and delivery of this Agreement by Contractor nor the performance of its duties and obligations under this Agreement will (a) result in the violation of any provision [i] if a corporation, of Contractor's articles of incorporation or by-laws, [ii] if a limited liability company, of its articles of organization or regulations, or [iii] if a partnership, of any partnership agreement by which Contractor is bound; (b) result in the violation of any provision of any agreement by which Contractor is bound; or (c) to the best of Contractor's knowledge and belief, conflict with any order or decree of any court or other body or authority having jurisdiction.

4.9 Reserved

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

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

## 5. **The Contract Amount.**

5.1 So long as Contractor has provided UTS with its current and accurate Federal Tax Identification Number in writing, UTS will pay Contractor for the performance of the Work as more particularly set forth in **Exhibit C**, Payment for Services, attached and incorporated for all purposes.

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

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

## 6. **Payment Terms.**

6.1 Contractor will periodically submit to UTS an invoice covering the services performed for UTS in compliance with **Exhibit C**, Payment for Services. Each invoice will be accompanied by documentation that UTS may reasonably request to support the invoice amount. UTS will, within thirty (30) days from the date it receives an invoice and supporting documentation, approve or disapprove the amount reflected in the invoice. If UTS approves the amount or any portion of the amount, UTS will promptly pay (each a "**Progress Payment**") to Contractor the amount approved so long as Contractor is not in default under this Agreement. If UTS disapproves any invoice amount, UTS will give Contractor specific reasons for its disapproval in writing.

6.2 Within ten (10) days after final completion of the Work and acceptance of the Work by UTS or as soon thereafter as possible, Contractor will submit a final invoice ("**Final Invoice**") setting forth all amounts due and remaining unpaid to Contractor. Upon approval of the Final Invoice by UTS, UTS will pay ("**Final Payment**") to Contractor the amount due under the Final Invoice.

- 6.3 Notwithstanding any provision of this Agreement to the contrary, UTS will not be obligated to make any payment (whether a Progress Payment or Final Payment) to Contractor if Contractor is in material default under this Agreement which default is not cured within thirty (30) days of receipt of written notice from UTS specifying the nature of the default.
- 6.4 The cumulative amount of all Progress Payments and the Final Payment (defined below) will not exceed the Contract Amount as more particularly set forth in **Exhibit C**, Payment for Services.
- 6.5 No payment made by UTS will (a) be construed to be final acceptance or approval of that part of the Work to which the payment relates, or (b) relieve Contractor of any of its duties or obligations under this Agreement.
- 6.6 UTS will have the right to verify the details set forth in Contractor's invoices and supporting documentation, either before or after payment, by (a) inspecting the books and records of Contractor related to Project Payments at mutually convenient times upon advance written notice; (b) examining any reports with respect to the Project; and (c) other reasonable action.

**7. Tax Exemption**

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

**8. Reserved.**

**9. Reserved.**

**10. Relationship of the Parties.**

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

**11. Insurance**

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

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

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

Workers' Compensation policy must include any states where contractor performs series for UTS.

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

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

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

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

- 11.1.4 Umbrella/Excess Liability Insurance with limits of not less than \$2,000,000 per occurrence and aggregate with a deductible of no more than \$10,000, and will be excess over and at least as broad as the underlying coverage as required under sections 11.1.1 Employer's Liability; 11.1.2 Commercial General Liability; and 11.1.3 Business Auto Liability. Inception and expiration dates will be the same as the underlying policies. Drop down coverage will be provided for reduction or exhaustion of underlying aggregate limits and will provide a duty to defend for any insured.

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

11.2 Contractor will deliver to UTS:

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

- 11.2.1.1 **All insurance policies** (with the exception of workers' compensation, employer's liability and professional liability) will be endorsed and name the Board of Regents of The University of Texas System and UTS as

Additional Insureds for liability caused in whole or in part by Contractor's acts or omissions with respect to its on-going and completed operations up to the actual liability limits of the required insurance policies maintained by Contractor. Commercial General Liability Additional Insured endorsement including ongoing and completed operations coverage will be submitted with the Certificates of Insurance. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage.

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

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

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

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

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

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

## 12. **Miscellaneous.**

12.1 **Assignment and Subcontracting.** Contractor's interest in this Agreement (including Contractor's duties and obligations under this Agreement, and the fees due to Contractor under this Agreement)

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

- 12.2 **Texas Family Code Child Support Certification.** Pursuant to Section 231.006, *Texas Family Code*, Contractor certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.
- 12.3 **Eligibility Certifications.** Pursuant to Sections 2155.004 and 2155.006, *Texas Government Code*, Contractor certifies that the individual or business entity named in this Agreement is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment withheld if these certifications are inaccurate.
- 12.4 **Tax Certification.** If Contractor is a taxable entity as defined by Chapter 171, Texas Tax Code (“**Chapter 171**”), then Contractor certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Contractor is exempt from the payment of those taxes, or that Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.
- 12.5 **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.903, *Texas Government Code*, Contractor agrees that any payments owing to Contractor under this Agreement may be applied directly toward any debt or delinquency that Contractor owes the State of Texas or any agency of the State of Texas regardless of when it arises, until the debt or delinquency is paid in full.
- 12.6 **Products and Materials Produced in Texas.** Contractor covenants and agrees that as required by Section 2155.4441, *Texas Government Code*, in performing the Work and its other duties and obligations under this Agreement, Contractor will purchase products and materials produced in Texas when the products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
- 12.7 **Loss of Funding.** UTS performance of its duties and obligations under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “**Legislature**”) and/or allocation of funds by the Board of Regents of The UTS of Texas System (the “**Board**”). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then UTS will issue written notice to Contractor and UTS may terminate this Agreement without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of UTS.
- 12.8 **Entire Agreement; Modifications.** This Agreement supersedes all prior agreements, written or oral, between Contractor and UTS and will constitute the entire agreement and understanding between the parties with respect to the subject matter of this Agreement. This Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by both UTS and Contractor.



