

The logo for Texas Southern University (TSU) features the letters "TSU" in a white, serif font, enclosed within a white rectangular border. The background of the entire page is a dark, reddish-brown photograph of a city skyline with various skyscrapers and a large, modern university building in the foreground, partially obscured by trees.

TEXAS SOUTHERN UNIVERSITY

REQUEST FOR OFFER

LEARNING MANAGEMENT SYSTEM

RFO # 717-25-717

DEADLINE FOR SUBMITTAL:

11:00 a.m., Central Standard Time, Thursday, March 6, 2025

(Proposals received after the date and time specified will not be accepted)

Texas Southern University
PROCUREMENT SERVICES

Attn: Sceffers Ward
3100 Cleburne Street
Mack O. Hannah Hall, Suite 333
Houston, Texas 77004 - 4598

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SECTION 1 - GENERAL INFORMATION

- 1.1 **SCOPE.** The State of Texas, by and through Texas Southern University (TSU), seeks sealed Proposals to establish a contract with a qualified company that can provide a Course Design and Development Services in accordance with the scope of services below. Qualified respondents are invited to submit a written response outlining their qualifications, experience, and pricing for the services as described in the Scope of Services, and in accordance with the terms, conditions, and requirements set forth in the Request for Offer (RFO). The successful proposer(s) will provide the scope of services in accordance with all applicable laws, regulations, and professional standards.
- 1.2 **CONTRACT TERM.** The base contract term shall be for three (3) years, beginning on the effective date of the Agreement. The contract may be renewed for up to two (2) additional one (1) year renewal terms. Notice of renewal will be issued in writing approximately thirty (30) days prior to the end of the current performance period. The maximum duration of the contract, including the exercise of optional renewals, shall not exceed five (5) consecutive years unless mutually determined otherwise (if applicable).
- 1.3 **CLARIFICATIONS AND INTERPRETATIONS:** Any clarifications or interpretations of this RFP that materially affect or change its requirements will be posted by the Owner as an addendum on the Electronic State Business Daily (ESBD) website at <https://www.txsmartbuy.com/esbd>. It is the responsibility of all offerors to obtain this information in a timely manner. All such addenda issued by the Owner before the proposals are due as part of the RFP, and respondents shall acknowledge receipt of and incorporate each addendum in its Proposals.
- 1.3.1 All inquiries shall be submitted in writing (in Word format) via email to Mr. Sceffers Ward at and procurement@tsu.edu by **12:00 noon Central time on Monday, February 24, 2025**; the date listed as the deadline for submission of questions as specified in Section 2.5 below.
- 1.3.2 Offerors shall consider only those clarifications and interpretations that the Owner issues by addenda five (5) business days prior to the submittal deadline. Interpretations or clarifications in any other form, including oral statements, will not be binding on the Owner and should not be relied on in preparing Proposals.
- 1.4 **SUBMISSION OF OFFERS**
- 1.4.1 Deadline and Location: The Owner will receive Proposals at the time and location described below.
- Thursday, March 6, 2025 at 11:00am**
- Physical Address for Courier Delivery:**
- Texas Southern University**
3100 Cleburne Street
Hannah Hall, Suite 333
Houston, Texas 77004 - 4598

Attn: Mr. Sceffers Ward

or

TSU Post Office - Texas Southern University Post-Office. You may find the exact location for the Post Office (Bldg. #106_PO) on the campus map.

<http://www.tsu.edu/about/campus/pdf/tsu-campus-map.pdf>

The submittals should be packaged tightly with a business card affixed. A TSU representative will be in place to monitor the deliveries the day of the closing. If you have any questions, please mail the Texas Southern University contact stated in the bid. Thank you for cooperating with this request.

- 1.4.2 Offeror must submit one (1) original and three (3) identical copies of the Proposals and one (1) PDF copy on a flash drive. An original signature must be included on the "Respondent's Statement of Qualifications and Ability to Undertake the Project" document submitted with each copy.
 - 1.4.3 Offeror must submit one (1) original and one (1) copy of the HUB Subcontracting Plan ("HSP") as separate attachments to the Proposals as described in Section 5.2.
 - 1.4.4 **LATE PROPOSALS WILL NOT BE ACCEPTED.**
 - 1.4.5 The Owner will not acknowledge or receive Proposals that are delivered by telephone, facsimile (fax), or electronic mail (e-mail).
 - 1.4.6 Properly submitted Proposals will not be returned to offerors.
 - 1.4.7 Proposals materials must be enclosed in a sealed envelope (box or container) addressed to the Point of Contact person; the package must clearly identify the submittal deadline, the RFP number, and the name and return address of the offeror.
- 1.5 **POINT OF CONTACT:** The Owner designates the following person, as its representative and Point-of-Contact for this RFP. Respondents shall restrict all contact with the Owner and direct all questions regarding this RFP, including questions regarding terms and conditions, to the Point-of-Contact person.
- Mr. Sceffers Ward, Director of Purchasing
Texas Southern University
3100 Cleburne Street
Houston, TX 77004
713-313-7887
E-mail: procurement@tsu.edu
- 1.6 **COMMUNICATION RESTRICTIONS:** Offerors may communicate only with the Point of Contact and no other person regarding this RFP or concerning matters related to it. **Failure to comply with these requirements and communications with other than the Point of Contact may result in disqualification of a response.**
- 1.7 **OWNER'S RESERVATION OF RIGHTS:** The Owner may evaluate the Offers based on the anticipated completion of all or any portion of the Project. The Owner reserves the right to reject any and all Offers and re-solicit for new Proposals. The Owner makes no representations, written or oral, that it will enter into any form of agreement with any

offeror to this RFO for the Project, and no such representation is intended or should be construed by the issuance of this RFO.

1.7.1 Offeror understands and agrees that this RFO and any subsequent contract ensuing from this solicitation is contingent upon the approval by the Owner and/or Texas Southern University's Board of Regents. Offeror understands and agrees that Owner has made no representation, written or oral, that any such approvals will be obtained. If any such approvals are not obtained, offeror understands and agrees that this RFO and any subsequent agreement ensuing from this solicitation will be null, void, and of no effect.

