



UT System RFP - Provide Salesforce Configuration & Development Svcs **UPDATED 06/09/16**

Open Date: 06/16/16 03:00 PM

Agency Requisition Number: ITL06162016

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: 1432754 (in bytes) Type: Specification Format: Acrobat PDF Files

-**Package 2** size: 82105 (in bytes) Type: Addendum Format: Acrobat PDF Files

UPDATE 06/09/16 - revised Q&A doc (Package 2) **UPDATE 06/03/16 - Add Q&A doc (Package 2)** The University of Texas System Administration through its Institute for Transformational Learning ("University") issues this Request for Proposal for Selection of a Vendor to Provide Salesforce configuration and development services related to University programs ("Services"), RFP No. ITL06162016 (this "RFP"). The Services, which are specifically described in Section 5.4 (Scope of Work) of this RFP, include design & development services.

Agency: UNIVERSITY OF TEXAS SYSTEM (720)

Open Date: 06/16/16 03:00 PM

Agency Requisition Number: ITL06162016

Previous Price Paid: N/A

Solicitation type: 14 Days or more for entire solicitation package

NIGP Commodity Code(s):

Class-Item: 918 - 29

Class-Item: 920 - 27

Contact Information:

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Email: GRP-RFPVQ@utsystem.edu

Upload Date: 2016-05-26 15:45:50.48 Updated date: 2016-06-09 09:45:43.033

REQUEST FOR PROPOSAL

by

The University of Texas System Administration

for

**Selection of a Vendor to Provide
Salesforce Configuration and Development Services**

related to

University Programs

RFP No. ITL06162016

Submittal Deadline: June 16, 2016, 3:00 p.m., Central Prevailing Time

Issued: May 26, 2016

REQUEST FOR PROPOSAL

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SECTION 1

INTRODUCTION

1.1 Description of University

The University of Texas System (also referred to herein as the “**University**” or “**UT System**”) is the largest system of public higher education in Texas.

In 1881, the Texas State Legislature established the “Main University,” now known as The University of Texas at Austin, and a medical school, now known as The University of Texas Medical Branch at Galveston. From these origins, The UT System has grown to include 14 educational institutions and employ more than 90,000 faculty and staff employees. Rich in heritage and tradition, the UT System currently provides instruction to more than 217,000 students and is a national leader in various research endeavors.

UT System encompasses a diverse community of institutions including major research universities, comprehensive academic universities, upper level institutions, comprehensive health science institutions and specialized hospitals – all of which are highly complex organizations. The “**UT Institutions**” and their locations are as follows:

- The 8 general academic institutions included in UT System (the “**UT Academic Institutions**”) are located in the following Texas cities: Arlington, Austin, Brownsville (Rio Grande Valley), Dallas, Edinburg (Rio Grande Valley), El Paso, Odessa (UT Permian Basin), San Antonio and Tyler.
- The 6 health science institutions included in UT System (the “**UT Health Science Institutions**”) are located in the following Texas cities: Dallas, Galveston, Houston (UT Health Science Center - Houston and UT M. D. Anderson Cancer Center), San Antonio and Tyler.
- Finally, UT System’s administrative offices (“**UT System Administration**”) are located in Austin, Texas.

1.2 Background and Special Circumstances

The Institute for Transformational Learning (“ITL”) is a division within UT System Administration. The mission of ITL is to improve student outcomes and identify and cultivate new revenue streams through the strategic support of online and innovative programming across the University of Texas System. ITL provides support for innovative pedagogical delivery models, through the creation and coordination of shared services to support campus initiatives, and through encouraging the proliferation of next generation programming models and optimized operations and processes.

In support of ITL’s mission, the UT System Administration is seeking to enter into non-exclusive Agreements (**Agreement**) with established, qualified and experienced firms for the services described in this Request for Proposal No. ITL06162016 (“**RFP**”). The University is soliciting proposals from qualified persons and entities (“**Proposers**”) for the following scope of services as outlined in Section 1.3. As indicated in Section 2.3 of this RFP, the successful Proposers will be referred to as the “**Contractors**”.

The possibility of multiple and/or split awards exists under this solicitation. No minimums are guaranteed or implied. Project teams from the University will work with selected Contractors to develop services as needed. A work order (or Addendum, Exhibit A) will be created specific to each project based on the pricing and services outlined in the Agreement. A competitive process that achieves best value for the University may be utilized, at the sole discretion of the University, to award Addenda.

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

1.3 Objective of Request for Proposal

The University of Texas System Administration through its Institute for Transformational Learning (“**University**”) issues this Request for Proposal for Selection of a Vendor to Provide Salesforce configuration and development services related to University programs (“**Services**”), RFP No. ITL06162016 (this “**RFP**”). The **Services**, which are specifically described in Section 5.4 (Scope of Work) of this RFP, include design & development services.

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. In particular, Proposer should note that University is part of The University of Texas System (**UT System**), composed of fourteen institutions described at <http://www.utsystem.edu/institutions>. UT System institutions routinely evaluate whether a contract resulting from a procurement conducted by one of the institutions might be suitable for use by another, and if so, this could give rise to additional purchase volumes. As a result, in submitting its proposal in response to this RFP, Proposer should consider proposing pricing and other commercial terms that take into account such higher volumes and other expanded opportunities that could result from the eventual inclusion of other institutions in the purchase contemplated by this RFP.

SECTION 2

NOTICE TO PROPOSER**2.1 Submittal Deadline**

University will accept proposals submitted in response to this RFP until 3 p.m., Central Prevailing Time on June 16, 2016 (the “**Submittal Deadline**”).

2.2 University Contact Person

Proposers will direct all questions or concerns regarding this RFP to the following University email address:

GRP-RFPVQ@utsystem.edu

Subject Line: RFP No. ITL06162016; Attn: Institute for Transformational Learning

University specifically instructs interested parties to restrict all contact and questions regarding this RFP to written communications delivered in accordance with this Section *on or before close of business on June 1, 2016*, or in accordance with Section 2.5 of this RFP relating to Historically Underutilized Businesses. University will provide responses within a reasonable time following the time for submission of questions. It is University’s intent to respond to timely submitted questions. University reserves the right, however, to decline to respond to any question.

Proposers should submit any and all questions regarding this RFP by June 1, 2016. If University responds to those questions, University will post those responses as an addendum to this RFP by June 3, 2016. Interested parties should periodically check the posting site for any University responses: http://esbd.cpa.state.tx.us/bid_show.cfm?bidid=124774

2.3 Criteria for Selection

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

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

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

The criteria to be considered by University in evaluating proposals and selecting Contractor (or Contractors), will be those factors listed below:

2.3.1 Threshold Criteria Not Scored

2.3.1.1 Ability of University to comply with laws regarding Historically Underutilized Businesses;
and

2.3.1.2 Ability of University 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 University's needs;
 - 2.3.2.5 the Proposer's past relationship with the University;
 - 2.3.2.6 the total long-term cost to the University of acquiring the Proposer's goods or services and
 - 2.3.2.7 the Proposer's exceptions to the terms and conditions set forth in **Section 4** of this RFP.

2.4 Key Events Schedule

Issuance of RFP	May 26, 2016
Deadline for Questions/Concerns (ref. Section 2.2 of this RFP)	June 1, 2016
University Answers to Questions/Concerns (ref. Section 2.2 of this RFP)	June 3, 2016
Submittal Deadline (ref. Section 2.1 of this RFP)	3 p.m. Central Prevailing Time on June 16, 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 RFP, Contractor subcontracts any of the Services, then Contractor must make a good faith effort to utilize HUBs certified by the Procurement and Support Services Division of the Texas Comptroller of Public Accounts. Proposals that fail to comply with the requirements contained in this Section 2.5 will constitute a material failure to comply with advertised specifications and will be rejected by University as non-responsive. Additionally, compliance with good faith effort guidelines is a condition precedent to awarding any agreement or contractual arrangement resulting from this RFP. Proposer acknowledges that, if selected by University, its obligation to make a good faith effort to utilize HUBs when subcontracting any of the Services will continue throughout the term of all agreements and contractual arrangements resulting from this RFP. Furthermore, any subcontracting of the Services by the Proposer is subject to review by University to ensure compliance with the HUB program.
- 2.5.2 University has reviewed this RFP in accordance with Title 34, *Texas Administrative Code*, Section 20.13 (a), and has determined that subcontracting opportunities are probable under this RFP.
- 2.5.3 A HUB Subcontracting Plan ("**HSP**") is required as part of Proposer's proposal. The HSP will be developed and administered in accordance with University's 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 RFP, including **APPENDIX THREE**. Proposers that fail to do so will be considered non-responsive to this RFP in accordance with Section 2161.252, Government Code.

Questions regarding the HSP may be directed to:

Contact: Amy Nemetz
HUB Coordinator
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 University with such a modified version of the HSP, (3) University approves the modified HSP in writing, and (4) all agreements or contractual arrangements resulting from this RFP are amended in writing by University and Contractor to conform to the modified HSP.

2.5.4 In addition to the materials identified in **Section 3** of this RFP, Proposer must submit the following HUB materials (“**HUB Materials**”):

- (a) **one (1) complete original paper copy of Proposer’s HSP**, and
- (b) **one (1) complete electronic copy of Proposer’s entire proposal in a single .pdf file on a flash drive**,

to University at the same time Proposer submits the other copies of its proposal and no later than the Submittal Deadline (ref. **Section 2.1** of the RFP).

Proposer’s HUB Materials must be submitted to University (as instructed in **Section 3.2** of this RFP) under separate cover and in a separate envelope (the “**HSP Envelope**”). Proposer must ensure that the top outside surface of its HSP Envelope clearly shows and makes visible:

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

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

2.5.4.3 the phrase “HUB Subcontracting Plan”.

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

obligation to provide University with the number of copies of its proposal as specified in **Section 3.1** of this RFP.