- 12.9 **Force Majeure.** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character (“**force majeure occurrence**”).
- 12.10 **Captions.** The captions of sections and subsections in this Agreement are for convenience only and will not be considered or referred to in resolving questions of interpretation or construction.
- 12.11 **Governing Law.** Austin Texas, will be the proper place of venue for suit on or in respect of this Agreement. This Agreement and all of the rights and obligations of the parties to this Agreement and all of the terms and conditions of this Agreement will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.
- 12.12 **Waivers.** No delay or omission in exercising any right accruing upon a default in performance of this Agreement will impair any right or be construed to be a waiver of any right. A waiver of any default under this Agreement will not be construed to be a waiver of any subsequent default under this Agreement.
- 12.13 **Confidentiality and Safeguarding of UTS Records; Press Releases; Public Information**

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

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

- 12.13.2 **Return of UTS Records.** Contractor agrees that within thirty (30) days after the expiration or termination of this Agreement, for any reason, all UTS Records created or received from or on behalf of UTS will be (1) returned to UTS, with no copies retained by Contractor; or (2) if return is not feasible, destroyed. Twenty (20) days before destruction of any UTS Records, Contractor will provide UTS with written notice of Contractor's intent to destroy UTS Records. Within five (5) days after destruction, Contractor will confirm to UTS in writing the destruction of UTS Records.
- 12.13.3 **Disclosure.** If Contractor discloses any UTS Records to a subcontractor or agent, Contractor will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Contractor by this Section.
- 12.13.4 **Press Releases.** Except when defined as part of the Services, Contractor will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor as an independent contractor of UTS in connection with the Project, or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of UTS.
- 12.13.5 **Public Information.** UTS strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the *Texas Public Information Act ("TPIA")*, Chapter 552, *Texas Government Code*. In accordance with Section 552.002 of TPIA and Section 2252.907, *Texas Government Code*, and at no additional charge to UTS, Contractor will make any information created or exchanged with UTS pursuant to this Agreement (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by UTS that is accessible by the public.
- 12.13.6 **Termination.** In addition to any other termination rights set forth in this Agreement and any other rights at law or equity, if UTS reasonably determines that Contractor has breached any of the restrictions or obligations set forth in this Section, UTS may immediately terminate this Agreement without notice or opportunity to cure.
- 12.13.7 **Duration.** The restrictions and obligations under this Section will survive expiration or termination of this Agreement for any reason.
- 12.14 **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors.
- 12.15 **State Auditor's Office.** Contractor understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "**Auditor**"), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), 73.115(c) and 74.008(c), *Texas Education Code*. Contractor further agrees to cooperate fully with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. The Contractor will ensure that this clause concerning the State Auditor's Office's authority to audit state fund and the requirement to cooperate fully with the State Auditor's Office is included in any subcontracts it awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, audit documentation, and records of the Contractor relating to this contract for any purpose.

The Contractor understands that the State Auditor’s Office may choose to rely on the work of the Contractor to support the State Auditor’s Office’s opinion on the Comprehensive Annual Financial Report for the State of Texas, and the Contractor agrees to cooperate with the State Auditor’s Office in a joint effort to comply with American Institute of Certified Public Accountants standard AU-C 600, *Special Consideration-Audits of Group Financial Statements (Including the Work of Component Auditors)*. The Contractor agrees that the State Auditor’s Office is serving in the capacity of the group engagement auditor. As a component auditor, information the Contractor agrees to provide the State Auditor’s Office includes information necessary to facilitate determinations regarding the Contractors understanding and compliance with ethical requirements and professional competence.

12.16 **Records.** Records of Contractor's costs, reimbursable expenses pertaining to the Project and payments will be available to UTS or its authorized representative during business hours and will be retained for four (4) years after final Payment or abandonment of the Project, unless UTS otherwise instructs Contractor in writing.

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

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

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

Notwithstanding any other requirements for notices given by a party under this Agreement, if

Contractor intends to deliver written notice to UTS pursuant to Section 2251.054, *Texas Government Code*, then Contractor will send that notice to UTS as follows:

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

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

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

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

12.20 **Breach of Contract Claims.**

12.20.1 To the extent that Chapter 2260, *Texas Government Code*, as it may be amended from time to time ("**Chapter 2260**"), is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260 will be used by UTS and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business.

12.20.1.1 Contractor's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business will be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Contractor will submit written notice, as required by subchapter B of Chapter 2260, to UTS in accordance with the notice provisions in this Agreement. Contractor's notice will specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that UTS allegedly breached, the amount of damages Contractor seeks, and the method used to calculate the damages.

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

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

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

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

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

12.21 **Ethics Matters; No Financial Interest.** Contractor has read and understands UTS' Conflicts of Interest, Conflicts of Commitment, and Outside Activities Policy available at: <http://www.utsystem.edu/board-of-regents/policy-library/policies/int180-conflicts-interest-conflicts-commitment-and-outside->, UTS' Standards of Conduct Guide available at <http://www.utsystem.edu/systemcompliance/>, and applicable state ethics laws and rules available at [www.utsystem.edu/ogc/ethics](http://www.utsystem.edu/ogc/ethics). Contractor will not assist or cause UTS employees to violate UTS' Conflicts of Interest Policy, provisions described by UTS' Standards of Conduct Guide, or applicable state ethics laws or rules. Contractor represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

12.22 **Undocumented Workers.** The *Immigration and Nationality Act* (8 United States Code 1324a) ("Immigration Act") makes it unlawful for an employer to hire or continue employment of undocumented workers. The United States Immigration and Customs Enforcement Service has established the Form I-9 Employment Eligibility Verification Form ("I-9 Form") as the document to be used for employment eligibility verification (8 Code of Federal Regulations 274a). Among other things, Contractor is required to: (1) have all employees complete and sign the I-9 Form certifying that they are eligible for employment; (2) examine verification documents required by the I-9 Form to be presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the I-9 Form, and complete the certification portion of the I-9 Form; and (4) retain the I-9 Form as required by law. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that

individual's national origin or citizenship status. If Contractor employs unauthorized workers during performance of this Agreement in violation of the Immigration Act then, in addition to other remedies or penalties prescribed by law, UTS may terminate this Agreement in accordance with **Section 4.28**. Contractor represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.

- 12.23 **Debarment.** Contractor confirms that Contractor is not suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts from United States (“U.S.”) federal government procurement or nonprocurement programs, or are listed in the List of Parties Excluded from Federal Procurement or Nonprocurement Programs (<http://www.epls.gov/>) issued by the U.S. General Services Administration. “**Principals**” means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division or business segment, and similar positions). Contractor will provide immediate written notification to UTS if, at any time prior to award, Contractor learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance will be placed when UTS executes this Agreement. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to the other remedies available to UTS, UTS may terminate this Agreement for default by Contractor.
- 12.24 **Relationship of the Parties.** For all purposes of this Agreement and notwithstanding any provision of this Agreement to the contrary, Contractor is an independent contractor and is not a state employee, partner, joint venturer, or agent of UTS. Contractor will not bind nor attempt to bind UTS to any agreement or contract. As an independent contractor, Contractor is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including workers’ compensation insurance.
- 12.25 **Reserved.**
- 12.26 **OSHA Compliance.** To the extent applicable to the services to be performed under this Agreement, Contractor represents and warrants, that all articles and services furnished under this Agreement meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-598) and its regulations in effect or proposed as of the date of this Agreement.
- 12.27 **Discrimination Prohibited.** UTS AND CONTRACTOR WILL ABIDE BY THE REQUIREMENTS OF 41 CFR 60-1.4(A), 60-300.5(A) AND 60-741.5(A) (COLLECTIVELY, THE “**REGULATIONS**”). THE REGULATIONS (1) PROHIBIT DISCRIMINATION AGAINST QUALIFIED INDIVIDUALS BASED ON THEIR STATUS AS PROTECTED VETERANS OR INDIVIDUALS WITH DISABILITIES, AND (2) PROHIBIT DISCRIMINATION AGAINST ALL INDIVIDUALS BASED ON THEIR RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN. MOREOVER, THE REGULATIONS REQUIRE THAT UTS AND CONTRACTOR TAKE AFFIRMATIVE ACTION TO EMPLOY AND ADVANCE IN EMPLOYMENT, INDIVIDUALS WITHOUT REGARD TO RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, PROTECTED VETERAN STATUS OR DISABILITY.