COMMODITY CODE

The NIGP / State of Texas commodity codes for this solicitation: 209-69

- 1.8 **ACCEPTANCE OF EVALUATION METHODOLOGY:** By submitting its Proposal in response to this RFP, offeror accepts the evaluation process and acknowledges and accepts that determination of the "most qualified" firm(s) will require subjective judgments by the Owner.
- 1.9 **NO REIMBURSEMENT FOR COSTS:** Offeror acknowledges and accepts that any costs incurred from its participation in this RFP process shall be at the sole risk, expense, and responsibility of the offeror.
- 1.10 **PRE-SUBMITTAL CONFERENCE / WALKTHROUGH:** No meetings are necessary
- 1.11 **ELIGIBLE OFFERORS:** Only individual firms or lawfully formed business organizations may apply (This does not preclude an offeror from using consultants.) The Owner will contract only with the individual firm or formal organization/partnership that submits a Proposal.
- 1.12 **HISTORICALLY UNDERUTILIZED BUSINESSES SUBMITTAL REQUIREMENTS:** It is the policy of Texas Southern University to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses ("HUB") in all contracts. Accordingly, Texas Southern University has adopted Section 5.2 Policy on Utilization of Historically Underutilized Businesses. This policy applies to all contracts with an expected value of \$100,000 or more. If Texas Southern University determines those subcontracting opportunities are probable, then a HUB subcontracting plan is a required element of the Proposal. Failure to submit a required HUB Subcontracting plan will result in rejection of the Proposal.
- 1.12.1 **Statement of Probability:** Owner has determined that subcontracting opportunities are probable in connection with this procurement solicitation. Therefore, an HSP is required as a part of an offeror's Proposal.
- 1.12.2 The HUB Subcontracting goal for the RFP is **26%** for **Information Technology Services**. Offerors are expected to make a good faith effort to meet this goal. The HSP may be prepared by the Offeror with all of the sub-consultants.
- 1.12.3 Refer to the Owner's Policy on the Utilization of Historically Underutilized Businesses ("HUB Policy"), for a detailed list of attachments required with the Proposal.

- 1.12.4 The "Statement of Probability" determines the probability for subcontracting opportunities. This determination will clarify which statements, detailed in Figure 1, will be required to be completed and returned.
- 1.12.5 For information regarding Texas Southern University's HUB Program and HUB Subcontracting opportunities, please contact Mr. Sceffers Ward, HUB Coordinator, sceffers.ward@tsu.edu.
- 1.13 **SALES AND USE TAXES:** Section 151.311, Tax Code, permits the purchase free of state sales and use taxes of tangible personal property to be incorporated into realty in the performance of a contract for an improvement to realty for certain exempt entities that include Texas Southern University. The section further permits the purchase tax-free of tangible personal property (other than machinery or equipment and its accessories and repair and replacement parts) for use in the performance of such a contract if the property is "necessary and essential for the performance of the contract" and "completely consumed at the job site." In addition, the section permits the purchase tax-free of a tangible service for use in the performance of such a contract if the service is performed at the job site and if "the contract expressly requires the specific service to be provided or purchased by the person performing the contract" or "the service is integral to the performance of the contract."
- It is the responsibility of the Offeror to incorporate allowable tax savings into its Proposal.
- 1.14 **CERTIFICATION OF FRANCHISE TAX STATUS:** Offerors are advised that if successful it will be required to submit certification that it is not delinquent in the payment of any franchise tax status due under Chapter 171 of the Texas Tax Code, or that it is exempt from the payment of such taxes, or that it is an out-of-state legal entity and not subject to the Texas Franchise Tax, whichever is applicable. The Offeror further agrees that each subcontractor and supplier under contract will also provide an appropriate certification of franchise tax status.
- 1.15 **PREVAILING MINIMUM WAGE RATE DETERMINATION:** Offerors are advised that the Texas Prevailing Wage Law applies to this Project will be administered in accordance with the policies and procedures set forth in Texas Southern University's document, entitled "Prevailing Wage Guidelines." A copy is attached to the Special Conditions.
- 1.16 **REQUIRED NOTICES OF WORKERS' COMPENSATION INSURANCE COVERAGE:** Section 406.096, Texas Labor Code, and the rules of the Texas Workers' Compensation Commission, require workers' compensation insurance coverage for all persons providing services on a building or construction project for a governmental entity.
- 1.17 **DISCLOSURE OF INTERESTED PARTIES STATUTE:** In its proposal, Offerors must agree to comply with Section 2252.908, Texas Government Code ("Disclosure of Interested Parties Statute") and 1 Texas Administration Code Sections 46.1 through 46.3 ("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 by the Disclosure of Interested Parties Statute and the Disclosure of Interested Parties Regulations on the form promulgated by the TEC and set forth in APPENDIX EIGHT. The form will be required to be submitted to Owner prior to the countersigning of the final agreement and not submitted with this RFQ.

- 1.18 **STATE REGISTRATION OF ARCHITECTURE FIRMS:** Offerors are advised that the Texas Board of Architectural Examiners requires that any firm or business entity providing architectural services to the public, other than a sole proprietor doing business under his/her name must annually register information regarding the firm or business entity with the Texas Board of Architectural Examiners. The Texas Board of Architectural Examiners, 333 Guadalupe Street, Suite 2-350, Austin, Texas 78701, telephone (512) 305-9000, has jurisdiction over individuals licensed under the Architects' Registration Law, Chapter 1051, Texas Occupations Code.
- 1.19 **STATE REGISTRATION OF ENGINEERING FIRMS:** Respondents are advised that the Texas Board of Professional Engineers requires that any entity providing engineering services to the public must register with the Texas Board of Professional Engineers. An entity is defined as a sole proprietorship, firm, partnership, corporation, or joint stock association.
- 1.20 **VENDOR PERFORMANCE:** In accordance with Texas Government Code, 2155.074 and 2155.75, vendor performance may be used as a disqualification factor in the award. Vendor performance information on the Controller of Public Accounts web site may be accessed at: http://www.window.state.tx.us/procurement/prog/vendor_performance/. The Owner may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Vendor Performance Tracking System (as authorized by 34 Texas Administrative Code §20.108), the Owner may examine other sources of vendor performance including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Such sources of vendor performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government. Further, the Owner may initiate such examinations of vendor performance based upon media reports. Any such investigations shall be at the sole discretion of the Owner, and any negative findings, as determined by the Owner, may result in non-award to the Offeror.