SECTION 3

SUBMISSION OF PROPOSAL**3.1 Number of Copies**

Proposer must submit (a) **one (1) complete paper copy of its entire proposal, and (b) one (1) complete electronic copy of its entire proposal in a single .pdf file on a flash drive.** An *original* signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. Section 2 of **APPENDIX ONE**) of the submitted paper copy of the proposal.

3.2 Submission

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

Jerry Fuller
Director of Contracts and Procurement
The University of Texas System Administration
210 West Sixth St.
Suite B. 140E
Austin, Texas 78701-2891

3.3 Proposal Validity Period

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

3.4 Terms and Conditions

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

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

3.5 Submittal Checklist

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

- 3.5.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**)
- 3.5.2 Signed and Completed Pricing and Delivery Schedule (ref. **Section 6** of this RFP)
- 3.5.3 Responses to Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**)
- 3.5.4 Signed and Completed Addenda Checklist (ref. Section 4 of **APPENDIX ONE**)
- 3.5.5 Responses to questions and requests for information in Section 5 of this RFP
- 3.5.6 Signed and completed originals of the HUB Subcontracting Plan or other applicable documents (ref. **Section 2.5** of this RFP and **APPENDIX THREE**).
- 3.5.7 Responses to questions and requests for information in Electronic and Information Resources Environment Specifications (**APPENDIX SIX**).
- 3.5.8 Responses to questions and requests for information in Security Characteristics and Functionality of Contractor's Information Resources (**APPENDIX SEVEN**).
- 3.5.9 Signed and completed Disclosure of Interested Parties (FORM 1295) (**APPENDIX EIGHT**).
- 3.5.10 Responses to questions and requests for information in Access by Individuals with Disabilities (**APPENDIX FIVE**)

SECTION 4**GENERAL TERMS AND CONDITIONS**

The terms and conditions contained in the attached Agreement (ref. **APPENDIX TWO**) or, in the sole discretion of University, terms and conditions substantially similar to those contained in the Agreement, will constitute and govern any agreement that results from this RFP. If Proposer takes exception to any terms or conditions set forth in the Agreement, Proposer will submit a list of the exceptions as part of its proposal in accordance with **Section 5.3.1** of this RFP. Proposer's exceptions will be reviewed by University and may result in disqualification of Proposer's proposal as non-responsive to this RFP. If Proposer's exceptions do not result in disqualification of Proposer's proposal, then University may consider Proposer's exceptions when University evaluates the Proposer's proposal.

SECTION 5

SPECIFICATIONS AND ADDITIONAL QUESTIONS**5.1 General**

The minimum requirements are set forth in Section 5.2 below. Additional requests for information to be provided by the Proposer as part of its proposal are set forth below in Section 5.3. As indicated in **Section 2.3** of this RFP, the successful Proposer is referred to as the “**Contractor.**”

5.2 Minimum Requirements

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

- 5.2.1 Experience developing at scale with greater than 1,000,000 users within the Salesforce cloud offerings including the Heroku cloud.
- 5.2.2 Experience creating personalized learning technologies.
- 5.2.3 Experience developing with Agile methodology.
- 5.2.4 Experience integrating multi cloud technologies including incumbent systems, mobile, CRM, database and web at scale including B2C implementations for greater than one million users.
- 5.2.5 Experience developing accessible technologies that meet the requirements of state and federal law.

5.3 Additional Questions Specific to this RFP

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

- 5.3.1 By signing the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**), Proposer agrees to comply with [Section 2252.908, 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 University with the information required on the form promulgated by the TEC and set forth in **APPENDIX EIGHT**. **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.**
- 5.3.2 In its proposal, Proposer must indicate whether it will consent to include in the Agreement the “Access by Individuals with Disabilities” language that is set forth in **APPENDIX FIVE Access by Individuals with Disabilities**. If Proposer objects to the inclusion of the “Access by Individuals with Disabilities” language in the Agreement, Proposer must, as part of its proposal, specifically identify and describe in detail all of the reasons for Proposer’s objection. **NOTE THAT A GENERAL OBJECTION IS NOT AN ACCEPTABLE RESPONSE TO THIS QUESTION.**
- 5.3.3 In its proposal, Proposer must respond to each item listed in **APPENDIX SIX, Electronic and Information Resources (“EIR”) Environment Specifications**. **APPENDIX SIX** will establish specifications, representations, warranties and agreements related to the EIR that Proposer is offering to provide to University. Responses to **APPENDIX SIX** will be incorporated into the Agreement and will be binding on Contractor.

- 5.3.4 Pursuant to UTS165, “**Information Resources**” means any and all computer printouts, online display devices, mass storage media, and all computer-related activities involving any device capable of receiving email, browsing Web sites, or otherwise capable of receiving, storing, managing, or transmitting Data including, but not limited to, mainframes, servers, Network Infrastructure, personal computers, notebook computers, hand-held computers, personal digital assistant (PDA), pagers, distributed processing systems, network attached and computer controlled medical and laboratory equipment (i.e. embedded technology), telecommunication resources, network environments, telephones, fax machines, printers and service bureaus. Additionally, it is the procedures, equipment, facilities, software, and Data that are designed, built, operated, and maintained to create, collect, record, process, store, retrieve, display, and transmit information.
- 5.3.5 Pursuant to UTS165, “**Data**” means recorded data, regardless of form or media in which it may be recorded, which constitute the original data necessary to support the business of UT System or original observations and methods of a study and the analyses of such original data that are necessary to support research activities and validate research findings. Data includes, but is not limited to: printed records, observations and notes; electronic data; video and audio records, photographs and negatives:
- 5.3.6 Please respond to these questions as part of Proposer’s proposal:
1. Please provide examples of your experience creating progressive user profiles at scale.
 2. Please provide examples of analytical systems that you have developed or integrated that enhance a users’ experience.
 3. Please provide examples of your experience with Salesforce Journey Builder technology. Please provide information on the scale.
 4. Please provide examples of your experience with Salesforce Service Cloud technology. Please provide information on the scale.
 5. Please provide examples of your experience with Heroku’s Cloud including graph databases. Please provide information on the scale.
 6. What custom objects have you developed and integrated through Force.com?
 7. Please provide examples of your experience with eCommerce development, both business to consumer and business to business applications. Please provide information on the scale.
 8. Please provide examples of your experience with middleware development and integrations with enterprise systems.
 9. Please provide examples of your experience integrating social media in technology development for business or education. Please provide information on the social media platforms utilized and information on the scale.
 10. Please provide examples of your experience working with blockchain technology.
- 5.3.7 In its proposal, Proposer must respond to each item listed in **APPENDIX SEVEN, Security Characteristics and Functionality of Contractor’s Information Resources. APPENDIX SEVEN** will establish specifications, representations, warranties and agreements related to the EIR that Proposer is offering to provide to University. Responses to **APPENDIX SEVEN** will be incorporated into the Agreement and will be binding on Contractor.

5.4 Scope of Work

Contractor will provide the following services to University:

Contractor will code and develop innovative educational technologies to University's specifications on the Salesforce and Heroku platforms (including those currently available and future releases and versions). This would include but is not limited to motion graphics and animations, graphic design and/or illustrations, UI/UX design, interactive and social learning applications development, web and mobile design and development, instructional design, and other general development and design responsibilities. Contractor may also integrate these technologies between the Salesforce and Heroku platforms and other University enterprise resource platforms. Contractor may also provide technical and creative consulting advice on University projects. Contractor must utilize Agile development methodologies.

5.5 Cost

Please list all applicable positions and the hourly rates for those positions to support the requested Services. The information submitted as part of Section 6 of this RFP should be consistent with this information.

SECTION 6

PRICING AND DELIVERY SCHEDULE

Proposal of: _____
(Proposer Name)

To: The University of Texas System Administration

Ref.: Salesforce Configuration and Development Services related to the University Programs

RFP No.: ITL06162016

Ladies and Gentlemen:

Having examined specifications and requirements of this RFP (including attachments), the undersigned proposes to furnish the Services upon the pricing terms quoted below:

6.1 Pricing for Services

6.2 Discounts

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

6.3 Schedule for Completion of Tasks and Submittal of Deliverables

6.4 Payment Terms

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

University will be entitled to withhold _____ percent (____%) of the total payment due under the Agreement until after University’s acceptance of the final work product.

Indicate below the prompt payment discount that Proposer offers:

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

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

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

APPENDIX ONE
PROPOSAL REQUIREMENTS

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SECTION 1

GENERAL INFORMATION**1.1 Purpose**

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

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

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

1.2 Inquiries and Interpretations

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

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

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

1.3 Public Information

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

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

Upon execution of a final agreement, University will consider all information, documentation, and other materials requested to be submitted in response to this RFP, to be of a non-confidential and non-proprietary nature and, therefore, subject to public disclosure under the *Texas Public Information Act* (ref. [Chapter 552, Government Code](#)). Proposer will be advised of a request for public information that implicates their materials and will have the opportunity to raise any objections to disclosure to the Texas Attorney General. Certain information may be protected from release under Sections [552.101](#), [552.104](#), [552.110](#), [552.113](#), and [552.131](#), *Government Code*.

1.4 Type of Agreement

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

1.5 Proposal Evaluation Process

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

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

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

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

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

1.6 Proposer's Acceptance of RFP Terms

Proposer (1) accepts [a] Proposal Evaluation Process (ref. **Section 1.5** of **APPENDIX ONE**), [b] Criteria for Selection (ref. **2.3** of this RFP), [c] Specifications and Additional Questions (ref. **Section 5** of this RFP), [d] terms and conditions of the Agreement (ref. **APPENDIX TWO**), and [e] all other requirements and specifications set forth in this RFP; and (2) acknowledges that some subjective judgments must be made by University during this RFP process.