### 13. Indemnification

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

### 14. Ownership and Use of Work Material

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

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

## 15. Default and Termination

15.1 In the event of a material failure by a party to this Agreement to perform in accordance with the terms of this Agreement (“**default**”), the other party may terminate this Agreement upon fifteen (15) days’ written notice of termination setting forth the nature of the material failure; provided, that, the material failure is through no fault of the terminating party. The termination will not be effective if the material failure is fully cured prior to the end of the fifteen-day period.

15.2 UTS may, without cause, terminate this Agreement at any time upon giving seven (7) days' advance written notice to Contractor. Upon termination pursuant to this Section, Contractor will be entitled to payment of an amount that will compensate Contractor for the Services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Agreement; provided, that, Contractor has delivered all Work Material to UTS. Notwithstanding any provision in this Agreement to the contrary, UTS will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor.

15.3 Termination under **Sections 4.28.1** or **4.28.2** will not relieve Contractor from liability for any default or breach under this Agreement or any other act or omission of Contractor.

15.4 If Contractor fails to cure any default within fifteen (15) days after receiving written notice of the default, UTS will be entitled (but will not be obligated) to cure the default and will have the right to offset against all amounts due to Contractor under this Agreement, any and all reasonable expenses incurred in connection with UTS’ curative actions.

## 16. Limitation of Liability

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



**17. Historically Underutilized Business Subcontracting Plan**

**Historically Underutilized Business Subcontracting Plan.** Contractor agrees to use good faith efforts to subcontract the Services in accordance with the Historically Underutilized Business Subcontracting Plan (“HSP”) (ref. Exhibit \_\_\_\_). Contractor agrees to maintain business records documenting its compliance with the HSP and to submit a monthly compliance report to UTS in the format required by Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts or any successor agency (collectively, “TPSS”). Submission of compliance reports will be required as a condition for payment under this Agreement. If UTS determines that Contractor has failed to subcontract as set out in the HSP, UTS will notify Contractor of any deficiencies and give Contractor an opportunity to submit documentation and explain why the failure to comply with the HSP should not be attributed to a lack of good faith effort by Contractor. If UTS determines that Contractor failed to implement the HSP in good faith, UTS, in addition to any other remedies, may report nonperformance to the TPSS in accordance with 34 TAC Sections 20.101 through 20.108. UTS may also revoke this Agreement for breach and make a claim against Contractor.

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

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

**18. Responsibility for Individuals Performing Services; Criminal Background Checks**

Each individual who is assigned to perform the Services under this Agreement will be an employee of Contractor or an employee of a subcontractor engaged by Contractor. Contractor is responsible for the performance of all individuals performing the Services under this Agreement. Prior to commencing the Services, Contractor will (1) provide UTS with a list (“**List**”) of all individuals who may be assigned to perform the Services, and (2) have an appropriate criminal background screening performed on all the individuals. Contractor will determine on a case-by-case basis whether each individual assigned to perform the Services is qualified to provide the services. Contractor will not knowingly assign any individual to provide services on UTS’ campus who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses. Contractor will update the List each time there is a change in the individuals assigned to perform the Services.

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

assigned to perform the Services.

**19. Limitations**

THE PARTIES ARE AWARE THAT THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF UTS (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS THAT MAY BE A PART OF THIS AGREEMENT, INCLUDING THOSE TERMS AND CONDITIONS RELATING TO LIENS ON UTS' PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY (COLLECTIVELY, THE "**LIMITATIONS**"), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON UTS EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.

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

**CONTRACTOR**

By: \_\_\_\_\_

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

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

**UT SYSTEM:  
THE UNIVERSITY OF TEXAS SYSTEM**

By: \_\_\_\_\_

Name:

Title:

Approved as to Content

By: \_\_\_\_\_

Name:

Title:

**Attach:**

**EXHIBIT A – Scope of Work**

**EXHIBIT B – Schedule**

**EXHIBIT C – Payment for Services**

**EXHIBIT D – Additional Provisions**

**EXHIBIT E – Travel Policy**

**EXHIBIT F – UT System Information Resources and Security Policy**

**EXHIBIT G – HUB Subcontracting Plan**

## **AGREEMENT - EXHIBIT A**

### **SCOPE OF WORK**

*NOTE: This will be completed based on the scope described in Section 5.4 of this RFQ*

#### **A. The University of Texas System (UT System) consolidated audit, and stand-alone audits for institutions**

Contractor will audit and report on the consolidated system-wide financial statements of The University of Texas System, (list of stand-alone institution audits) for the fiscal years ending August 31, 2016 and August 31, 2017, subject to the delegation of authority from the State Auditor's Office for the second year and subject to the mutual agreement of the parties.

This consolidated audit will include the fourteen institutions of The University of Texas System and System Administration. The individual institution audits will include (list of stand-alone institution audits). Contractor shall focus primarily on the three (3) basic financial statements:

- Statement of Net Position
- Statement of Revenues, Expenses and Changes in Net Position
- Cash Flow Statement

The financial statements also include footnotes. The financial statements prepared at UT System are in accordance with Governmental Accounting Standards Board requirements and the State Comptroller of Public Accounts Reporting Requirements for Annual Financial Reports. Copies of the UT System Annual Financial Report can be found at UT System's website at:

[http://www.utsystem.edu/cont/Reports\\_Publications/CONAFR/ConsolidatedAFR13.pdf](http://www.utsystem.edu/cont/Reports_Publications/CONAFR/ConsolidatedAFR13.pdf)

Contractor will follow-up on known significant findings and recommendations from previous financial audits, attestation engagements, performance audits, or other studies that directly relate to the objectives of the current audit to determine the effect on the risk assessment and audit procedures.

Contractor shall provide assistance in submitting the appropriate materials for the GFOA Certificate of Achievement for Excellence in Financial Reporting for UTMD Anderson Cancer Center.

#### **B. The University of Texas Investment Management Company (UTIMCO)**

Contractor will audit and report on the financial statements of the following funds (the "Funds") for the fiscal years ending August 31, 2016 and August 31, 2017, subject to the delegation of authority from the State Auditor's Office for the second year and subject to the mutual agreement of the parties:

- Permanent University Fund of The University of Texas System (PUF) and The Texas A&M University System (excluding the asset values of the Permanent University Fund lands),
- Permanent University Fund Detail Schedules of Investment Securities ,
- The University of Texas System General Endowment Fund (GEF),
- Permanent Health Fund (PHF),
- The University of Texas System Long Term Fund (LTF), and
- The University of Texas System Intermediate Term Fund (ITF).