End of Section I

SECTIONS 2 – UNIVERSITY BACKGROUND / SCOPE OF WORK

2.1 HISTORICAL BACKGROUND

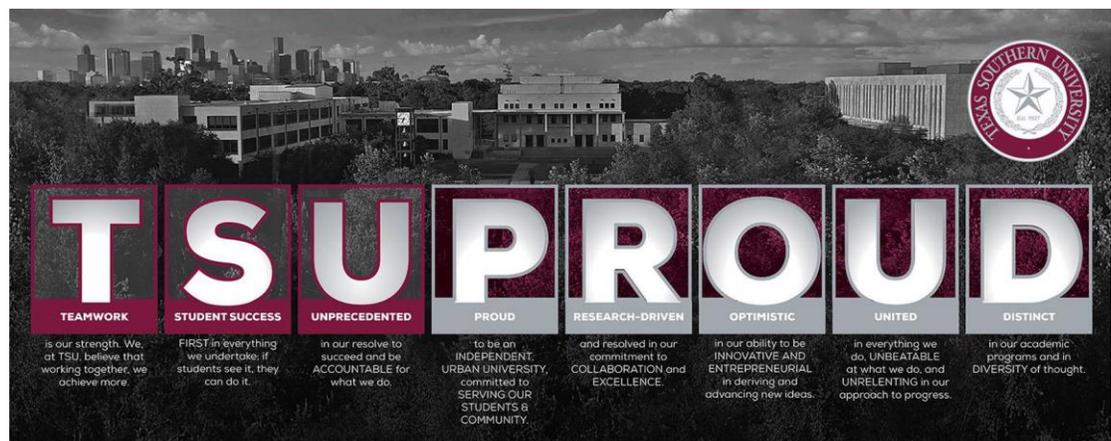
Texas Southern University (“TSU”) is an elite, Carnegie R2 Institution and proud to be the premiere producer of diversity for building a talent strong Texas. The Owner one of the largest Historically Black College/University (“HBCU”) in the nation and destined to become the first HBCU with the coveted Carnegie R1 status.

Since its founding in 1927, TSU has evolved from its origins as a small junior college into an elite, nationally competitive, Texas Southern is proud to be one of 11 HBCU’s designated as a Doctoral University of High Research Activity (R2) by The Carnegie Classification of Institutions of Higher Education. Recognized for not only its research, TSU has demonstrated a commitment in every facet of university life from academics to athletics. Texas Southern University currently offers more than 120 undergraduate and graduate programs and concentrations at the baccalaureate, graduate-master, graduate-doctoral, and professional level. These programs are organized into 11 colleges and the campus is situated on more than 150-acres of land in the heart of Houston’s historic Third Ward community.

As the institution celebrates 95 years of providing learners with social and upward mobility through education, the administration has paid tribute to its rich past, while celebrating its present state, and envisioning its future.

Currently, Texas Southern University enrollment is approximately 8,000 students. The institution is currently finalizing a new strategic plan for the campus community. Preliminary strategies and goals contemplate the institution moving to 10,000 students by 2025 and 15,000 students in fall 2030.

Texas Southern University is committed to transforming lives and achieving unprecedented success at an accelerated pace. The Board of Regents, President, Administration, Faculty, and Staff live the mission of TSU everyday through their respective commitment to the students. Texas Southern University is PROUD to be the first public institution in Houston.



2.2 MISSION STATEMENT:

Texas Southern University is a comprehensive research, teaching, and public service institution whose mission is the advancement of knowledge and the pursuit of excellence. The University is committed to ensuring equality, by offering innovative programs that are responsive to its urban setting, and transforming diverse students into lifelong learners, engaged citizens, and creative leaders in their local, national, and global communities.

2.3 SCOPE OF WORK

SCOPE OF WORK

2.1 SCOPE

The purpose of this RFO is to solicit a qualified and comprehensive academic Learning Management System (LMS) vendor to enhance and strengthen our teaching and learning capabilities. As the centerpiece for teaching and learning, we are looking for a robust, user-friendly platform that aligns with our commitment to promoting students' active engagement in learning for their academic success. The ideal solution will support our faculty in developing effective teaching strategies across traditional, hybrid, and online modalities while integrating seamlessly with our existing systems.

2.2 PROJECT OVERVIEW

A system is needed to substantially improve the efficiency of course delivery, curriculum design, productivity, student engagement, communication, administrative functions, and reporting. The University seeks a more intuitive system that simplifies faculty workflows and promotes active student learning and engagement. The overarching goal is to effectively support TSU teaching and learning activities with an LMS interface that is user-centric, intuitive and makes efficient use of faculty and student time.

2.3 GENERAL PROJECT REQUIREMENTS

Core Teaching and Learning Features

- Intuitive interface for both faculty and student
- Robust course creation and management tools
- Advanced assessment capabilities, including AI-assisted features
- Mobile-friendly design with dedicated apps for iOS and Android
- Integration with third-party educational tools and content providers
- Support for various content types (text, video, audio, interactive elements)

Analytics and Reporting

- Comprehensive analytics dashboard for administrators
- Detailed insights into student engagement and performance
- Customizable reports for tracking institutional goals
- AI-powered data analysis capabilities

Accessibility and Inclusivity

- Compliance with WCAG 2.1 AA standards
- Built-in accessibility checker for course content
- Support for diverse learning styles and needs

Integration and Scalability

- Seamless integration with existing university systems (Student Information System, etc.)
- API access for custom integrations
- Scalable architecture to support growing enrollment

Professional Development and Support

- Comprehensive training resources for faculty and staff
- 24/7 technical support for all users
- Regular updates and feature enhancements

2.4 Adoptability

- a. Provide a case study and reference for a similar institution documenting increased LMS usage within one to two years of purchase.
- b. LMS functions in a variety of classroom environments including traditional, blended, flipped, 1:1, and online/virtual.
- c. LMS can be accessed by all stakeholders, including administrative staff, faculty, students, and advisors.
- d. LMS is designed for learners of all ages (K-20 solution).
- e. LMS can import existing content from current system.
- f. LMS can integrate with external systems (e.g. student information system, authentication server, external course tools).
- g. LMS provides online documentation for all users and roles.
- h. LMS provides a way for faculty to share and copy resources.
- i. LMS vendor should provide training to key institution staff either face to face or virtually
- j. LMS supports custom theming to align with institutional branding.
- k. LMS provides intuitive user creation within UI as well as SIS integration capabilities at no additional fee

2.5 Usability

- a. The LMS user interface must be intuitive and easy to learn.
- b. The LMS offers functions in a variety of classroom environments including traditional, blended, flipped, 1:1, and online/virtual.

- c. The LMS must be usable from desktops, laptops, and mobile devices.
- d. LMS must be WCAG 2.1 AA conformant and include functionality for keyboard-only and screen-read software.
- e. The LMS should provide the ability to replicate activities that occur in the classroom, including creating/submitting assignments, quizzes, and discussions (levels 1 and 2 of SAMR model).
- f. LMS should provide ability to facilitate new activities which cannot take place in the classroom (levels 3 and 4 of the SAMR model).
- g. The LMS should allow educators to create customized assignments for individual students, groups of students, or entire sections.
- h. The LMS should allow pre-set course-level notifications and alerts that can be customized to support student success.
- i. The LMS should allow teachers and students to continue to use current external teaching technology within the system, provide a way to discover and add new technology and support open APIs with consolidated, searchable API documentation to enable seamless integrations and customizations.
- j. Courses in LMS should be able to provide individualized learning opportunities and/or custom learning paths
- k. The LMS should feature a drag-and-drop calendar with automated updates to reflect changes in due dates, assignments, and events seamlessly.
- l. LMS should provide the ability for a user to have different roles in the system (e.g. teacher in one course, student in another).
- m. LMS should provide a similar, consistent interface for users requiring accessibility tools to access the system (e.g., no "accessibility mode").
- n. LMS should include synchronous and asynchronous capabilities.
- o. LMS should include internal and external communication or notification preferences.