1.7 Solicitation for Proposal and Proposal Preparation Costs

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

1.8 Proposal Requirements and General Instructions

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

1.9 Preparation and Submittal Instructions

1.9.1 Specifications and Additional Questions

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

1.9.2 Execution of Offer

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

1.9.3 Pricing and Delivery Schedule

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

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

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

1.9.4 Proposer's General Questionnaire

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

1.9.5 Addenda Checklist

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

1.9.6 Submission

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

Proposer must also submit the HUB Subcontracting Plan (also called the HSP) as required by **Section 2.6** of this RFP.

University will not under any circumstances consider a proposal that is received after the Submittal Deadline or which is not accompanied by the HSP as required by **Section 2.6** of this RFP. University will not accept proposals submitted by telephone or FAX transmission.

Except as otherwise provided in this RFP, no proposal may be changed, amended, or modified after it has been submitted to University. However, a proposal may be withdrawn and resubmitted at any time prior to the Submittal Deadline. No proposal may be withdrawn after the Submittal Deadline without University's consent, which will be based on Proposer's written request explaining and documenting the reason for withdrawal, which is acceptable to University.

SECTION 2

EXECUTION OF OFFER

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

- 2.1 Representations and Warranties.** Proposer represents, warrants, certifies, acknowledges, and agrees as follows:
- 2.1.1 Proposer will furnish the Services to University and comply with all terms, conditions, requirements and specifications set forth in this RFP and any resulting Agreement.
 - 2.1.2 This RFP is a solicitation for a proposal and is not a contract or an offer to contract. Submission of a proposal by Proposer in response to this RFP will not create a contract between University and Proposer. University has made no representation or warranty, written or oral, that one or more contracts with University will be awarded under this RFP. Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
 - 2.1.3 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
 - 2.1.4 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
 - 2.1.5 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances relating to performance of the Services.
 - 2.1.6 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in the Agreement under which Proposer will be required to operate.
 - 2.1.7 Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
 - 2.1.8 Proposer will maintain any insurance coverage required by the Agreement during the entire term.
 - 2.1.9 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. University will rely on such statements, information and representations in selecting Contractor. If selected by University, Proposer will notify University immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
 - 2.1.10 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, INDEMNIFY, AND HOLD HARMLESS UNIVERSITY, UT SYSTEM, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFP.
 - 2.1.11 Pursuant to Sections [2107.008](#) and [2252.903](#), *Government Code*, any payments owing to Proposer under the Agreement may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until such debt or delinquency is paid in full.
 - 2.1.12 Any terms, conditions, or documents attached to or referenced in Proposer's proposal are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFP, and (b) do not place any requirements on University that are not set forth in this RFP. Submission of a proposal is Proposer's good faith intent to enter into the Agreement with University as specified in this RFP and that Proposer's intent is not contingent upon University's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.
- 2.2 No Benefit to Public Servants.** Proposer has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting Agreement, and Proposer may be removed from all proposer lists at University.
- 2.3 Tax Certification.** Proposer is not currently delinquent in the payment of any taxes due under [Chapter 171, Tax Code](#), or Proposer is exempt from the payment of those taxes, or Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at University's option, may result in termination of any resulting Agreement.
- 2.4 Antitrust Certification.** Neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, nor anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in [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.
- 2.5 Authority Certification.** The individual signing this document and the documents made a part of this RFP, is authorized to sign the documents on behalf of Proposer and to bind Proposer under any resulting Agreement.

2.6 Child Support Certification. Under [Section 231.006, Family Code](#), relating to child support, the individual or business entity named in Proposer's proposal is not ineligible to receive award of the Agreement, and any Agreements resulting from this RFP may be terminated if this certification is inaccurate.

2.7 Relationship Certifications.

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

2.8 Compliance with Equal Employment Opportunity Laws. Proposer is in compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.

2.9 Compliance with Safety Standards. All products and services offered by Proposer to University in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law ([Public Law 91-596](#)) and the *Texas Hazard Communication Act, Chapter 502, Health and Safety Code*, and all related regulations in effect or proposed as of the date of this RFP.

2.10 Exceptions to Certifications. Proposer will and has disclosed, as part of its proposal, any exceptions to the information stated in this *Execution of Offer*. All information will be subject to administrative review and approval prior to the time University makes an award or enters into any Agreement with Proposer.

2.11 Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act Certification. If Proposer will sell or lease computer equipment to University under any Agreement resulting from this RFP then, pursuant to [Section 361.965\(c\), Health & Safety Code](#), Proposer is in compliance with the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in [Chapter 361, Subchapter Y, Health & Safety Code](#), and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in [30 TAC Chapter 328, 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.

2.12 Conflict of Interest Certification.

- Proposer is not a debarred vendor or the principal of a debarred vendor (i.e. owner, proprietor, sole or majority shareholder, director, president, managing partner, etc.) either at the state or federal level.
- Proposer's provision of services or other performance under any Agreement resulting from this RFP will not constitute an actual or potential conflict of interest.
- Proposer has disclosed any personnel who are related to any current or former employees of University.
- Proposer has not given, nor does Proposer intend to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to an officer or employee of University in connection with this RFP.

2.13 Proposer should complete the following information:

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

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

RFP No.: _____

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, University prefers to enter into a contract or agreement with the Parent Corporation or to receive assurances of performance from the Parent Corporation.

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

- 3.1.8 Does any relationship exist (whether by family kinship, business association, capital funding agreement, or any other such relationship) between Proposer and any employee of University? If yes, Proposer will explain.
- 3.1.9 Proposer will provide the name and Social Security Number for each person having at least 25% ownership interest in Proposer. This disclosure is mandatory pursuant to [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* (ref. [Chapter 552, Government Code](#)), and other applicable law.

3.2 Approach to Project Services

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

3.3 General Requirements

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

3.4 Service Support

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

3.5 Quality Assurance

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

3.6 Miscellaneous

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

SECTION 4

ADDENDA CHECKLIST

Proposal of: _____
(Proposer Name)

To: University

RFP No.: _____

Ladies and Gentlemen:

The undersigned Proposer hereby acknowledges receipt of the following Addenda to the captioned RFP (*initial blanks for any Addenda issued*).

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

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

APPENDIX TWO

AGREEMENT BETWEEN UNIVERSITY AND CONTRACTOR FOR SALESFORCE CONFIGURATION AND DEVELOPMENT SERVICES

This Agreement between University and Contractor for Salesforce Configuration Development Services ("**Agreement**") is made and entered into effective as of _____, 20____ (the "**Effective Date**"), by and between **The University of Texas System Administration**, an agency of higher education established under the laws of the State of Texas ("**University**"), and _____, a _____ ("**Contractor**"), Federal Tax Identification Number _____.

University and Contractor hereby agree as follows:

1. Addenda for Services.

- 1.1 During the term of this Agreement, University and Contractor may enter into Addenda (according to the form set forth in **Exhibit A**) to have Contractor perform any or all of the services set forth in **Exhibit B** (collectively "**Services**") at the prices set forth in **Exhibit C**. Each Addendum will set forth the specific deliverables, milestones, delivery dates, term, design requirements, and contract amount. For each Addendum, time is of the essence. University will have no obligation to accept late performance or waive timely performance by Contractor. To the extent that this Agreement expires or terminates prior to the end of an Addendum, such Addendum will survive any such termination or expiration of the Agreement and the terms and conditions of this Agreement will continue to be incorporated for all purposes into that Addendum.
- 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, statutes, regulations and ordinances ("**Applicable Laws**"), for the performance of the Services.

2. The Work.

The Services and all deliverables and other materials created under this Agreement (including Work Material and Delivered Contractor IP as defined in **Section 7**) are collectively the "**Work**".

3. Time for Commencement and Completion.

The term ("**Initial Term**") of this Agreement will begin on the Effective Date and expire on _____, 20____. University will have the option to renew this Agreement for _____ (____) additional _____ (____) year terms (each a "**Renewal Term**"). The Initial Term and each Renewal Term are collectively referred to as the "**Term**".

4. Contractor's Obligations.

- 4.1 Contractor will perform the Work in compliance with (a) all Applicable Laws, and (b) the *Rules and Regulations* of the Board of Regents of The University of Texas System at <http://www.utsystem.edu/bor/rules/>, and the policies of The University of Texas System at <http://www.utsystem.edu/bor/procedures/policy/>; (collectively, "**University Rules**"). Contractor represents and warrants that neither Contractor nor any firm, corporation or institution represented by Contractor, or anyone acting for the firm, corporation or institution, (1) has violated the antitrust laws of the State of Texas, Chapter 15, *Texas Business and Commerce Code*, or federal antitrust laws, or (2) has communicated directly or indirectly the content of Contractor's response to University's procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for this Agreement.