The financial statements for each of the Funds include the statement of fiduciary net position, statement of changes in fiduciary net position, notes to the financial statements, and supplemental schedules. In addition, management's discussion and analysis is included. The separate financial statements of the PUF, GEF, PHF, LTF,

and ITF are accounted for as a fiduciary fund and may differ in presentation from the Texas Comptroller of Public Accounts' Annual Financial Reporting Requirements.

Additionally, Contractor will also audit the schedules of investment performance statistics of the Funds for the fiscal years ending August 31, 2016 and August 31, 2017, subject to the delegation of authority from the State Auditor's Office and subject to the mutual agreement of the parties. These schedules are the responsibility of management of the Funds. Contractor's responsibility will be to express an opinion on the schedules based on the audits.

### **C. Reviews as Required by the Southern Association of Colleges and Schools Commission on Colleges**

#### **REVIEW OF THE UNIVERSITY OF TEXAS HEALTH SCIENCE CENTER – SAN ANTONIO**

Contractor will perform a review of the Statement of Net Position of the University of Texas Health Science Center at San Antonio for the years ended August 31, 2016 and August 31, 2017, and the related statements of revenues, expenses and change in net position, and cash flows for the years then ending, in accordance with Statements on Standards for Accounting and Review Services established by the American Institute of Certified Public Accountants (AICPA) (the "review standards") to satisfy the requirements of the Southern Association of Colleges and Schools commission on Colleges ("SACS"). Contractor will issue a written institutional management letter for the fiscal years ending August 31, 2016 and August 31, 2017.

#### **REVIEW OF THE UNIVERSITY OF AT DALLAS**

Contractor will perform a review of the Statement of Net Position of the University of Texas at Dallas for the year ended August 31, 2017, and the related statements of revenues, expenses and change in net position, and cash flows for the years then ending, in accordance with Statements on Standards for Accounting and Review Services established by the American Institute of Certified Public Accountants (AICPA) (the "review standards") to satisfy the requirements of the Southern Association of Colleges and Schools commission on Colleges ("SACS"). Contractor will issue a written institutional management letter for the fiscal year ending August 31, 2017.

#### **REVIEW OF THE UNIVERSITY OF TEXAS AT ARLINGTON**

Contractor will perform a review of the Statement of Net Position of the University of Texas at Arlington for the year ended August 31, 2016, and the related statements of revenues, expenses and change in net position, and cash flows for the years then ending, in accordance with Statements on Standards for Accounting and Review Services established by the American Institute of Certified Public Accountants (AICPA) (the "review standards") to satisfy the requirements of the Southern Association of Colleges and Schools commission on Colleges ("SACS"). Contractor will issue a written institutional management letter for the fiscal year ending August 31, 2016.

### **D. CPRIT**

Contractor will perform procedures to comply with the requirements prescribed by the Cancer Prevention & Research Institute of Texas *Guidance on Agreed Upon Procedures for CPRIT Grants* for each of the following institutions: UT Austin, UT Dallas, UT Medical Branch, UTHSC-Houston, UTHSC-San Antonio, UT MD Anderson, UTHSC-Tyler, and UT Southwestern.

## AGREEMENT - EXHIBIT B

### SCHEDULE

Subject to the full cooperation of UTS and its personnel and Contractor's professional responsibilities, Contractor agrees to use its good faith efforts to complete the Work in accordance with the following schedule:

A. UT SYSTEM, (will include list of stand-alone audits)

Fiscal Year ending August 31, 2016:

Client-requested list to UTS	July 29, 2016
Interim work	August 2016
All interim questions resolved	August 31, 2016
Commencement of year-end fieldwork	October 2016

- Audit fieldwork to be substantially complete and any potential adjustments communicated in writing to UT System management and the State Auditor's Office by October 31, 2016.
- Contractor to complete the audit and the associated independent auditors' report, for UT System and institutions receiving independent audit opinions, and have an electronic version available for UT System management and the State Auditor's Office on or before December 19, 2016.
- The required number of bound reports, including the audit of the financial statements, the report on internal controls, and the report on illegal acts, as required, to be delivered to UTS and System management on or before January 13, 2017. As an administrative convenience to UTS and the State Auditor's Office, UTS expressly permits and approves the delivery of one bound copy of each of these reports by Contractor to the State Auditor's Office on or before January 13, 2017, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D**.
- The results must be communicated to the Audit, Compliance, and Management Review Committee of the Board of Regents at their February 2017 meeting.
- The Management Report detailing Contractor's recommendations to be delivered to UTS and System management on or before January 16, 2017. As an administrative convenience to UTS and the State Auditor's Office, UTS expressly permits and approves the delivery of one bound copy of these reports by Contractor to the State Auditor's Office on or before January 16, 2017, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D** of the Agreement.

Fiscal Year ending August 31, 2017:

Client-requested list to UTS	July 31, 2017
Interim work	August 2017
All interim questions resolved	August 31, 2017
Commencement of year-end fieldwork	October 2017

- Audit fieldwork to be substantially complete and any potential adjustments communicated in writing to System management and the State Auditor's Office by October 31, 2017.

- Contractor to complete the audit and the associated independent auditors’ report, for UT System and institutions receiving independent audit opinions, and have an electronic version available for System management and the State Auditor’s Office on or before December 19, 2017.
- The required number of bound reports, including the audit of the financial statements, the report on internal controls, and the report on illegal acts, as required, to be delivered to UTS and System management on or before January 15, 2018. As an administrative convenience to UTS and the State Auditor’s Office, UTS expressly permits and approves the delivery of one bound copy of each of these reports by Contractor to the State Auditor’s Office on or before January 15, 2018, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D**.
- The results must be communicated to the Audit, Compliance, and Management Review Committee of the Board of Regents at their February 2018 meeting.
- The Management Report detailing Contractor’s recommendations to be delivered to UTS and System management on or before January 15, 2018. As an administrative convenience to UTS and the State Auditor’s Office, UTS expressly permits and approves the delivery of one bound copy of these reports by Contractor to the State Auditor’s Office on or before January 15, 2018, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D** of the Agreement.

As part of Contractor’s good faith efforts, it shall provide prompt communication as provided for in Section 12.17 of the Agreement describing in reasonable detail any issues or events of which Contractor becomes aware which Contractor reasonably believes may impede its ability to meet the above deadlines. Contractor will use its good faith efforts to give such notice in a timely manner with sufficient details to allow System management to take corrective action. In addition, if Contractor encounters any circumstances on its part which it reasonably believes may prevent it from meeting the above deadlines, prompt notice shall be given to the Associate Vice Chancellor – Controller and Chief Budget Officer.