2.6 Functionality

- a. Provide a brief LMS overview document that outlines the core functionality and usage of your system.

- b. LMS should be a cloud-based SaaS.
- c. LMS supports open learning technology standards (e.g. LTI, QTI, Common Cartridge, etc...).
- d. LMS vendor provides a 99% uptime guarantee (excluding scheduled maintenance/upgrades).
- e. LMS must comply with all relevant laws regarding student privacy and security.
- f. LMS vendor must provide real-time and off-site data backups, with no impact on system performance.
- g. LMS must function entirely over TLS/SSL.
- h. LMS vendor should be a Student Privacy Pledge signatory.
- i. LMS vendor should employ in-house support personnel.
- j. LMS vendors should maintain a support SLA in the event that an issue arises.
- k. LMS should have an active online or offline community of users to support professional development and PLNs.
- l. LMS vendor should provide change management or similar services to transition from legacy LMS

2.7 Collaboration and Communication

- a. Describe your collaboration and communication tools.
- b. The discussion tool must automatically generate summaries of discussion threads, highlighting key topics, themes, and insights from student contributions.
- c. The LMS must include an integrated, off-the-shelf video library management tool. The tool must integrate natively with the LMS, allowing instructors to embed videos directly into courses, assignments, and announcements without requiring additional plugins or third-party applications.
- d. The video library management tool must allow teachers to create and embed quizzes directly within video content, enabling interactive assessments during video playback.
- e. Describe the LMS feedback mechanisms.
- f. Describe how your tool engages with its user community.

2.6 Mobile Experience

Req 15. The platform should adopt a mobile-first design approach, ensuring course content, assessments, communication tools, and analytics, are optimized for mobile use. The app must support offline access, push notifications, and real-time updates, enabling users to engage with the LMS anytime, anywhere.

Req 16. The LMS must provide a fully functional, dedicated mobile app for iOS and Android specific for teachers.

Req 17. The LMS must provide a fully functional, dedicated mobile app for iOS and Android specific for students.

2.7 Grading

- a. Gradebook that allows live sorting online without downloading reports.
- b. Gradebook feature: One-click email to all who have or haven't completed an assignment.
- c. The LMS should support customizable rubric scoring with options to assign point values, weight assignment groups, and provide detailed, actionable feedback. It should also include the ability for teachers to offer audiovisual or screen-casting feedback, enabling more hands-on and personalized guidance to enhance student understanding and engagement.
- d. LMS provides either traditional or competency/standards-based grading and gradebook.

2.8 Analytics and Reporting

Req 21. Your LMS must count on an off-the-shelf analytics engine as part of the standard offer.

Req 22. The analytics must show specific dashboards per role (admin, teacher, student).

Req 23. Describe how your analytics tool allows faculty to message students in the course based on certain criteria?

2.9 Course Migration

Req 24. Describe what services you provide to help transition from one LMS to another, making courses "ready to teach."

3.0 LMS Architecture

Req 25. The LMS must be a fully cloud-based, Software-as-a-Service (SaaS) solution hosted on a reliable and scalable infrastructure.

Req 26. The LMS must include an elastic scalability mechanism to handle increasing user loads and resource demands seamlessly, ensuring optimal performance during peak usage periods. Also, the LMS must guarantee at least an annual 99.9% uptime.

4.0 Road Map

Req 27. Describe your product roadmap and main enhancements planned for 2025.

Req 28. Describe how you source product and feature ideas.

2.4 Quality Assurance:

The Contractor shall check links and content to confirm availability and expected outcome; confirm the course and course content will be appropriately displayed in multiple browsers; quality-check courses for spelling, typos, etc. Confirm the inclusion and expected behavior of content and additional media; loading and testing any digital media assets (learning objects) developed; and conduct quality assurance (QA) testing or additional QA testing as needed and appropriate.

2.5 Course Delivery Requirement

The Contractor shall deliver fully developed courses to TSU for our implementation and utilization. Each delivered course is considered a deliverable. A deliverable is defined as written evidence of completion of course's services, including, without limitation, of Quality Assurance functional testing. A course deliverable will be deemed to be accepted against the following criteria:

- a.) Course is developed according to University-defined template
- b.) Assessment/Evaluation alignment implemented as provided by TSU Faculty/(SME)
- c.) Exceptions are documented, and solutions identified and implemented accordingly
- d.) Course components are present and correctly displayed to the user
- e.) Images, if applicable, are included and correctly displayed to the user, inclusive of alternate tags and descriptions as provided by TSU SME. Links are functional.

2.6 Project Requirements

The Contractor must provide the following:

- a.) Outline the proposed delivery process.
- b.) An estimate of time commitment from faculty members during the course development.
- c.) Be knowledgeable of Blackboard Learning Management System and its integrated components
- d.) Project management and coordination services
- e.) Outline the course development, content revision, and product acceptance process that utilizes a systematic and well-defined process
- f.) Outline quality assurance and product testing requirements and checklists.

PROJECT PLANNING SCHEDULE: The Owner anticipates completion of the following key Project planning schedule milestones:

<u>EVENT</u>	<u>DATE</u>
Issue RFP / ESBID Posting Date	February 17, 2025
Deadline for Submission of Questions	February 24, 2025
Response to Questions	Week of February 24 th
RFP Submission	March 6, 2025

CRITERIA AND WEIGHT/VALUE:

Qualifications will be evaluated and ranked in accordance with the following criterion for each building:

Category	Value
CRITERION 1: Letter of Interest	5
CRITERION 2: Qualifications and Experience in Higher Education	25
CRITERION 3: Methodology of the Process	25
CRITERION 4: Deliverables and Solutions	20
CRITERION 4: Fee Schedule/Cost Proposal	20
CRITERION 4: References	5
Total of Weighted Value	100

End of Section II

Section 3 - Requirements for Statement of Proposals

3.1 CRITERIA

Respondents are expected to submit a Proposal that considers and is responsive to the terms and conditions, specifications, scope of services, requirements, etc.; as well as the evaluation criteria set out in this document. The criteria in which your response will be evaluated are as follows:

- Criterion 1 – Letter of Interest
- Criterion 2 – Qualifications and Experience of the Firm
- Criterion 3 – Methodology of the Process
- Criterion 4 – Deliverables and Solutions
- Criterion 5 – Fee Schedule/ Cost Proposal
- Criterion 6 – References

3.2 CRITERION 1: Letter of Interest

1. Provide a brief yet thorough description of your firm, including the total number of supporting personnel related to providing the services of the type and kind required in this RFO.
2. Provide firm's overall ability in providing the services required in this solicitation.
3. Provide a detailed list of clients (beginning with colleges and universities) where your firm has provided services of the type, size and kind required in this RFO during the past five years, preferably in this climate zone. Please provide contact information for each entity, especially the email address of the correct person who can answer our reference check.
4. Provide resumes and bios of the Respondent's Team that will be directly involved in the Project, including their experience with similar project(s). Include as applicable: Project Managers, Superintendents, Quality Control Inspectors, Safety Coordinator and Labor Forman, etc.
5. Please show all national and/or professional certifications, memberships, awards, etc.
6. Provide the proposed Project assignments and lines of authority and communication for any Team member to be directly involved with the Project. Indicate the estimated percent of time these team members will be involved in the Structural Services. Should be in both graphic and written form.