- 4.2 Contractor represents, warrants and agrees that (a) it will use its best efforts to perform the Work in a good and workmanlike manner and in accordance with the highest standards of Contractor's profession or business, and (b) all of the Work to be performed will be of the quality that prevails among similar businesses of superior knowledge and skill engaged in providing similar services in major United States urban areas under the same or similar circumstances.
- 4.3 Contractor will call to University's attention in writing all information in any materials supplied to Contractor (by University or any other party) that Contractor regards as unsuitable, improper or inaccurate in connection with the purposes for which the material is furnished.
- 4.4 Contractor warrants and agrees that the Work will be accurate and free from any material defects. Contractor's duties and obligations under this Agreement will at no time be in any way diminished by reason of any approval by University nor will Contractor be released from any liability by reason of any approval by University, it being agreed that University at all times is relying upon Contractor's skill and knowledge in performing the Work.
- 4.5 Contractor will, at its own cost, correct all material defects in the Work as soon as practical after Contractor becomes aware of the defects. If Contractor fails to correct material defects in the Work within a reasonable time, then University may correct the defective Work at Contractor's expense. This remedy is in addition to, and not in substitution for, any other remedy for defective Work that University may have at law or in equity.
- 4.6 Contractor will maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this Agreement. Contractor will cause all persons connected with Contractor directly in charge of the Work to be duly registered and/or licensed under all Applicable Laws. Contractor will assign to each Addendum a designated representative who will be responsible for the administration and coordination of the Work. Contractor will furnish efficient business administration and coordination and perform the Work in an expeditious and economical manner consistent with the interests of University.
- 4.7 Contractor represents that if (i) it is a corporation, then it is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, or a foreign corporation or limited liability company duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary corporate power and has received all necessary corporate approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor; or (ii) if it is a partnership, limited partnership, limited liability partnership, or limited liability company then it has all necessary power and has secured all necessary approvals to execute and deliver this Agreement and perform all its obligations hereunder, and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.
- 4.8 Contractor represents and warrants that neither the execution and delivery of this Agreement by Contractor nor the performance of its duties and obligations under this Agreement will (a) result in the violation of any provision [i] if a corporation, of Contractor's articles of incorporation or by-laws, [ii] if a limited liability company, of its articles of organization or regulations, or [iii] if a partnership, of any partnership agreement by which Contractor is bound; (b) result in the violation of any provision of any agreement by which Contractor is bound; or (c) to the best of Contractor's knowledge and belief, conflict with any order or decree of any court or other body or authority having jurisdiction.
- 4.9 Contractor represents and warrants that all of Contractor's Personnel contributing to the Work under this Agreement will be required to (i) acknowledge in writing the ownership of Contractor (for the benefit of University) of the Work Material (ref. **Section 7**) and each element thereof produced by the Personnel while performing services pursuant to this Agreement and (ii) make all assignments necessary to effectuate such ownership. "**Personnel**" means any and all persons

associated with Contractor who provide any work or work product pursuant to this Agreement, including officers, managers, supervisors, full-time employees, part-time employees, and independent contractors.

- 4.10 Contractor represents and warrants that: (i) the Work 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 University; (ii) University will receive free, good and clear title to all Work developed under this Agreement; (iii) the Work and the intellectual property rights protecting the Work are free and clear of all encumbrances, including security interests, licenses, liens, charges or other restrictions; (iv) the Work 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 will not violate the rights of any third parties, including trade secret, publicity, privacy, copyright, trademark, service mark and patent rights.
- 4.11 If this Agreement requires Contractor's presence on University's premises or in University's facilities, Contractor agrees to cause its employees, representatives, agents, or subcontractors to become aware of, fully informed about, and in full compliance with all applicable University Rules, including those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.**
- 4.12 Contractor represents and warrants that the Work shall: (a) be accurate and free from material defects, (b) conform to the requirements and specifications set forth in this Agreement, and (c) shall contain no harmful surreptitious code, including code designed to modify, delete, damage, deactivate, disable, harm or otherwise impede in any manner the operation of Work or any other associated software, firmware, hardware, computer system or network (e.g., a Trojan horse, worm, backdoor, etc. ("Viruses")).
- 4.13 Contractor represents and warrants ("EIR Accessibility Warranty") that the electronic and information resources and all associated information, documentation, and support that it provides to University under this Agreement (collectively, the "EIRs") comply with the applicable requirements set forth in Title 1, Chapter 213, *Texas Administrative Code*, and Title 1, Chapter 206, Rule §206.70, *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M, *Government Code*.) Contractor will regularly assess the compliance of the EIR under these provisions. If the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants that it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Contractor fails or is unable to do so, then University may terminate this Agreement and Contractor will refund to University all amounts University has paid under this Agreement within thirty (30) days after the termination date. Contractor will provide all assistance and cooperation necessary for the performance of accessibility testing conducted by University or University's third party testing resources as required by Title 1, Rule §213.38(g) of the *Texas Administrative Code*.
- 4.14 Contractor represents and warrants that it will hold University Records in strict confidence and will not use or disclose University Records except as (a) permitted or required by this Agreement, (b) required by law, or (c) otherwise authorized by University in writing.

5. The Contract Amount.

- 5.1 University will pay Contractor for the performance of the Work according to the prices set forth in **Exhibit C** and as outlined by the associated Addendum. Each addendum will specify the fee cap and expense cap (collectively the "**Contract Amount**") for that Addendum. This Agreement is not valid for amounts over \$1,000,000 without the approval of the University and the University of Texas System Board of Regents.
- 5.2 The Contract Amount for each Addendum includes all applicable federal, state or local sales or use taxes payable as a result of the execution or performance of the Work.
- 5.3 University, 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 University will pay any fees due to Contractor under an Addendum entered into in accordance with this Agreement as provided by the Texas Prompt Payment Act ("Act"), Chapter 2251, Government Code. Pursuant to the Act, Contractor will submit to University an invoice covering the Work performed for University to that date, in compliance with the prices set forth in Exhibit C and the terms of the Addendum. Each invoice will be accompanied by documentation that University may reasonably request to support the invoice amount. University will, within twenty-one (21) days from the date it receives an invoice and supporting documentation, approve or disapprove the amount reflected in the invoice. If University approves the amount or any portion of the amount, University will promptly pay (each a "**Progress Payment**") to Contractor the amount approved so long as Contractor is not in default under this Agreement. If University disapproves any invoice amount, University will give Contractor specific reasons for its disapproval in writing.
- 6.2 Within ten (10) days after final completion of the Work and acceptance by University or as soon thereafter as possible, Contractor will submit a final invoice ("**Addendum's Final Invoice**") setting forth all amounts due and remaining unpaid to Contractor. Upon approval of the Addendum's Final Invoice by University, University will pay ("**Addendum Final Payment**") to Contractor the amount due under the Addendum's Final Invoice.
- 6.3 Notwithstanding any provision of this Agreement to the contrary, University will not be obligated to make any payment (whether a Progress Payment or Addendum's Final Payment) to Contractor if Contractor is in default under this Agreement.
- 6.4 The cumulative amount of all Progress Payments and Addendum's Final Payment will not exceed the Addendum's Contract Amount as more particularly set forth in the associated Addendum.
- 6.5 No payment made by University will (a) be construed to be final acceptance or approval of that part of the Work to which the payment relates, or (b) relieve Contractor of any of its duties or obligations under this Agreement.
- 6.6 The acceptance of Addendum Final Payment by Contractor will constitute a waiver of all claims by Contractor except those previously made in writing and identified by Contractor as unsettled at the time of the Addendum's Final Invoice.
- 6.7 University will have the right to verify the details set forth in Contractor's invoices and supporting documentation, either before or after payment, by (a) inspecting the books and records of Contractor at mutually convenient times; (b) examining any reports with respect to the Work; and (c) other reasonable action.

- 6.8 Section 51.012, *Texas Education Code*, authorizes University to make any payment through electronic funds transfer methods. Contractor agrees to receive payments from University through electronic funds transfer methods, including the automated clearing house system (also known as ACH). Contractor agrees to provide Contractor's banking information to University in writing on Contractor letterhead signed by an authorized representative of Contractor. Prior to the first payment under this Agreement, University will confirm Contractor's banking information. Changes to Contractor's bank information must be communicated to University in writing at least thirty (30) days before the effective date of the change and must include an IRS Form W-9 signed by an authorized representative of Contractor.
- 6.9 Notwithstanding any other provision of this Agreement, University is entitled to a "**Prompt Payment Discount**" of ____% off of each payment that University submits within ____days after University's receipt of Contractor's invoice for that payment.

7. Intellectual Property

- 7.1 All tools, software, programs, drawings, specifications, plans, computations, sketches, data, photographs, configurations, tapes, renderings, models, publications, statements, accounts, reports, studies, and other materials prepared by Contractor or any subcontractors in connection with the Work (collectively, "Work Material"), whether or not accepted or rejected by University, are the sole property of University and for its exclusive use and re use at any time without further compensation and without any restrictions.
- 7.2 Contractor grants and assigns to University all rights and claims of whatever nature and whether now or hereafter arising in and to the Work Material and will cooperate fully with University in any steps University may take to obtain or enforce patent, copyright, trademark or like protections with respect to the Work Material.
- 7.3 Contractor will deliver all Work Material to University upon expiration or termination of this Agreement and upon expiration or termination of any Addenda hereunder. University will have the right to use the Work Material for the completion of the Work or otherwise. University may, at all times, retain the originals of the Work Material. The Work Material will not be used by any person other than University on other projects unless expressly authorized by University in writing.
- 7.4 The Work Material will not be used or published by Contractor or any other party unless expressly authorized by University in writing. Contractor will treat all Work Material as confidential.
- 7.5 All title and interest in the Work Material will vest in University and will be deemed to be a work made for hire and made in the course of the Work rendered under this Agreement. To the extent that title to any Work Material may not, by operation of law, vest in University or Work Material may not be considered works made for hire, Contractor hereby irrevocably assigns, conveys and transfers to University 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 University, its successors, licensees, assigns, distributors and customers or, if necessary, to exclusively license the rights, worldwide to University with the right to sublicense. These rights are assignable by University.
- 7.6 All materials owned by Contractor, or which have been licensed to Contractor by a third party that either: 1) existed prior to the effective date of this Agreement or 2) were created by the Contractor (or its licensor) totally separate from the Work are collectively "Contractor IP." Contractor IP is the sole property of Contractor (or its licensor) and Contractor (or its licensor) will at all times retain sole

and exclusive title to and ownership to Contractor IP. Contractor grants to University a non-exclusive, worldwide, perpetual, irrevocable, sub-licensable, royalty free license to Contractor IP included in any deliverables to University ("Delivered Contractor IP"). This license includes a) the right to create derivative works of, reproduce, distribute, perform and display the Delivered Contractor IP and derivative works thereof for any purpose without accounting to Contractor under the Copyright Laws of the United States (17 U.S. C. §101 et seq.) and b) the right to make, use, offer to sell and sell the Delivered Contractor IP under the Patent Laws of the United States (35 U.S.C. §1 et seq.).