**B. UTIMCO**

Fiscal Year ending August 31, 2016:

Preliminary and interim fieldwork	July-August 2016
Client-requested list to UTIMCO	July 2016
Commencement of year-end fieldwork	September 21, 2016
Issuance of Reports	October 28, 2016

Fiscal Year ending August 31, 2017:

Preliminary and interim fieldwork	July-August 2017
Client-requested list to UTIMCO	July 2017
Commencement of year-end fieldwork	September 20, 2017
Issuance of Reports	October 27, 2017

As part of Contractor’s good faith efforts, it shall provide prompt communication as provided for in 12.17 describing in reasonable detail any issues or events of which Contractor becomes aware which Contractor reasonably believes may impede its ability to meet the above deadlines. Contractor will use its good faith efforts to give such notice in a timely manner with sufficient details to allow UTS management to take corrective action. In addition, if Contractor encounters any circumstances on its part which it reasonably believes may prevent it from meeting the above deadlines, prompt notice shall be given to the UTIMCO.

Issuance of Reports: The report issuance dates will be no later than October 28, 2016 for the fiscal year ending August 31, 2016; and no later than October 27, 2017 for the fiscal year ending August 31, 2017.

C. HSC-San Antonio – SACS Review

For the fiscal year ending August 31, 2016:

Client-requested list to SAH	July 29, 2016
Interim work	August 2016
All interim questions resolved	August 31, 2016
Commencement of year-end fieldwork	October, 2016

- Audit fieldwork to be substantially complete and any potential adjustments communicated in writing to SAH management by October 31, 2016.
- Contractor to complete the review and the associated independent auditors' report, for SAH, and have an electronic version available for SAH management on or before December 19, 2016.
- The required number of bound reports, including the audit of the financial statements, the report on internal controls, and the report on illegal acts, as required, to be delivered to SAH on or before January 16, 2017. As an administrative convenience to SAH and the State Auditor's Office, SAH expressly permits and approves the delivery of one copy of these reports by Contractor to the State Auditor's Office on or before January 16, 2017, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D**.
- The Management Report detailing Contractor's recommendations to be delivered to SAH on or before January 16, 2017. As an administrative convenience to UTS and the State Auditor's Office, SAH expressly permits and approves the delivery of one copy of this report by Contractor to the State Auditor's Office on or before January 16, 2017, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D** of the Agreement.

For the fiscal year ending August 31, 2017:

Client-requested list to SAH	July 31, 2017
Interim work	August 2017
All interim questions resolved	August 31, 2017
Commencement of year-end fieldwork	October, 2017

- Audit fieldwork to be substantially complete and any potential adjustments communicated in writing to SAH management October 31, 2017.
- Contractor to complete the review and the associated independent auditors' report, for SAH, and have an electronic version available for System management and the State Auditor's Office on or before December 19, 2017.
- The required number of bound reports, including the audit of the financial statements, the report on internal controls, and the report on illegal acts, as required, to be delivered to SAH on or before January 15, 2018. As an administrative convenience to SAH and the State Auditor's Office, SAH expressly permits and approves the delivery of one copy of these reports by Contractor to the State Auditor's Office on or

before January 15, 2018, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D**.

- The Management Report detailing Contractor’s recommendations to be delivered to SAH on or before January 15, 2018. As an administrative convenience to UTS and the State Auditor’s Office, SAH expressly permits and approves the delivery of one copy of this report by Contractor to the State Auditor’s Office on or before January 15, 2018, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D** of the Agreement.

D. UT Dallas – SACS Review

For the fiscal year ending August 31, 2017:

Client-requested list to UTD	July 31, 2017
Interim work	August 2017
All interim questions resolved	August 31, 2017
Commencement of year-end fieldwork	October, 2017

- Audit fieldwork to be substantially complete and any potential adjustments communicated in writing to UTD management by October 31, 2017.
- Contractor to complete the review and the associated independent auditors’ report, for UTD, and have an electronic version available for UTD management on or before December 19, 2017.
- The required number of bound reports, including the audit of the financial statements, the report on internal controls, and the report on illegal acts, as required, to be delivered to UTD on or before January 15, 2018. As an administrative convenience to UTD and the State Auditor’s Office, UTD expressly permits and approves the delivery of one copy of these reports by Contractor to the State Auditor’s Office on or before January 15, 2018, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D**.
- The Management Report detailing Contractor’s recommendations to be delivered to UTD on or before January 15, 2018. As an administrative convenience to UTS and the State Auditor’s Office, UTD expressly permits and approves the delivery of one copy of this report by Contractor to the State Auditor’s Office on or before January 15, 2018, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D** of the Agreement.

E. UT Arlington – SACS Review

For the fiscal year ending August 31, 2016:

Client-requested list to UTA	July 29, 2016
Interim work	August 2016
All interim questions resolved	August 31, 2016
Commencement of year-end fieldwork	October, 2016

- Audit fieldwork to be substantially complete and any potential adjustments communicated in writing to UTA management by October 31, 2016.



- Contractor to complete the review and the associated independent auditors’ report, for SAH, and have an electronic version available for UTA management on or before December 19, 2016.
- The required number of bound reports, including the audit of the financial statements, the report on internal controls, and the report on illegal acts, as required, to be delivered to UTA on or before January 16, 2017. As an administrative convenience to UTA and the State Auditor’s Office, UTA expressly permits and approves the delivery of one copy of these reports by Contractor to the State Auditor’s Office on or before January 16, 2017, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D**.
- The Management Report detailing Contractor’s recommendations to be delivered to UTA on or before January 16, 2017. As an administrative convenience to UTS and the State Auditor’s Office, UTA expressly permits and approves the delivery of one copy of this report by Contractor to the State Auditor’s Office on or before January 16, 2017, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D** of the Agreement.

**F. CPRIT**

For the fiscal year ending August 31, 2016:

Client-requested list to SAH	TBD
Interim work	TBD
All interim questions resolved	TBD
Commencement of year-end fieldwork	TBD

- Audit fieldwork to be substantially complete and any potential adjustments communicated in writing to the respective institution’s management by May XX, 2017.
- Contractor to complete the review and the associated independent auditors’ report and have an electronic version available for institution management on or before May XX, 2017.
- The required number of bound reports, including the audit of the financial statements, the report on internal controls, and the report on illegal acts, as required, to be delivered to institution on or before May XX, 2017. As an administrative convenience to institution and the State Auditor’s Office, institution expressly permits and approves the delivery of one copy of these reports by Contractor to the State Auditor’s Office on or before May XX, 2017, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D**.
- The Management Report detailing Contractor’s recommendations to be delivered to respective institutions on or before May XX, 2017. As an administrative convenience to UTS and the State Auditor’s Office, institution expressly permits and approves the delivery of one copy of this report by Contractor to the State Auditor’s Office on or before May XX, 2017, to satisfy their responsibilities as auditors for the State of Texas as further described in **Exhibit D** of the Agreement.