3.2 CRITERION 2: Qualifications and Experience of the Firm

1. Provide a brief yet thorough description of your firm, including the total number of supporting personnel related to providing the services of the type and kind required in this RFO.
2. Provide firm's overall ability in providing the services required in this solicitation.
3. Provide a detailed list of clients (beginning with colleges and universities) where your firm has provided services of the type, size and kind required in this RFO during the past five years, preferably in this climate zone. Please provide contact information for each entity, especially the email address of the correct person who can answer our reference check.
4. Provide resumes and bios of the Respondent's Team that will be directly involved in

the Project, including their experience with similar project(s). Include as applicable: Project Managers, Superintendents, Quality Control Inspectors, Safety Coordinator and Labor Forman, etc.

5. Please show all national and/or professional certifications, memberships, awards, etc.
6. Provide the proposed Project assignments and lines of authority and communication for any Team member to be directly involved with the Project. Indicate the estimated percent of time these team members will be involved in the Structural Services. Should be in both graphic and written form.

3.3 CRITERION 3: Methodology of the Process

1. This section should describe and discuss your proposed approach and methodology in providing the processes of the type and kind required in the RFP. By reading the proposed approach and methodology overview, Texas Southern University must be able to gain a comfortable grasp and clear understanding of the level of approach to be provided and the methods proposed to provide them. A detailed explanation shall be included to understand how the methods comply with the requirements of this RFO.
2. Capabilities and Capacity: Respondent shall clearly define its in-house capability and capacity to perform the work identified in the Scope of Work of this RFO. Your response must describe the various technologies, tools, methods, and technical expertise that you will provide to Texas Southern University and/or that will be used in the delivery of the scope and how that will be of benefit in the delivery of approach to Texas Southern University.

3.4 CRITERION 4: Deliverables and Solutions

1. Thoroughly address the deliverables you will provide upon completion of your work. Each item listed in the scope of work shall be addressed.
2. Please provide a thorough and detailed schedule of events, timelines, reporting dates, progress meetings, and completion date of deliverables
3. Describe the types of reports or other written documents that will be provided and the frequency of reporting. Proposer will include samples of reports and documents if appropriate.
4. Describe your quality assurance and testing plan, and dispute resolution management approach.

3.5 CRITERION 5: Fee Schedule/Cost Offer

The fee proposal shall be a detailed fee proposal as outlined below. Failure to provide a fee proposal that addresses each of the items listed below may result in disqualification from the RFO process.

- Please thoroughly address all costs associated with deliverables and solutions you propose.

- All costs should be detailed and itemized, as well as providing a “grand total” so that a score can be assigned. Includes any associated travel expenditures.
- All expected costs must be shown as you will not be able to bill the University for additional and/or hidden costs not directly addressed in your proposal response.
- Failure to provide a singular grand total when requested could be grounds for dismissal and/or disqualification of your response.

3.6 CRITERION 5: References

Provide a comprehensive list of ALL school projects completed or begun within the last 3 years, with contact information, along with a project description. Identify in the reference list which projects this team has performed collectively. The Owner reserves the right to check additional references beyond those provided in the submittal.

End of Section III

SECTION 4 - FORMAT FOR STATEMENT OF PROPOSAL

4.1 GENERAL INSTRUCTIONS:

4.1.1 Proposals shall be prepared SIMPLY AND ECONOMICALLY, providing a straightforward, CONCISE description of the Offeror's ability to meet the requirements of this RFP. Emphasis shall be on the QUALITY, completeness, clarity of content, responsiveness to the requirements, and an understanding of Owner's needs.

4.1.2 Proposals shall be a **MAXIMUM OF FIFTY (50) PRINTED PAGES**. Also, all information submitted **must** be placed on a flash capable of hold all information. **No password, encrypted flash drives**. The cover, table of contents, divider sheets, HUB Subcontracting Plan, and Execution of Offer do not count as printed pages. Each bound copy must be in the following order:

- Cover;
- Cover Letter;
- Table of Contents;
- Criteria One: Letter of Interest
- Criteria Two: Qualifications and Experience of the Firm
- Criteria Three: Methodology of the Process
- Criteria Four: Deliverables and Solutions
- Criteria Five: Fee Schedule / Cost Offer
- Criteria Six: References
- Execution of Proposal
- Form 1295 Interested Parties
- HUB Subcontracting Plan (HSP)

4.1.3 Hub Subcontracting Plan (HSP) Submittal Requirements: It is the policy of Texas Southern University to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUB) in all contracts. Accordingly, the Owner has adopted HSP, Refer to website for link to Policy on Utilization of Historically Underutilized Businesses at:

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

4.1.3.1 HUB Achievement Form

4.1.3.2 **NOTE: The HUB Policy applies to all contracts with an expected value of \$100,000 or more and the HUB Subcontracting Plan is a required element of this request for proposal. Failure to submit a required HUB Subcontracting Plan will result in the disqualification of your RFP response.**

** A State of Texas HUB plan **is** required for this solicitation.

4.1.4 Offerors shall carefully read the information contained in this RFP and submit a complete response to all requirements and questions as directed.

- 4.1.5 Qualifications and any other information submitted by offerors in response to this RFO shall become the property of the Owner.
- 4.1.6 Qualifications that are qualified with conditional clauses, alterations, items not called for in the RFO documents, or irregularities of any kind are subject to rejection by the Owner, at its option.
 - 4.1.7 The Owner makes no representations of any kind that an award will be made as a result of this RFO. The Owner reserves the right to accept or reject any or all Proposals, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFP when deemed to be in Owner's best interest.
 - 4.1.8 Qualifications shall consist of answers to questions identified in Section 3 of the RFO. It is not necessary to repeat the question in the Proposals; however, it is essential to reference the question number with the corresponding answer. Separate each section of your proposal by use of a divider sheet with an integral tab for ready reference. Identify the tabs in accordance with the parts under Section, which is to be consistent with the Table of Contents. **TAB IDENTIFICATION BY NUMBERS ONLY IS NOT ACCEPTABLE.**
 - 4.1.9 Failure to comply with all requirements contained in this RFO may result in the rejection of the Offers.