8. Default and Termination.

- 8.1 In the event of a material failure by Contractor to perform in accordance with the terms of this Agreement ("**default**"), University may terminate this Agreement and may terminate an Addendum (or multiple Addenda) upon fifteen (15) days' written notice of termination setting forth the nature of the material failure. Termination under this section will not be effective if the material failure is fully cured prior to the end of the fifteen-day period.
- 8.2 University may, without cause, terminate this Agreement at any time upon giving seven (7) days advance written notice to Contractor. University may, without cause, terminate an Addendum 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 Work 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 Materials and any other materials created under this Agreement to University. Notwithstanding any provision in this Agreement to the contrary, University will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice that could have been avoided or mitigated by Contractor.
- 8.3 Termination under **Sections 8.1** or **8.2** will not relieve Contractor from liability for any default or breach under this Agreement or any other act or omission of Contractor.
- 8.4 If Contractor fails to cure any default within fifteen (15) days after receiving written notice of the default, University will be entitled (but will not be obligated) to cure the default and will have the right to offset against all amounts due to Contractor under this Agreement, any and all reasonable expenses incurred in connection with University's curative actions.
- 8.5 Contractor agrees that within thirty (30) days after the expiration or termination of this Agreement for any reason, all University Records created or received from or on behalf of University will be (1) returned to University in a format agreeable to the University, with no copies retained by Contractor; or (2) if return is not feasible, destroyed from all storage including production and back-up. Twenty (20) days before destruction of any University Records, Contractor will provide University with written notice of Contractor's intent to destroy University Records. Within five (5) days after destruction, Contractor will confirm to University in writing the destruction of University Records.
- 8.6 Contractor agrees that within seven (7) days after the expiration or termination of this Agreement or any Addendum, all completed deliverables and any deliverables in process will be delivered to University in the format requested by University.

9. Indemnification

- 9.1 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS, UNIVERSITY, AND ITS AFFILIATED ENTERPRISES,(AFFILIATED ENTERPRISES INCLUDE BUT ARE NOT LIMITED TO UNIVERSITY'S INSTITUTIONS, THIRD PARTIES DOING BUSINESS WITH UNIVERSITY, AND THIRD PARTIES DOING BUSINESS WITH UNIVERSITY'S INSTITUTIONS), AND THEIR REGENTS, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES, STUDENTS, AUTHORIZED USERS AND AGENTS (COLLECTIVELY "INDEMNITEES") FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING (COLLECTIVELY "CLAIMS") BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED BY, OR RESULTING FROM CONTRACTOR'S PERFORMANCE UNDER OR BREACH OF THIS AGREEMENT AND THAT ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION OR WILLFUL MISCONDUCT OF CONTRACTOR, ANYONE DIRECTLY EMPLOYED BY CONTRACTOR OR ANYONE FOR WHOSE ACTS CONTRACTOR MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.
- 9.2 IN ADDITION, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY INTEREST ARISING BY OR OUT OF THE PERFORMANCE OF WORK OR THE PROVISION OF GOODS OR OTHER MATERIALS BY CONTRACTOR, OR THE USE BY INDEMNITEES, AT THE DIRECTION OF CONTRACTOR, OF ANY ARTICLE OR MATERIAL; PROVIDED, THAT, UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR INFRINGEMENT, UNIVERSITY WILL PROMPTLY NOTIFY CONTRACTOR AND CONTRACTOR WILL BE GIVEN THE OPPORTUNITY TO NEGOTIATE A SETTLEMENT. IN THE EVENT OF LITIGATION, UNIVERSITY AGREES TO REASONABLY COOPERATE WITH CONTRACTOR. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.
- 9.3 IN ADDITION, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL THIRD PARTY CLAIMS, FINES, FEES ASSESSMENTS, PENALTIES, LOSSES, LIABILITIES AND EXPENSES (INCLUDING WITHOUT LIMITATION, REASONABLE ATTORNEY'S FEES AND EXPENSES) THAT RELATE TO OR RESULT FROM ANY FAILURE TO COMPLY WITH CONTRACTOR'S OBLIGATIONS REGARDING UNIVERSITY RECORDS (INCLUDING FERPA RECORDS).

10. Relationship of the Parties.

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

11. Insurance.

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

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

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

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

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

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

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

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

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 above sections 11.1.1 for Employer's Liability, 11.1.2 for Commercial General Liability, and 11.1.5 for Professional 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.

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

such clause provides coverage for at least twenty-four (24) months after the expiration or termination of this Agreement for any reason.

11.1.6 Contractor's Employee Dishonesty Insurance will be endorsed with a Client's Property Endorsement (or equivalent) to protect the assets and property of University with limits of not less than \$1,000,000 per claim. If Contractor has property of University in its care, custody or control away from University's premises, Contractor will provide bailee coverage for the replacement cost of the property. Contractor's Employee Dishonesty policy will name University as Loss Payee.

11.1.7 Directors' and Officers' Liability Insurance with limits of not less than \$1,000,000 per claim. The coverage will be continuous for the duration of this Agreement and for not less than twenty-four (24) months following the expiration or termination of this Agreement.

11.1.8 Contractor will maintain Cyber Liability insurance with limits of not less than \$5,000,000 for each wrongful act, that provides coverage for:

- Liability for security or privacy breaches, including loss or unauthorized access to any University data, whether by Contractor or any of subcontractor or cloud service provider used by Contractor;
- Costs associated with a privacy breach, including notification of affected individuals, customer support, crises management / public relations consulting, legal services of a privacy attorney, credit monitoring and identity fraud resolution services for affected individuals;
- Expenses related to regulatory compliance, government investigations, fines, fees assessments and penalties;
- Costs of restoring, updating or replacing data;
- Liability losses connected to network security, privacy, and media liability;
- "Insured versus insured" exclusion prohibited.

Certificates of Insurance and Additional Insured Endorsements reflecting applicable limits, sub-limits, self-insured retentions and deductibles will be provided to University upon request. Contractor will be responsible for any and all deductibles, self-insured retentions or waiting period requirements. If the Cyber Liability policy is written on a claims-made basis, the retroactive date should be prior to the commencement of this agreement/addendum. If the Cyber Liability policy is written on a claims-made basis and non-renewed at any time during and up until the project completion signing date, Contractor shall purchase an Extended Reporting Period for at least a two year period. The Board of Regents of the University of Texas System, University and University's Institutions will be named as additional insureds and University will be provided with a waiver of subrogation, both by endorsement to the required Cyber Liability policy.

11.2 Contractor will deliver to University:

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

11.2.1.1 **All insurance policies** (with the exception of workers' compensation, employer's liability and professional liability) will be endorsed and name the Board of Regents of The University of Texas System, University, and University Institutions 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, University, and University Institutions. **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, University, and University Institutions. No policy will be canceled until after thirty (30) days' unconditional written notice to University. **All insurance policies** will be endorsed to require the insurance carrier providing coverage to send notice to University thirty (30) days prior to any cancellation, material change, or non-renewal relating to any insurance policy required in this **Section 11**.

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

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

Name:

Address:

Facsimile Number:

Email Address:

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

12. Miscellaneous.

- 12.1 **Assignment and Subcontracting.** Except as specifically provided in **Exhibit D**, Historically Underutilized Business Subcontracting Plan, attached and incorporated for all purposes, Contractor's interest in this Agreement (including Contractor's duties and obligations under this Agreement, and the fees due to Contractor under this Agreement) may not be subcontracted, assigned, delegated, or otherwise transferred to a third party, in whole or in part, and any attempt to do so will (a) not be binding on University; and (b) be a breach of this Agreement for which Contractor will be subject to all remedial actions provided by Applicable Laws, including Chapter 2161, *Texas Government Code*, and 34 TAC Chapter 20, §§20.101 – 20.108. The benefits and burdens of this Agreement are assignable by University.
- 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 **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.
- 12.4 **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.
- 12.5 **Loss of Funding.** University performance of its duties and obligations under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "**Legislature**") and/or allocation of funds by the Board of Regents of The University of Texas System (the "**Board**"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then University will issue written notice to Contractor and University may terminate this Agreement without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of University.
- 12.6 **Entire Agreement; Modifications.** This Agreement supersedes all prior agreements, written or oral, between Contractor and University 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 University and Contractor.
- 12.7 **Force Majeure.** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character ("**force majeure occurrence**").

- 12.8 **Captions.** The captions of sections and subsections in this Agreement are for convenience only and will not be considered or referred to in resolving questions of interpretation or construction.
- 12.9 **Governing Law.** Travis County, Texas, will be the proper place of venue for suit on or in respect of this Agreement. This Agreement and all of the rights and obligations of the parties to this Agreement and all of the terms and conditions of this Agreement will be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas.
- 12.10 **Waivers.** No delay or omission in exercising any right accruing upon a default in performance of this Agreement will impair any right or be construed to be a waiver of any right. A waiver of any default under this Agreement will not be construed to be a waiver of any subsequent default under this Agreement.
- 12.11 **Confidentiality and Safeguarding of University Records; Press Releases; Public Information.** Under this Agreement, Contractor may (1) create, (2) receive from or on behalf of University, or (3) have access to, records or record systems (collectively, “**University Records**”). Among other things, University Records may contain social security numbers, credit card numbers, or data protected or made confidential or sensitive by Applicable Laws. Additional mandatory confidentiality and security compliance requirements with respect to University Records subject to the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g (“**FERPA**”) are addressed in **Section 12.32**. Contractor represents, warrants, and agrees that it will: (1) hold University Records in strict confidence and will not use or disclose University Records except as (a) permitted or required by this Agreement, (b) required by Applicable Laws, or (c) otherwise authorized by University in writing; (2) safeguard University Records according to reasonable administrative, physical and technical standards (such as standards established by the National Institute of Standards and Technology and 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 University Records are safeguarded and the confidentiality of University Records is maintained in accordance with all Applicable Laws and the terms of this Agreement; and (4) comply with University Rules regarding access to and use of University’s computer systems, including UTS 165 at <http://www.utsystem.edu/bor/procedures/policy/policies/uts165.html>. At the request of University, Contractor agrees to provide University with a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of University Records.
- 12.11.1 **Notice of Impermissible Use.** If an impermissible use or disclosure of any University Records occurs, Contractor will provide written notice to University within one (1) business day after Contractor’s discovery of that use or disclosure. Contractor will promptly provide University with all information requested by University regarding the impermissible use or disclosure.
- 12.11.2 **Return of University Records.** Contractor agrees that within thirty (30) days after the expiration or termination of this Agreement, for any reason, all University Records created or received from or on behalf of University will be (1) returned to University, with no copies retained by Contractor; or (2) if return is not feasible, destroyed. Twenty (20) days before destruction of any University Records, Contractor will provide University with written notice of Contractor’s intent to destroy University Records. Within five (5) days after destruction, Contractor will confirm to University in writing the destruction of University Records.
- 12.11.3 **Disclosure.** If Contractor discloses any University 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 12.11**.