**AGREEMENT - EXHIBIT C**

**PAYMENT FOR SERVICES**

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

**TO BE COMPLETED WITH AGREED UPON AMOUNTS**

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

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

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

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

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

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

## **AGREEMENT-EXHIBIT D**

### **ADDITIONAL PROVISIONS**

#### **General**

1. All records and working papers relating to this Agreement shall be retained for five (5) years following the completion of the audit and any related services. Compliance with this clause does not relieve the Contractor of its obligation to retain any records that are required to be retained by federal, state, or local laws or regulations.
2. Contractor will endeavor to attend meetings of the Audit, Compliance, and Management Review Committee of the Board of Regents, meetings of the UTIMCO Board and UTIMCO Audit and Ethics Committee subject to reasonable advance notice, and UTS invitation and approval.
3. Contractor will utilize approximately 5,000 hours of participation from UTS internal audit personnel.
4. To the best of the knowledge of the professional personnel of Contractor providing services under the Agreement, such personnel have not given or offered to give, nor do such personnel intend to give at any time during the term of this Agreement, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, reputational benefit, political campaign contribution, favor or service to a public servant in connection with this Agreement.
5. Independence Matters Relating to Providing Certain Services: In connection with the Agreement, Contractor, UTS and Audit, Compliance and Management Review Committee will assume certain roles and responsibilities in an effort to assist Contractor in maintaining independence under AICPA, generally accepted government auditing standards or other applicable rules would impair Contractor's independence. All potential services are to be discussed with Contractor as noted in 12.17.
6. UTS consents to allow Contractor to disclose such matters contained in items 7, 8, 9, 10 and 11 of this **Exhibit D** with the SAO.
7. During the course of the Work, Contractor will bring to the SAO's attention all instances where it has identified, in its professional opinion, any material weaknesses in internal control over financial reporting or noncompliance with laws or regulations.
8. Contractor will periodically consult with and furnish progress reports as determined necessary and as requested in writing by the SAO. Such progress reports will specifically identify the Work accomplished to date and any preliminary findings or recommendations.
9. Contractor will provide briefings on the results of the Work to the SAO, the Legislative Audit Committee, and other state officials as requested by the SAO with reasonable advance written notice to Contractor.
10. The SAO and any other interested party identified by the SAO (Legislative Audit Committee and its staff members) will have the opportunity to review and comment upon the preliminary findings or recommendations communicated by Contractor to the SAO during the course of the Work. Any communications by Contractor with UT System and its institutions relating to its preliminary findings or recommendations will include the SAO.
11. Contractor will provide the SAO or its designated representative with timely, advance notification of key

meetings such as, but not limited to, the entrance and exit conferences, meetings regarding internal control assessments, status meetings, and any meetings with the Audit, Compliance, and Management Review Committee. Such notification will include the time, place, and purpose of the meeting.

12. Contractor will ensure the State Auditor's Office promptly receives a copy of any report resulting from a peer review of the private auditor that is received by the private auditor after entering into the contract with UTS.
13. Contractor is aware that the system-wide consolidated financial statements of The University of Texas System, will be included in the Comprehensive Annual Financial Report for the State of Texas each year, and that Contractor's report on their audit of the system-wide consolidated financial statements of The University of Texas System will be used by the SAO as a basis, in part, for the SAO's report on their audit of the Comprehensive Annual Financial Report for the State of Texas.

**EXHIBIT E**  
**TRAVEL POLICY**

**All travel and expense costs will be calculated as allowed by Textravel (<https://fmx.cpa.state.tx.us/fmx/travel/textravel/index.php>), as promulgated by the State of Texas Comptroller:**

1. Contractor must use regular coach (UT System rate, corporate rate, or published rate, whichever is applicable and most cost efficient) air transportation for travel in excess of 120 miles, unless otherwise agreed by UTS. In order to maximize discounted airfares, Contractor, with the cooperation of UTS, will schedule on-site visits far enough in advance to take advantage of most cost effective airfare. In the event meetings or on-site visits are cancelled by UTS, the Contractor may charge for any advance-purchase cancellation penalties imposed by the airline.

Corporate, UT System, or state, whichever is lower, rate discounts will be used for hotel accommodations but not to exceed the locality based per-diem determined by the GSA and published by the State Comptroller of Public Accounts without advance approval by UT System.

<https://fmx.cpa.state.tx.us/fm/travel/travelrates.php>

3. Maximum billable amount per person per day for meals will be actual expenses not to exceed the locality based per diem determined by the GSA and published by the State Comptroller of Public Accounts. Departing from UTS prior to 12:01 p.m. negates any billing for meals for that day. Meal expenses are reimbursable for vendors who travel 50 miles or more, and stay overnight.
4. Rental cars will be the least expensive, air-conditioned, automatic transmission, mid-size car available to the Contractor under corporate rate programs. Full coverage collision insurance may be used for rental cars, but personal protection plans will not be reimbursed.
5. Ground transportation, parking costs and tolls may be invoiced at cost.
6. Personal automobile mileage charges will be computed based upon actual miles to and from the appropriate office to and from the client facility. Mileage charges will be invoiced at the standard mileage rate recognized by the State of Texas at the time of travel.

All travel or miscellaneous expenses must be submitted with an original receipt, if requested by UTS. All approved expenses will be reimbursed at "actual cost" only. Contractor will not be reimbursed for expenses which are not accompanied by original receipts if such original receipts were requested by UTS.

**EXHIBIT F**

**UT SYSTEM INFORMATION RESOURCES AND SECURITY POLICY**

Insert UTS security policy

<http://www.utsystem.edu/board-of-regents/policy-library/policies/uts165-information-resources-use-and-security-policy>

**EXHIBIT G**

**HUB SUBCONTRACTING PLAN**

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# THE UNIVERSITY OF TEXAS SYSTEM ADMINISTRATION

JANUARY 1, 2016

## APPENDIX III

### POLICY ON UTILIZATION

### HISTORICALLY UNDERUTILIZED BUSINESSES

### VENDOR/COMMODITIES





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

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**The University of Texas System  
Office of HUB Development**

**POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS)**

**Introduction**

In accordance with the Texas Government Code, Sections 2161.181-182 and Title 34, Section 20.13 of the Texas Administrative Code (TAC), the Board of Regents of The University of Texas System, acting through the Office of HUB Development shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction services, including professional and consulting services; and commodities contracts. The HUB Rules promulgated by the Texas Comptroller of Public Accounts (the "Texas Comptroller"), set forth in 34 TAC Sections 20.10-20.28, encourage the use of HUBs by implementing these policies through race, ethnic and gender-neutral means.