4.2 PAGE SIZE, BINDING, DIVIDERS, AND TABS:

- 4.2.1 Proposals shall be printed on letter-size (8-1/2" x 11") paper and assembled with spiral-type bindings or staples. **DO NOT USE METAL-RING HARD COVER BINDERS.**
- 4.2.2 Additional attachments shall NOT be included with the Proposals. Only the responses provided by the Offeror to the questions identified in Section 3 of this RFP will be used by the Owner for evaluation.
- 4.2.3 Separate and identify each criteria response to Section 3 of this RFO by use of a divider sheet with an integral tab for ready reference.

4.3. TABLE OF CONTENTS:

- 4.3.1 Submittals shall include a "Table of Contents" and give page numbers for each part the Proposals.

4.4 PAGINATION:

- 4.4.1 Number all pages of the submittal sequentially using Arabic numerals (1, 2, 3, etc.); the Offeror is not required to number the pages of the HUB Subcontracting Plan.
- 4.4.2 TSU will not consider any Proposal that bears a copyright. Proposals will be subject to the Texas Public Information Act (PIA), Tex. Government Code, Chapter 552, and may be disclosed to the public upon request. The Proposal and other submitted information shall be presumed to be subject to disclosure unless a specific exception to disclosure under the PIA applies. If it is necessary for the Respondent to include proprietary or otherwise confidential information in its Proposal or other submitted

information, the Respondent must clearly label that proprietary or confidential information and identify the specific exception to disclosure in the PIA. Merely making a blanket claim the entire Proposal is protected from disclosure because it contains some proprietary information is not acceptable and shall make the entire Proposal subject to release under the PIA. In order to initiate the process of seeking an Attorney General opinion on the release of proprietary or confidential information, the specific provisions of the Proposal that are considered by the Respondent to be proprietary or confidential must be clearly labeled as described below. Any information which is not clearly identified as proprietary or confidential shall be deemed to be subject to disclosure pursuant to the PIA. Subject to the Act, Respondents may protect trade and confidential information from public release. Trade secrets or other confidential information, submitted as part of a Proposal, shall be clearly marked at each page it appears. Such marking shall be in boldface type in at least 14-point font.

End of Section IV

SECTION 5 – EXECUTION OF PROPOSAL AND ATTACHMENTS

5.1 EXECUTION OF PROPOSAL:

EXHIBIT A

EXECUTION OF OFFER

NOTE: THIS EXHIBIT MUST BE SIGNED AND RETURNED WITH THE PROPOSAL. PROPOSALS THAT DO NOT INCLUDE THIS EXHIBIT WILL BE DISQUALIFIED. THE PROPOSAL SHALL BE VOID IF FALSE STATEMENTS ARE CONTAINED IN THIS EXHIBIT.

By signature hereon, Respondent certifies that:

All statements and information prepared and submitted in the response to this RFP are current, complete, and accurate.

Respondent has not given, offered to give, nor intends 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 the submitted response.

Neither Respondent nor the corporation, partnership, or institution represented by Respondent or anyone acting for such respondent, corporation, or institution has (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or the federal antitrust laws; or (2) communicated the contents of this Proposal either directly or indirectly to any competitor or any other person engaged in the same line of business during the procurement process for this RFP.

When a Texas business address shown hereon that address is, in fact, the legal business address of Respondent and Respondent qualifies as a Texas Resident Bidder under 1 TAC § 111.2.

Under Government Code § 2155.004, no person who prepared the specifications or this RFP has any financial interest in Respondent's Proposal. If Respondent is not eligible, then any contract resulting from this RFP shall be immediately terminated. Furthermore, "under Section 2155.004, Government Code, the vendor [Respondent] certifies that the individual or business entity named in this Proposal or contract is not ineligible to receive the specified contract and acknowledges that this contract May be terminated and payment withheld if this certification is inaccurate."

Under Family Code § 231.006, relating to child support obligations, Respondent and any other individual or business entity named in this solicitation are eligible to receive the specified payment and acknowledge that this contract May be terminated and payment withheld if this certification is inaccurate.

Any Proposal submitted under this RFP shall contain the names and social security numbers of person or entity holding at least a twenty-five percent (25%) ownership interest in the business entity submitting the Proposal.

Name: _____

Social Security Number: _____

Name: _____

Social Security Number: _____

Name: _____

Social Security Number: _____

Under *Government Code* § 669.003, relating to contracting with an executive of a state agency, Respondent represents that no person who, in the past four years, served as an executive of the Texas Comptroller of Public Accounts, Texas Southern University or any other state agency, was involved with or has any interest in this Proposal or any contract resulting from this RFP. If Respondent employs or has used the services of a former executive head of *Texas Southern University* or other state agency, then Respondent shall provide the following information: Name of former executive, name of state agency, date of separation from state agency, position with Respondent, and date of employment with Respondent.

Respondent agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

Texas Southern University is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal General Services Administration's System for Award Management (SAM), <https://www.sam.gov/SAM/>, which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list.

Respondent certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal

government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://www.sam.gov/SAM/>

Under Section 2155.006(b) of the Texas Government Code, a state agency May not accept a Proposal or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five- year period preceding the date of the Proposal or award, has been:

- (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or
- (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, the respondent certifies that the individual or business entity named in this Proposal is not ineligible to receive the specified contract and acknowledges that any contract resulting from this RFO May be terminated and payment withheld if this certification is inaccurate.

Pursuant to Section 2262.003 of the Texas Government Code, the state auditor May conduct an audit or investigation of the vendor or any other entity or person receiving funds from the state directly under this contract or indirectly through a subcontract under this contract. The acceptance of funds by the Respondent or any other entity or person directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Respondent or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Respondent will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the vendor and the requirement to cooperate is included in any subcontract it awards.

ANTI-BOYCOTT ISRAEL VERIFICATION

The Respondent represents that, to the extent this Solicitation constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, Respondent (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement. The term "boycott Israel" as used in this paragraph has the meaning assigned to it in Section 808.001 of the Texas Government Code, as amended.