12.11.4 **Press Releases.** Except when defined as part of the Work, 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 University 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 University.

12.11.5 **Public Information.** University 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 University, Contractor will make any information created or exchanged with University pursuant to this Agreement (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by University that is accessible by the public.**

12.11.6 **Termination.** In addition to any other termination rights set forth in this Agreement and any other rights at law or equity, if University reasonably determines that Contractor has breached any of the restrictions or obligations set forth in this Section, University may immediately terminate this Agreement (including any or all Addenda) or specific Addendum without notice or opportunity to cure.

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

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

12.13 **Records.** Records of Contractor's costs, reimbursable expenses pertaining to the Work and payments will be available to University or its authorized representative during business hours and will be retained for seven (7) years after final Payment or abandonment of the Work, unless University otherwise instructs Contractor in writing.

12.14 **Notices.** Except as otherwise provided by 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 certified mail, hand delivery, overnight courier, facsimile transmission (to the extent a facsimile number is set forth below), or email (to the extent an email address is set forth below) as provided below, and notice will be deemed given (i) if delivered by certified mail, when deposited, postage prepaid, in the United States mail, or (ii) if delivered by hand, overnight courier, facsimile (to the extent a facsimile number is set forth below) or email (to the extent an email address is set forth below), when received:

If to University: _____

Attention: _____

with copy to: _____

Attention: _____

If to Contractor: _____

Attention: _____

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 University pursuant to Section 2251.054, *Texas Government Code*, then Contractor will send that notice to University as follows:

Fax: _____
Email: _____
Attention: _____

with copy to: _____

Fax: _____
Email: _____
Attention: _____

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

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

12.16 **State Auditor's Office.** Contractor understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "**Auditor**"), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), 73.115(c) and 74.008(c), *Texas Education Code*. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including providing all records requested. Contractor will include this provision in all contracts with subcontractors.

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

12.18 **Survival of Provisions.** No expiration or termination of this Agreement will relieve either party of any obligations under this Agreement that by their nature survive expiration or termination, including **Sections 6.7, 7, 9, 12.5, 12.9, 12.10, 12.11, 12.13, 12.16, 12.17, 12.19, 12.21, and 12.32.**

12.19 **Breach of Contract Claims.**

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

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

12.19.1.2 If the parties are unable to resolve their disputes under **Section 12.19.1.1**, the contested case process provided in subchapter C of Chapter 2260 is Contractor's sole and exclusive process for seeking a remedy for any and all of Contractor's claims for breach of this Agreement by University.

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

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

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

12.20 **Undocumented Workers.** The *Immigration and Nationality Act* (8 *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 Applicable Laws. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status. If Contractor employs unauthorized workers during performance of this Agreement in violation of the Immigration Act then, in addition to other remedies or penalties prescribed by Applicable Laws, University may terminate this Agreement in accordance with **Section 8**. Contractor represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.

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

12.22 **Ethics Matters; No Financial Interest.** Contractor and its employees, agents, representatives and subcontractors have read and understand University’s Conflicts of Interest Policy available at <http://www.utsystem.edu/board-of-regents/policy-library/policies/int180-conflicts-interest-conflicts-commitment-and-outside->, University’s Standards of Conduct Guide available at <http://www.utsystem.edu/systemcompliance/SOCcombined.pdf>, and applicable state ethics laws and rules available at www.utsystem.edu/ogc/ethics. Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause University employees to violate University’s Conflicts of Interest Policy, provisions described by University’s Standards of Conduct Guide, or applicable state ethics laws or rules. Contractor represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

Further, Contractor 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 University with the information required on the form promulgated by the TEC and set forth as **EXHIBIT E**.

12.23 **State of Texas Computer Equipment Recycling Program Certification.** Pursuant to Section 361.965, *Texas Health and Safety Code*, Contractor certifies that it is full compliance with the *State of Texas Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act* set forth in Chapter 361, Subchapter Y, *Texas Health and 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*. Contractor

acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

12.24 **Enforcement.** Contractor agrees and acknowledges that University is entering into this Agreement in reliance on Contractor's special and unique knowledge and abilities with respect to performing the Work. Contractor's services provide a peculiar value to University. University cannot be reasonably or adequately compensated in damages for the loss of Contractor's services. Accordingly, Contractor acknowledges and agrees that a breach by Contractor of the provisions of this Agreement will cause University irreparable injury and damage. Contractor, therefore, expressly agrees that University will be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement.

12.25 Intentionally Blank

12.26 Intentionally Blank

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

12.27.1 **Changes to the HSP.** If at any time during the Term of this Agreement, Contractor desires to change the HSP, before the proposed changes become effective (a) Contractor must comply with 34 TAC Section 20.14; (b) the changes must be reviewed and approved by University; and (c) if University approves changes to the HSP, this Agreement must be amended in accordance with **Section 12.6** to replace the HSP with the revised subcontracting plan.

12.27.2 **Expansion of the Work.** If University expands the scope of the Work through a change order or any other amendment, University will determine if the additional Work contains probable subcontracting opportunities *not* identified in the initial solicitation for the Work. If University determines additional probable subcontracting opportunities exist, Contractor will submit an amended subcontracting plan covering those opportunities. The amended subcontracting plan must comply with the provisions of 34 TAC Section 20.14 before (a) this Agreement may be amended to include the additional Work; or (b) Contractor may perform the additional Work. If Contractor subcontracts any of the additional subcontracting opportunities identified by University without prior authorization and without complying with 34 TAC Section 20.14, Contractor will be deemed to be in breach of this Agreement under **Section 8** and will be subject to any remedial actions provided by Applicable Laws, including Chapter 2161, *Texas Government Code* and 34 TAC Section 20.14. University may report nonperformance under this Agreement to the TPSS in accordance with 34 TAC Sections 20.101 through 20.108.

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

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

12.29 **EIR Environment Specifications.** Exhibit F attached and incorporated for all purposes, establishes specifications, representations, warranties and agreements related to the environment specifications of EIR that Contractor is providing to University under this Agreement. The specifications, representations, warranties and agreements set forth in Exhibit F are binding on Contractor. Contractor agrees to perform the Work in compliance with Exhibit F.

12.30 **Security Characteristics and Functionality of Proposer's Information Resources.** Exhibit G, attached and incorporated for all purposes, establishes specifications, representations, warranties and agreements related to the products and services Contractor is providing to University under this Agreement. The specifications, representations, warranties and agreements set forth in Exhibit G are binding on Contractor. Contractor agrees to perform the Work in compliance with Exhibit G.

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

12.32 **FERPA Compliance.** All of the University Records Contractor receives, creates or maintains for or on behalf of University constitute "Education Records" (as defined by FERPA), or "Personally Identifiable Information from Education Records" (as defined by FERPA) (collectively "**FERPA Records**"). Before Contractor may access, create or maintain any of University's FERPA Records, Contractor must execute the FERPA compliance contract addendum ("**FERPA Confidentiality and Security Outsourcing Addendum**"), attached as **EXHIBIT H**, FERPA Confidentiality and Security Outsourcing Addendum, and incorporated for all purposes. The FERPA Confidentiality and Security Outsourcing Addendum contains terms required by University to ensure that Contractor complies with FERPA (including the requirements of 34 CFR § 99.33(a)) and University Rules related to FERPA, including (i) a description of all FERPA Records subject to this Agreement, and (ii) recognition that University retains the right to control Contractor's access, use, and disclosure of all FERPA Records. Except to the extent **Section 12.11** conflicts with the FERPA Confidentiality and Security Addendum, Contractor will comply with **Section 12.11** in connection with all FERPA Records. To the extent that the FERPA Confidentiality and Security Outsourcing Addendum conflicts with any term contained in this Agreement, the terms of the FERPA Confidentiality and Security Outsourcing Addendum will control.

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

UNIVERSITY:

CONTRACTOR:

**THE UNIVERSITY OF TEXAS
SYSTEM**

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Attest: _____
Corporate Secretary

Attach:

EXHIBIT A Addendum Form

EXHIBIT B Services

EXHIBIT C Pricing

EXHIBIT D HUB Subcontracting Plan

EXHIBIT E Disclosure of Interested Parties

EXHIBIT F Electronic and Information Resources Environment Specifications

EXHIBIT G Security Characteristics & Functionality of Contractor's Information Resources

EXHIBIT H FERPA Confidentiality and Security Outsourcing Addendum

EXHIBIT A

ADDENDUM FORM

This Addendum (the "Addendum") is in effect between The University of Texas System, an agency of higher education established under the laws of the State of Texas ("University") and _____("Contractor"). This Addendum is attached to and incorporated into the previously executed Agreement Between University and Contractor for Salesforce Configuration and Development Services, dated effective _____("Agreement"). This Addendum has an Effective Date (herein so called) of _____.

1. SCOPE OF SERVICES.

Subject to the terms of the Agreement, Contractor shall perform the following services for the purpose of [Describe purpose and designate services to be performed based on the list of services from Exhibit B.]