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

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

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

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

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

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

1. In all contracts for professional services, contracting services, and/or commodities with an expected value of \$100,000 or more, The University of Texas System, “UT System” or the “University” will indicate in the purchase solicitation (e.g. RFQ, RFP, or CSP) whether or not subcontracting opportunities are probable in connection with the contract. A HUB Subcontracting Plan is a required element of the architect, contractor or vendor Response to the purchase solicitation. The HUB Subcontracting Plan shall be developed and administered in accordance with the Policy. **Failure to submit a required HUB Subcontracting Plan (HSP) will result in rejection of the Response.**
2. If subcontracting opportunities are probable UT System will declare such probability in its invitations for bids, requests for proposals, or other purchase solicitation documents, and shall require submission of the appropriate HUB Subcontracting Plan with the Response.
  - a. When subcontracting opportunities are probable, and the Respondent proposes to subcontract any part of the work, the Respondent shall submit a **HUB Subcontracting Plan as prescribed by the Texas Comptroller** identifying subcontractors **[34 TAC §20.14 (d) (1)(A)(B)(C)(D) (2) (3)(A)(B)(C)(D)(E)(F) (4)(A)(B)]**.
  - b. When subcontracting opportunities are probable, but the Respondent can perform such opportunities with its employees and resources, the Respondent’s HUB Subcontracting Plan shall include **Section 3 –Self Performance [34 TAC §20.14 (d) (5) (A) (B) (C) (D)]**.
3. If subcontracting opportunities are not probable UT System will declare such probability in its invitations or bids, requests for proposals, or other purchase solicitation documents and shall require submission of the appropriate HUB Subcontracting Plan with the Response.
  - a. When subcontracting opportunities are not probable, and the Respondent proposes to perform all the work with its employees and resources, the Respondent shall submit a HUB Subcontracting Plan that includes **Section 3 – Self Performance Justification**.
  - b. When subcontracting opportunities are not probable, but the Respondent proposes to subcontract any part of the work, the Respondent shall submit a **HUB Subcontracting Plan as prescribed by the Texas Comptroller** identifying subcontractors.
4. Respondents shall follow, but are not limited to, procedures listed in the Policy when developing a HUB Subcontracting Plan.
5. **Competitive Sealed Proposals (CSP):** Respondents shall submit a HUB Subcontracting Plan (packaged separately) twenty-four (24) hours following the Response submission date and time or as prescribed by the project manager.
6. In making a determination whether a good faith effort has been made in the development of the required HUB Subcontracting Plan, UT System shall follow the procedures listed in the Policy. If accepted by the

University, the HUB Subcontracting Plan shall become a provision of the Respondent's contract with UT System. **Revisions necessary to clarify and enhance information submitted in the original HUB subcontracting plan may be made in an effort to determine good faith effort.** Any revisions after the submission of the HSP shall be approved by the HUB Coordinator.

7. **Design Build (DB) and Construction Manager @ Risk (CM@R) responses:** Respondents to a "design build" or "construction manager-at-risk" purchase solicitation shall include the Letter of HUB Commitment in their Response attesting that the Respondent has read and understands the Policy on Historically Underutilized Businesses (HUBs), and a HUB Subcontracting Plan for all preconstruction and construction services including a HUB Subcontracting Plan as prescribed by the Texas Comptroller specific to construction services identifying first, second and third tier subcontractors. Respondents proposing to perform Part 1 preconstruction services with their own resources and employees shall submit, as part of their HSP, the Self Performance Justification.
8. **DB and CM@R HUB Contract Requirements:** Contractors engaged under design-build and construction manager-at-risk contracts shall submit a HUB Subcontracting Plan for all preconstruction and construction Phase Services, and, must further comply with the requirements of this Policy by developing and submitting a HUB Subcontracting Plan for each bid package issued in buying out the guaranteed maximum or lump sum price of the project. The HSP shall identify first, second and third tier subcontractors.
9. The University of Texas System shall reject any Response that does not include a fully completed HSP as required. **An incomplete HUB Subcontracting Plan is considered a material failure to comply with the solicitation for proposals.**
10. **Changes to the HUB Subcontracting Plan:** Once a Respondent's HSP is accepted by UT System and becomes a provision of the contract between Respondent and UT System, the Respondent can only change that HSP if (a) the Respondent complies with 34 TAC Section 20.14; (b) the Respondent provides its proposed changes to UT System for review; (c) UT System (including UT System's HUB Coordinator) approves Respondent's proposed changes to its HSP; and (d) UT System and the Respondent amend their contract (in writing signed by authorized officials of both parties) in order to replace the contract's existing HSP with a revised HSP containing the changes approved by UT System.
11. **Expansion of Work:** If, after entering into a contract with a Respondent as a result of a purchase solicitation subject to the Policy, UT System wishes to expand the scope of work that the Respondent will perform under that contract through a change order or any other contract amendment (the "additional work"), UT System will determine if the additional work contains probable subcontracting opportunities not identified in the initial purchase solicitation for that contract. If UT System determines that probable subcontracting opportunities exist for the additional work, then the Respondent must submit to UT System an amended HUB Subcontracting Plan covering those opportunities that complies with the provisions of 34 TAC Section 20.14. Such an amended HSP must be approved by UT System and the Respondent (including UT System's HUB Coordinator) before (a) the contract may be amended by UT System and the Respondent to include the additional work and the amended HSP and (b) the Respondent performs the additional work. If a Respondent subcontracts any of the additional subcontracting opportunities identified by UT System for any additional work (i) without complying with 34 TAC Section 20.14 or (ii) before UT System and that Respondent amend their contract to include a revised HSP that authorizes such subcontracting, then the Respondent will be deemed to be in breach of its contract with UT System. As a result of such breach, UT System will be entitled to terminate its contract with the Respondent, and the Respondent will be subject to any remedial actions provided by Texas law, including those set forth in Chapter 2161, Texas Government Code, and 34 TAC Section 20.14. The University may report a Respondent's nonperformance under a

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

12. A Response may state that the Respondent intends to perform all the subcontracting opportunities with its own employees and resources in accordance with the Policy. However, if such a Respondent enters into a contract with UT System as a result of such a Response but later desires to subcontract any part of the work set forth in that contract, before the Respondent subcontracts such work it must first change its HUB Subcontracting Plan in accordance with the provisions of Section 10 above.
13. The University of Texas System shall require a professional services firm, contractor or vendor to whom a contract has been awarded to report the identity and the amount paid to its subcontractors on a monthly basis using a **HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report (PAR)** as a condition for payment.
14. If the University of Texas System determines that the successful Respondent failed to implement an approved HUB Subcontracting Plan in good faith, UT System, in addition to any other remedies, may report nonperformance to the Texas Comptroller in accordance with 34 TAC Section 20.14, (g) (1) related remedies of nonperformance to professional services firms, contractor and vendor implementation of the HSP.
15. In the event of any conflict between this "Summary of Requirements" and the remainder of the HUB Policy, the remainder of the HUB Policy will control.
16. These requirements, including the attachments referred to above, may be downloaded over the internet from: <http://utsystem.edu/offices/historically-underutilized-business/hub-forms>. For additional information contact:  
The University of Texas System  
Office of HUB & Federal Small Business Program  
201 West 6<sup>th</sup> Street, Room B.140E  
Austin, TX 78701  
(512) 499-4530

**Other Services/Vendor/CommoditiesHSP  
Summary of Attachments Required from Respondents**

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

(RESPONDENT'S BUSINESS LETTERHEAD)

Date

Regional HUB Coordinator  
Office of HUB and Federal Small Business Program  
The University of Texas System  
201 W. 6<sup>th</sup> St., Room B.140E  
Austin, Texas 78701

RE: Historically Underutilized Business Plan for (Project Title): \_\_\_\_\_  
Project Number \_\_\_\_\_

Dear ,

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

I have read and understand The University of Texas System Policy on Utilization of Historically Underutilized Businesses (HUBs). I also understand the State of Texas Annual Procurement Goal according to 34 Texas Administrative Code Section 20.13, and the goal as stated in the Agency Special Instructions section of the HUB Subcontracting Plan, page 11.