PREFERENCES

See Section 2.38 of the State of Texas Procurement Manual regarding preferences. Check below to claim a preference under 34 TAC Rule 20.38:

- Supplies, materials, or equipment produced in TX or offered by TX bidder or TX bidder that is owned by a service-disabled veteran *
- Agricultural products produced or grown in TX
- Agricultural products and services offered by TX bidders*
- USA produced supplies, materials, or equipment
- Products of persons with mental or physical disabilities
- Products made of recycled, remanufactured, or environmentally sensitive materials, including recycled steel
- Energy Efficient Products
- Rubberized asphalt paving material
- Recycled motor oil and lubricants
- Products produced at facilities located on formerly contaminated property
- Products and services from economically depressed or blighted areas
- Vendors that meet or exceed air quality standards
- Recycled or Reused Computer Equipment of Other Manufacturers
- Foods of Higher Nutritional Value

Respondent represents and warrants that the individual signing this Execution of Offer is authorized to sign this document on behalf of Respondent and to bind Respondent under any contract resulting from this Proposal.

RESPONDENT (COMPANY): _____

SIGNATURE _____

NAME (TYPED/PRINTED) _____

TITLE: _____

EMAIL ADDRESS: _____

PHYSICAL ADDRESS: _____

CITY/STATE/ZIP: _____

TELEPHONE: _____

FAX: _____

TAX IDENTIFICATION NUMBER: _____

DATE: _____

End of Exhibit A

5.2 **POLICY OF UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES**

(HUB): It is the policy of Texas Southern University to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUB) in all contracts. Accordingly, the Owner has adopted its Policy on Utilization of Historically Underutilized Businesses, a copy of which is attached hereto. The Policy applies to all contracts with an expected value of \$100,000 or more. If Owner determines those subcontracting opportunities are probable, then a HUB Subcontracting Plan is a required element of the Proposals. Failure to submit a required HUB Subcontracting Plan will result in the rejection of the Proposals.

5.2.1 STATEMENT OF PROBABILITY. Owner has determined that subcontracting opportunities are probable in connection with this solicitation. Therefore, a HUB Subcontracting Plan (HSP) is required as a part of the Offeror's Proposals. Offeror shall develop and administer a HSP as a part of the Offeror's Proposals in accordance with the Owner's Policy on Utilization of Historically Underutilized Businesses (HUB).

5.2.2 Offeror's HUB Subcontracting Plans must be attached separately in a sealed envelope clearly labeled "HUB Subcontracting Plan" and must have the name of the project and the bid number clearly marked on the outside of the sealed envelope.

5.2.3 Refer to Policy on Utilization of Historically Underutilized Business for a detailed list of attachments required with the HSP available at:

<https://comptroller.texas.gov/purchasing/vendor/hub/forms.php>.

HOUSE BILL 1295 (CERTIFICATE OF INTERESTED PARTIES)

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295) to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The Texas Ethics Commission has adopted rules requiring the business entity to file Form 1295 electronically with the Commission.

Complete filing instructions are included in this bid, in which this form must be submitted. The link to the form can be located at the following link: <https://www.ethics.state.tx.us/filinginfo/1295/>.

TERMS AND CONDITIONS

1. BIDDING REQUIREMENTS:

- a. Bidders must comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements of this form. Respondent shall comply with all laws, regulations, requirements and guidelines applicable to a vendor providing services and products required by the contract to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the contract. Agency reserves the right, in its sole discretion, to unilaterally amend the contract prior to award and throughout the term of the contract to incorporate any modifications necessary for Agency's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.
- b. Bids should be submitted on this form. Bidders must price per unit shown. Unit prices shall govern in the event of extension errors. If a price quotation is submitted as part of the bid, the quotation must be referenced on the bid document and signed by the bidder to establish formal linkage to the bid.
- c. Bids must be received at the Texas Southern University (TSU) Purchasing Office on or before the hour and date specified for the bid opening.
- d. Late and/or unsigned bids will not be considered under any circumstances. Person signing bid must have the authority to bind the Respondent in a contract.
- e. Quote FOB destination, freight prepaid and allowed unless otherwise stated within the specifications.
- f. Bid prices are requested to be Respondent for TSU acceptance for 90days from bid opening date. "Discount from list" bids are not acceptable unless requested. Cash discounts are not considered in determining an award. Cash discounts Proposed will be taken if earned.
- g. Bidder should enter Texas Identification Number System (TINS) number, full Respondent name and address of bidder on the face of this form. Enter in the space provided, if not shown. Additionally, Respondent name should appear on each continuation page of a bid, in the block provided in the upper right-hand corner.
- h. Bid cannot be altered or amended after opening time. Alterations made before opening time should be initialed by bidder or his authorized agent. No bid can be withdrawn after opening time without approval by TSU based on an acceptable written reason.
- i. Purchases made for TSU use are exempt from the State Sales tax and Federal Excise tax. Do not include tax in bid. Excise Tax Exemption Certificates are available upon request.
- j. TSU reserves the right to make an award on the basis of low line-item bid, low total of line items, or in any other combination that will serve the best interest of TSU and to reject any and all bid items at the sole discretion of TSU. TSU also reserves the right to accept or reject all or any part of any bid, waive minor technicalities and award the bid to best serve the interests of TSU. Any contract may also be extended up to three months at the sole discretion of TSU.
- k. Consistent and continued tie bidding could cause rejection of bids by TSU and/or investigation for antitrust violations.
- l. Inquiries pertaining to this solicitation must include the requisition number, class/item codes, and opening date.

2. SPECIFICATION:

Catalogs, brand names or manufacturer's references are descriptive only, and indicate type and quality desired. Bids on brands of like nature and quality will be considered unless advertised under §2155.067, Texas Government Code (Gov't Code). If bidding on other than references, bid should show manufacturer, brand or trade name, and other description of product proposed. If other than brand(s) specified is proposed, illustrations and complete description of product proposed are requested to be made part of the bid. Failure to take exception to specifications or reference data will require bidder to furnish specified brand names, numbers, etc.

Unless otherwise specified, items shall be new and unused and of current production.

All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC or NEMA.

Samples, when requested, must be furnished free of expense to TSU. If not destroyed in examination, they will be returned to the bidder, on request, at bidder's expense. Each sample should be marked with bidder's name and address and bid number. Do not enclose in or attach bid to sample.

TSU will not be bound by any oral statement or representation contrary to the written specifications of this solicitation.

Manufacturer's standard warranty shall apply unless otherwise stated in the solicitation.

3. **TIE BIDS:** Awards will be made in accordance with 34 TAC Rules 20.36(b)(3) and 20.38 (Preferences).

4. **DELIVERY:**

- a. Show number of days required to place material in receiving agency's designated location under normal conditions. Delivery days mean calendar days, unless otherwise specified. Failure to state delivery time obligates bidder to deliver in 14 calendar days. Unrealistic delivery promises may cause bid to be disregarded.
- b. If delay is foreseen, bidder shall give written notice to TSU. Bidder must keep TSU advised at all times of status of order.
- c. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes TSU to purchase the goods or services of this solicitation elsewhere and charge any increased costs for the goods or services, including the cost of rebidding, to the bidder.
- d. No substitutions permitted without written approval of TSU.
- e. Delivery shall be made during normal working hours only unless prior approval has been obtained from ordering agency.