2. TERM OF ADDENDUM.

This Addendum shall be in effect from the Effective Date until _____.

3. DELIVERABLES, MILESTONES and SCHEDULE

Contractor shall complete the following deliverables according to the following schedule.

[INSERT Deliverables, Deliverables Description, Milestone Schedule, and fee associated with each deliverable based on prices from Exhibit C.]

All Deliverables are Work Materials.

Contractor will submit all Deliverables to University for acceptance by the dates outlined above. University has discretion to accept the Deliverables.

4. SERVICE FEES.

The cumulative amount of Service Fees remitted by University to Contractor for this Addendum will not exceed \$_____ ("Fee Cap") without the prior written approval of University. Payment shall be made in accordance with the terms of the Agreement.

5. EXPENSES AND DISBURSEMENTS.

Contractor will be reimbursed without mark-up for reasonable expenses (including meals, rental car or mileage, coach class airfare, and lodging) validly incurred directly and solely in support of the Project and approved by University in advance. Provided, however, Contractor agrees and acknowledges that Contractor will be subject to the then-current Travel Reimbursement Rates promulgated by the Comptroller of Public Accounts for the State of Texas at <https://fm.x.cpa.state.tx.us/fm/travel/travelrates.php> with regard to meals, mileage, rental car, airfare, lodging and all other expenses related to travel Contractor agrees and acknowledges that Contractor will not be reimbursed by University for expenses that are prohibited or that exceed the allowable amounts set forth in the then-current Travel Reimbursement Rates. As a condition precedent to receiving reimbursement for expenses and disbursements, Contractor will submit to University receipts, invoices, and other documentation as requested University.

Notwithstanding the foregoing, reimbursement for expenses and disbursements will not exceed a maximum of \$_____ (“Expense Cap”) without the prior written approval of University.

6. TOTAL FEES AND EXPENSES

The Contract Amount for this Addendum will not exceed (INSERT).

7. Notification

Contractor will send fully executed copies of this Addendum to the following address:

[insert]

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

University of Texas System

[CONTRACTOR]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

EXHIBIT B

SERVICES

EXHIBIT C

PRICING

EXHIBIT D

HUB SUBCONTRACTING PLAN

EXHIBIT E
DISCLOSURE OF INTERESTED PARTIES

EXHIBIT F

ELECTRONIC AND INFORMATION RESOURCES ENVIRONMENT SPECIFICATIONS

EXHIBIT G

**SECURITY CHARACTERISTICS AND FUNCTIONALITY OF
CONTRACTOR'S INFORMATION RESOURCES**

Exhibit H

FERPA CONFIDENTIALITY AND SECURITY OUTSOURCING ADDENDUM

This FERPA Confidentiality and Security Addendum (“**Addendum**”) is made and entered into effective as of [] (the “**Effective Date**”) by and between **The University of Texas System**, a state agency established under the laws of the State of Texas (“**System**”) and [] (“**Contractor**”), (collectively, “**Parties**”). System institutions are required to comply with the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g and 34 CFR Part 99 (**FERPA**), and System FERPA policies. To the extent that System and any System office or department, including the Institution of Transformational Learning, maintains, uses, collects, or provides third party access to System institution records subject to FERPA, FERPA and System policy require System to ensure that all such records are maintained and used in compliance with FERPA and System FERPA policies. The purpose of this Addendum is to provide the terms under which Contractor is required to maintain the confidentiality and security of any and all System records subject to FERPA and System policy on FERPA. Contractor will use such FERPA records solely to perform Work on behalf of System pursuant to the **Agreement Between University and Contractor For Salesforce Configuration and Development Services** (“**Underlying Agreement**”).

1. **FERPA.** The Parties understand and agree that:
 - 1.1 As part of the work (“**Work**”), that Contractor will provide pursuant to the Underlying Agreement, Contractor is expected to create, receive, use, or maintain, records or record systems from System institutions (Institutions) and/or that System holds from or on behalf of these Institution that (a) are subject to FERPA or (b) contain “Personally Identifiable Information” derived from “Education Records” as defined by, and subject to, FERPA (collectively, “**FERPA Records**”) namely: **[Insert a specific description of all types or categories of records subject to FERPA to be created, accessed, collected and/or maintained by Contractor.]** FERPA Records include all data in any form whatsoever, including electronic, written and machine readable form.
 - 1.2 Notwithstanding any other provision of the Underlying Agreement, this Addendum or any other agreement, all FERPA Records created, received or maintained by Contractor pursuant to the Underlying Agreement will remain the sole and exclusive property of System.
2. **FERPA Compliance.** In connection with all FERPA Records that Contractor may create, receive or maintain on behalf of System pursuant to the Underlying Agreement, Contractor is designated as a University Official with a legitimate educational interest in and with respect to such FERPA Records. Contractor’s designation is only to the extent to which Contractor is required to create, receive or maintain FERPA Records to carry out the Underlying Agreement. Contractor may have access to FERPA records only so long as Contractor understands and agrees to all of the following terms and conditions *without reservation*:
 - 2.1 **Prohibition on Unauthorized Use or Disclosure of FERPA Records:** Contractor will hold System FERPA Records in strict confidence. Contractor will not use or disclose FERPA Records received from or on behalf of System, including any FERPA Records provided by a System Institution student directly to Contractor, except as permitted or required by the Underlying Agreement or this Addendum.
 - 2.2 **Maintenance of the Security of FERPA Records:** Contractor will use administrative, technical and physical security measures, including secure encryption in the case of electronically maintained or transmitted FERPA Records, approved by System and that are at least as stringent as the requirements of UT System Information and Resource Use & Security Policy,

UTS 165 at <http://www.utsystem.edu/bor/procedures/policy/policies/uts165.html>, to preserve the confidentiality and security of all FERPA Records received from, or on behalf of System, System Institution students or any third party pursuant to the Underlying Agreement.

- 2.3 **Reporting of Unauthorized Disclosures or Misuse of FERPA Records and Information:** Contractor, within one (1) day after discovery, will report to System any use or disclosure of FERPA Records not authorized by the Underlying Agreement and this Addendum. Contractor's report will identify: (i) the nature of the unauthorized use or disclosure, (ii) the FERPA Records used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what Contractor has done or will do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action Contractor has taken or will take to prevent future similar unauthorized use or disclosure. Contractor will provide such other information, including written reports, as reasonably requested by System to ensure that System remains in compliance with FERPA, other applicable law, and applicable System policy. For purposes of this **Section 2.3**, an unauthorized disclosure or use includes any access or use of an "Education Record" (as defined by FERPA) by a Contractor employee or agent that is not required to allow the employee or agent to perform Work or access by any employee or agent that does not involve the provision of Work.
- 2.4 **Right to Audit:** If System has a reasonable basis to believe that Contractor is not in compliance with the terms of this Addendum, System may audit Contractor's compliance with FERPA as Contractor's compliance relates to System's FERPA Records maintained by Contractor.
- 2.5 **Five Year Exclusion for Improper Disclosure of Education Records.** Under the federal regulations implementing FERPA, improper disclosure or disclosure of personally identifiable information from System or a System Institution's "Education Records" (as defined by FERPA) by Contractor or its employees or agents may result in Contractor's complete exclusion from eligibility to contract with any System Institution or System that involves access to System FERPA Records for at least five (5) years.
3. **Return of FERPA Records.** Contractor agrees that upon termination or expiration of the Underlying Agreement or this Addendum for any reason, or upon System's written request, Contractor will halt all access, use, creation, or processing of FERPA Records and within 30 days after expiration or termination or University's written request, Contractor will return to University all FERPA Records, including any copies created by Contractor or any subcontractor; and Contractor will certify in writing to University that all FERPA records have been returned to University.
4. **Disclosure.** Contractor will restrict disclosure of FERPA Records solely to those employees, subcontractors, or agents of Contractor that have a need to access the FERPA Records in order for Contractor to perform its obligations under the Underlying Agreement or this Addendum. Prior to any disclosure by Contractor of any FERPA Records to a subcontractor or agent, Contractor will first obtain System's written approval and ensure that subcontractor or agent to comply with restrictions and obligations that align with the restrictions and obligations imposed on Contractor by the Underlying

Agreement and this Addendum, including requiring each subcontractor or agent to agree to the same restrictions and obligations in writing.

5. **Termination.** This Addendum will remain in effect until the earlier of (a) expiration or termination of the Underlying Agreement, or (b) the date University terminates this Addendum by giving Contractor sixty (60) days' written notice of University's intent to terminate. **Sections 2, 3, 4, 6, and 7** of this Addendum will survive expiration or termination of the Underlying Agreement and this Addendum.
6. **Breach.** In the event of a breach, threatened breach or intended breach of this Addendum by Contractor, University (in addition to any other rights and remedies available to University at law or in equity) will be entitled to preliminary and final injunctions, enjoining and restraining such breach, threatened breach or intended breach.
7. **Governing Law.** The validity, construction, and performance of this Addendum are governed by the laws of the State of Texas, and suit may be brought in Travis, County, Texas to enforce the terms of this Addendum.
8. **Non-Assignment.** The rights and obligations of the Parties under this Addendum may not be sold, assigned or otherwise transferred.
9. **Addendum Controls; Interpretation.** To the extent that this Addendum conflicts with any term of the Underlying Agreement, this Addendum shall control. This Addendum shall be interpreted at all times such that System Institutions remain in compliance with FERPA and that System remains in compliance with System FERPA policy.

AGREED TO AND SIGNED BY THE PARTIES.