*Select one of the following:*

- \_\_\_\_\_ 32.9% for all special trade construction contracts
- \_\_\_\_\_ 26% for all other services contracts
- \_\_\_\_\_ 35.25% for commodities contracts

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

I understand the above HUB percentages must represent Texas Comptroller HUB certification standards. For each of the listed HUB firms, I have attached a Texas Comptroller HUB Certification document.

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

Sincerely, (Project

Executive)

cc: Contract Administrator

RESPONDENT'S BUSINESS LETTERHEAD

Date

Regional HUB Coordinator  
Office of HUB and Federal Small Business Program  
The University of Texas System  
201 W. 6<sup>th</sup> St., Room B.140E  
Austin, TX 78701

RE: Historically Underutilized Business Plan for (Project Title \_\_\_\_\_  
Project Number: \_\_\_\_\_)

Dear :

In accordance with the requirements outlined in the specification section "HUB Participation Program", I am pleased to forward this HUB Subcontracting Plan as an integral part of our proposal in connection with your invitation for request for proposals, referencing Project Number \_\_\_\_\_.

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

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

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

Sincerely,

Project Executive

cc: Project Manager





# HUB Subcontracting Plan (HSP) QUICK CHECKLIST

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

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

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

**Option Two:** If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a "continuous contract" in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional requirements", complete:

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

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

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

**Option Four:** If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment, including transportation and delivery), complete:

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

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



# HUB Subcontracting Plan (HSP)

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

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

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

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

**-- Agency Special Instructions/Additional Requirements --**

*In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent **does not** have a **continuous contract\*** in place for **more than five (5) years** shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

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

- Other Services HUB Goal – 26%**
- Commodities HUB Goal – 35.25%**
- Special Trades HUB Goal – 32.9%**

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

**SECTION-1 RESPONDENT AND REQUISITION INFORMATION**

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

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

**SECTION-2: RESPONDENT'S SUBCONTRACTING INTENTIONS**

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

- a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:
  - **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b of this SECTION and continue to Item c of this SECTION.)
  - **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods, services, transportation and delivery. (If **No**, continue to SECTION 3 and SECTION 4.)
- b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <b>do not</b> have a <b>continuous contract*</b> in place for <b>more than five (5) years</b> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <b>continuous contract*</b> in place for <b>more than five (5) years</b> .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

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

- c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified HUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, Item b.
  - **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
  - **No** (If **No**, continue to Item d, of this SECTION.)
- d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract **with Texas certified HUBs** with which you **do not** have a **continuous contract\*** in place with for **more than five (5) years**, **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the **"Agency Special Instructions/Additional Requirements."**
  - **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
  - **No** (If **No**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed.)

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

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

Requisition #: \_\_\_\_\_

**SECTION-2 RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)**

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

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

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

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

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

If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment, to include transportation and delivery.

**SECTION-4: AFFIRMATION**

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

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

Signature	Printed Name	Title	Date <small>(mm/dd/yyyy)</small>
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**Reminder:**

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



# HSP Good Faith Effort - Method B (Attachment B)

Rev. 09/15

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

**IMPORTANT:** If you responded “No” to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method B (Attachment B)” for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <http://window.state.tx.us/procurement/prog/hub/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

## SECTION B-1: SUBCONTRACTING OPPORTUNITY

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

Item Number: \_\_\_\_\_ Description: \_\_\_\_\_

## SECTION B 2: MENTOR PROTÉGÉ PROGRAM

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

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

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

## SECTION B 3 NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

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

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

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

Company Name	Texas VID <small>(Do not enter Social Security Numbers.)</small>	Date Notice Sent <small>(mm/dd/yyyy)</small>	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

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

- d.** List **two (2) trade organizations or development centers** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

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

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

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

Requisition #: \_\_\_\_\_

## SECTION B-4: SUBCONTRACTOR SELECTION

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

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

Item Number: \_\_\_\_\_ Description: \_\_\_\_\_

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

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

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





**APPENDIX FOUR**

<b>CERTIFICATE OF INTERESTED PARTIES</b>		<b>FORM 1295</b>			
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.		<b>OFFICE USE ONLY</b>			
<b>1 Name of business entity filing form, and the city, state and country of the business entity's place of business.</b>					
<b>2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.</b>					
<b>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 goods or services to be provided under the contract.</b>					
<b>4</b>	<b>Name of Interested Party</b>	<b>City, State, Country (place of business)</b>	<b>Nature of Interest (check applicable)</b>		
			<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="text-align: center; width: 50%;">Controlling</td> <td style="text-align: center; width: 50%;">Intermediary</td> </tr> </table>	Controlling	Intermediary
Controlling	Intermediary				
<b>5 Check only if there is NO Interested Party.</b> <input type="checkbox"/>					
<b>6 AFFIDAVIT</b> 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					
<b>ADD ADDITIONAL PAGES AS NECESSARY</b>					

1. **Will comparative statements be required for the following stand-alone audits for FY16? UT Arlington, UT Austin, UT Dallas, UT El Paso, UT Permian Basin, UT Rio Grande Valley, UT San Antonio, UT Tyler, UT Health Science Center at Houston, UT Health Science Center at San Antonio, and UT Health Science Center at Tyler**

No. However, please note the audits of UT Arlington, UT Dallas, and UT Health Science Center at San Antonio must satisfy requirements of the Southern Association of Colleges and Schools Commission on Colleges (SACS) for accreditation purposes.

2. **In reference to RFQ Appendix One, Section 3.1.8 – define “Proposer and any employee of UTS.” Does it mean the entire firm and any of the 90,000+ faculty and staff?**

The Proposer refers to the firm’s staff involved in the audit services, including management, firm experts advising on the audit and audit staff.

3. **RFQ Appendix One, Section 3.6.1 – What is this referring to?**

Examples might include continuing professional education, newsletters, responding to questions regarding new pronouncements and regulations.

4. **In the RFQ for Financial Audit Services, the proposal layout is illustrated by the UT System. We do not see that there is a request for any Executive Summary to go along with the other required sections of the proposal. Can we add an Executive Summary to the proposal? If so, where should the placement be within the proposal document? Before Execution of Offer?**

An Executive Summary may be added at the beginning of the proposal.