The University of Texas System

[Contractor]

By: _____

by: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPENDIX THREE
HUB SUBCONTRACTING PLAN

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 SelfPerformanceJustification.
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 6th Street, Room B.140E
Austin, TX 78701
(512) 499-4530

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

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

RESPONDENT'S BUSINESS LETTERHEAD

Date

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

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

Dear ,

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. 6th 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 2a. - Yes, I will be subcontracting portions of the contract.
- Section 2b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
- Section 2c. - Yes
- Section 4 - Affirmation
- GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2b.
- Letter of Transmittal

Option Two: If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you 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 2a. - Yes, I will be subcontracting portions of the contract.
- Section 2b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
- Section 2c. - No
- Section 2d. - Yes
- Section 4 - Affirmation
- GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2b.
- Letter of Transmittal

Option Three: If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you 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 2a. - Yes, I will be subcontracting portions of the contract.
- Section 2b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
- Section 2c. - No
- Section 2d. - 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 2a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
- Section 3 - Self Performing Justification
- Section 4 - Affirmation
- Letter of HUB Commitment

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, 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.

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 do not have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years .	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 do not 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/tpasscmbsearch/index.jsp>. HUB status code “A” signifies that the company is a Texas certified HUB.
- b.** List the three (3) Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company’s 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
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

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

Rev. 09/15

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/passcmbsearch/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

CAMPUS MAP

APPENDIX FIVE

ACCESS BY INDIVIDUALS WITH DISABILITIES

Access by Individuals with Disabilities. Contractor represents and warrants (“EIR Accessibility Warranty”) that the electronic and information resources and all associated information, documentation, and support that it provides to University under this Agreement (collectively, the “EIRs”) comply with the applicable requirements set forth in Title 1, Chapter 213, *Texas Administrative Code*, and Title 1, Chapter 206, Rule §206.70, *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M, *Government Code*.) Contractor will periodically (but no less than every 12 months) confirm its EIR complies with this EIR Warranty, if Contractor finds it does not comply, then Contractor represents and warrant that it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Contractor fails or is unable to do so, then University may terminate this Agreement and Contractor will refund to University all amounts University has paid under this Agreement within thirty (30) days after the termination date. Contractor will provide all assistance and cooperation necessary for the performance of accessibility testing conducted by University or University’s third party testing resources as required by Title 1, Rule §213.38(g) of the *Texas Administrative Code*.

APPENDIX SIX

ELECTRONIC AND INFORMATION RESOURCES ENVIRONMENT SPECIFICATIONS

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

Basic Specifications

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

Security

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

Integration

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

Accessibility Information

Proposer must provide the following, as required by [1 TAC Section 213.38\(b\)](#):

1. Accessibility information for the electronic and information resources (**EIR**)¹ products or services proposed by Proposer, where applicable, through one of the following methods:
 - (A) URL to completed Voluntary Product Accessibility Templates (**VPATs**)² or equivalent reporting templates;
 - (B) accessible electronic document that addresses the same accessibility criteria in substantially the same format as VPATs or equivalent reporting templates; or
 - (C) URL to a web page which explains how to request completed VPATs, or equivalent reporting templates, for any product under contract; and
2. Credible evidence of Proposer's capability or ability to produce accessible EIR products and services. Such evidence may include, but is not limited to, Proposer's internal accessibility policy documents, contractual warranties for accessibility, accessibility testing documents, and examples of prior work results.

¹ Electronic and information resources are defined in [Section 2054.451, Government Code](#) and [1 TAC Section 213.1 \(6\)](#).

² Voluntary Product Accessibility Templates are defined in [1 TAC Section 213.1 \(19\)](#). For further information, see this [VPAT document](#) provided by the Information Technology Industry Council.

APPENDIX SEVEN

SECURITY CHARACTERISTICS AND FUNCTIONALITY OF CONTRACTOR'S INFORMATION RESOURCES

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

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

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

General Protection of University Records

1. Describe the security features incorporated into Information Resources (ref. **Section 5.3.4** of this RFP) to be provided or used by Proposer pursuant to this RFP.
2. List all products, including imbedded products that are a part of Information Resources and the corresponding owner of each product.
3. Describe any assumptions made by Proposer in its proposal regarding information security outside those already listed in the proposal.

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

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

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

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

Access Control

1. How will users gain access (i.e., log in) to Information Resources?
2. Do Information Resources provide the capability to use local credentials (i.e., federated authentication) for user authentication and login? If yes, describe how Information Resources provide that capability.
3. Do Information Resources allow for multiple security levels of access based on affiliation (e.g., staff, faculty, and student) and roles (e.g., system administrators, analysts, and information consumers), and organizational unit (e.g., college, school, or department)? If yes, describe how Information Resources provide for multiple security levels of access.
4. Do Information Resources provide the capability to limit user activity based on user affiliation, role, and/or organizational unit (i.e., who can create records, delete records, create and save reports, run reports only, etc.)? If yes, describe how Information Resources provide that capability. If no, describe what alternative functionality is provided to ensure that users have need-to-know based access to Information Resources.
5. Do Information Resources manage administrator access permissions at the virtual system level? If yes, describe how this is done.
6. Describe Proposer's password policy including password strength, password generation procedures, password storage specifications, and frequency of password changes. If passwords are not used for authentication or if multi-factor authentication is used to Information Resources, describe what alternative or additional controls are used to manage user access.

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

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

Use of Data

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

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

Data Transmission

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

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

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

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

Notification of Security Incidents

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

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

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

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

Compliance with Applicable Legal & Regulatory Requirements

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

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

2. Describe the safeguards Proposer has in place to ensure that systems (including any systems that would hold or process University Records, or from which University Records may be accessed) that interact with Information Resources reside within the United States of America. If no such controls, describe Proposer's processes for ensuring that data is protected in compliance with all applicable US federal and state requirements, including export control.

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

APPENDIX EIGHT

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

This is a sample Texas Ethics Commission's FORM 1295 – CERTIFICATE OF INTERESTED PARTIES. Contractor must use the Texas Ethics Commission electronic filing web page (at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm) to complete the most current Certificate of Interested Parties form and submit the form as instructed to the Texas Ethics Commission and University. **The Certificate of Interested Parties will be submitted only by Contractor to University with the signed Agreement.**

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

UT System RFP No. ITL06162016 – Questions and Answers

1. Please clarify what is meant by “analytical systems” in below question:

“Please provide examples of analytical systems that you have developed or integrated that enhance a users’ experience.”

We want a system that assists in the collection, investigation, interpretation and socialization of data as well as meaningful patterns therein. Examples include reports, dashboards, predictive analytics and general business intelligence on accumulated data.

2. For the following RFP question, what is the expected amount of Journeys?

“Please provide examples of your experience with Salesforce Journey Builder technology. Please provide information on the scale.”

We want journey builder to inform a learner’s journey through a program.

3. Please clarify the intent of the following question:

““What custom objects have you developed and integrated through Force.com?”

To understand a firm's experience with custom objects.

4. What roles and approximate user count will be used to support back-end systems?

User count varies, as does back-end support based on the scale achieved over time. Our models account for this.

5. What is your Identity system? How do you provision and manage new users?

As of now our current identity system is in transition from the legacy UT System Microsoft SSO to Google SAML SSO hosted at UTX.EDU. The technical evolution plan does account for a 3rd party IDP once we get to scale, this service has yet to be determined.

7. What is your Middleware / ETL strategy?

The new system will be based on a messaging pattern and will have service layers for message routing in real-time. ETL (if required) will be conducted through the service layer by copying messages into the OLAP domain within the system at runtime. As a secondary method, all primary databases will have replicants for OLAP processing and pulls into the various storage engines we will have.

8. Please expand on the concept of “personalized learning technologies”. How ‘custom’ is the learning technology? Is it machine-like learning? Learner preferences? Admin tools to guide learning?

Personalized learning technologies

9. What are the expected requirements and use cases for blockchain?

An example of the possible implementation of blockchain technology. <https://medium.com/mit-media-lab/what-we-learned-from-designing-an-academic-certificates-system-on-the-blockchain-34ba5874f196#.8o10l1kbb>

10. What roles will UTX provide and what roles are the contractors expected to provide?

UTx will provide SMEs at every level. Contractors will provide development talent, project management, business analysts, system analysts and other necessary talent.

11. What is your strategy for providing Program Management, Change Management and Governance?

We have an internal Project management office that will oversee the project from the ITL’s side. We would like to incorporate a change management solution that is yet to be determined. This will be decided as our internal processes become more visible and thereby more disciplined.

12. In 5.4 Scope of Work, it is listed that the “contractor will provide the following services” inclusive of ‘instructional design.’ What is your plan for development of educational content and ‘instructional design’, and what level of scope and accountability is anticipated within this contract?

The list of services included in the RFP

13. Please confirm that if work is broken up between contractors as implied below, that UT will be responsible for the coordination, communication, and alignment of all contractors to ensure efficiency and clarity in delivery across streams of work.

“The possibility of multiple and/or split awards exists under this solicitation. No minimums are guaranteed or implied...A competitive process that achieves best value for the University may be utilized, at the sole discretion of the University, to award Addenda.”

The RFP may have multiple winners awarded based on capabilities of the firms that reply. UTx project management teams would facilitate the coordination of work across steams.

14. Is there a planned Architecture that shows where Salesforce Service Cloud and Heroku will fit in?

Yes, there is a candidate architecture that is still in flux.

15. Are there current Salesforce.com Orgs already in existence within UT's ITL division?

Yes.

16. Is the a roadmap outlining what areas of educational technologies are being focused on?

Yes.

17. Is there an expected timeframe for the implementation schedule?

Yes. We have a 12 month rollout plan.

18. Are there any high level business requirements or needs that can be shared to demonstrate the scope of this RFP?

No.

19. Are post implementation support services in scope for this RFP?

No.

20. Should training and change management activities related to solution implementation be considered as part of this RFP?

No.

21. Is there a breakdown of the type of users of these solutions (e.g., Students, Faculty, Partners)

There will be user roles for Students, Faculty, Staff, Partners, Vendors and others. The number of each varies based on the enrollment model presented.

22. Is there a possibility of extending the proposal submittal deadline for two weeks?

No. The original submittal deadline of 06/16/2016 will remain in force.