5. **INSPECTION AND TESTS:** All goods will be subject to inspection and test by TSU. Authorized TSU personnel shall have access to supplier's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted with the bid or on samples taken from regular shipment. All costs shall be borne by the bidder in the event products tested fail to meet or exceed all conditions and requirements of the specification. Goods delivered and rejected in whole or in part may, at the TSU's option, be returned to the bidder or held for disposition at bidder's expense. Latent defects may result in revocation of acceptance.

6. **AWARD OF CONTRACT:** A Proposal to this solicitation is a Proposal to contract based upon the terms, conditions, and specifications contained herein. Bids do not become contracts until they are accepted through a purchase order. The contract shall be governed, construed, and interpreted under the laws of the State of Texas. The factors listed in §§2155.074, 2155.144, 2156.007, and 2157.003, Gov't Code, shall also be considered in making an award when specified. Any legal actions must be filed in Harris County, Texas.

7. **PAYMENT:** Bidder shall submit 2 copies of an itemized invoice showing TSU purchase order number on all copies. TSU will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of goods or services and an uncontested invoice. Payment shall be made in accordance with Chapter 2251, Gov't Code.

8. **PATENTS, TRADEMARKS, COPYRIGHTS OR PUBLICATIONS:** Bidder agrees to defend and indemnify TSU and the *State* from claims involving infringement or violation of patents, trademarks, copyrights, trade secrets, or other proprietary rights, arising out of the TSU's or the State's use of any good or service provided by the bidder as a result of this solicitation. Respondent understands and agrees that, where activities supported by the contract produce original books, manuals, films or other material (referred to in this contract as "the works"), respondent may copyright the works subject to the reservation by TSU of a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize use, and to authorize others to use, for state or political subdivision proposes:

The copyright in the works developed under contract, and

Any rights of copyright to which respondent purchases ownership with funding from the contract

Respondent may publish, at its own expense, the results of contract performance with prior TSU review and approval of that publication. Any publication (written, visual, or sound) must include acknowledgment of the support received from TSU. Respondent must provide one copy of any such publication to TSU. TSU reserves the right to require additional copies before or after the initial review.

Respondent must provide copies free of charge to TSU.

9. **BIDDER ASSIGNMENTS:** Bidder hereby assigns to the TSU any and all claims for overcharges associated with this contract arising under the antitrust laws of the United States 15 U.S.C.A. §1, *et seq.*, and the antitrust laws of the State of Texas, Tex. Bus. & Comm. Code §15.01, *et seq.* Respondent hereby assigns to the Agency all of Respondent's rights, title and interest in and to all claims and causes of action Respondent may have under the antitrust laws of Texas or the United States for overcharges associated with the contract. Respondent shall not assign its rights under the contract or delegate the performance of its duties under the contract without prior written approval from the Agency. Any attempted assignment in violation of this Section is void and without effect.

10. **BIDDER AFFIRMATIONS:** Signing this bid with a false statement is a material breach of contract and shall void the submitted bid and any resulting contracts, and the bidder shall be removed from all bid lists. By signature hereon affixed, the bidder hereby certifies that:

- The bidder has not given, proposed to give, nor intends 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 the submitted bid. Violation of this requirement may result in the termination of the contact at TSU's discretion.
- Pursuant to 15 U.S.C. §1, *et seq.* and Tex. Bus. & Comm. Code §15.01, *et seq.* neither the bidder nor the Respondent, corporation, partnership, or institution represented by the bidder, or anyone acting for such a Respondent, corporation or institution has violated the antitrust laws of this state, federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business. Respondent also represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Respondent nor the firm, corporation, partnership, or institution represented by Respondent, or anyone acting for such a firm, corporation or institution has violated any provision of the Texas Free Enterprise and Antitrust Act, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, nor communicated directly or indirectly the contents of this Response to any competitor or any other person engaged in the same line of business as Respondent.
- Pursuant to §2155.004, Gov't Code, neither the bidder nor any person or entity which will participate financially in any contract resulting from this RFP received compensation for participation in the preparation of the specifications for this RFP.
- Pursuant to §231.006(d), Texas Family Code, regarding child support, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the specified payment and acknowledges that the contract may be terminated, and payment may be withheld if this certification is inaccurate.
- Under §2155.004, Gov't Code, the bidder certifies that the individual or business entity named in this bid or any contract resulting from this solicitation is not ineligible to receive the specified contract and acknowledges that the contract may be terminated, and payment withheld if this certification is inaccurate. §2155.004 prohibits a person or entity from receiving a state contract if they received compensation for participating in preparing the solicitation or specifications for the contract.
- **TAXES CERTIFICATION:** As required by §2252.903, Gov't Code, bidder agrees that any payments due under a contract resulting from this RFP shall be directly applied towards eliminating any debt or delinquency including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support, until the debt is paid in full. Bidder shall comply with rules adopted by TSU under §§403.055, 403.0551, 2252.903, Gov't Code and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State of Texas. Respondent, by submitting its proposal, certifies that it is exempt or not delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Texas Tax Code. If respondent is a qualifying business entity type per Texas Comptroller of Public Accounts guidelines and is not set up in the Texas Franchise Tax system, respondent must do so prior to contracting with the State of Texas.
- Pursuant to §669.003, Gov't Code, TSU may not enter into a contract with a person who employs a current or former executive head of TSU until four years has passed since that person was the executive head of TSU. By submitting a bid, the bidder certifies that it does not employ any person who was the executive head of TSU in the past four years. If bidder does employ a person who was the executive head of TSU, provide the following Proposal:
Name of Former Executive: _____
Name of State Agency: _____
Date of Separation from State Agency: _____
Position with Bidder: _____
Date of Employment with Bidder: _____
- In accordance with §2155.4441, Gov't Code, bidder agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.
- TSU is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it via cross-referencing respondents / vendors with the Federal General Services

Administration's System of Award Management (SAM), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Bidder certifies that the bidding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that bidder is in compliance with the State of Texas statutes and rules relating to procurement and that bidder is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>

- Sections 2155.006 and 2261.053, Gov't Code, prohibit state agencies from awarding contracts to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by §418.004, Gov't Code, occurring after September 24, 2005. Under §2155.006, Gov't Code, bidder certifies that the individual or business entity named in its bid is not ineligible to receive a contract and acknowledges that any contract resulting from this RFP may be terminated and payment withheld if this certification is inaccurate.
- **PROHIBITION ON LOBBYING:** Respondent must comply with the provisions of a federal law known generally as the Lobbying Disclosure Act, 2 U.S.C. 1601 et seq. By submitting a proposal, respondent certifies that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence any officer or employee of any federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. 1352. It also certifies that respondent will disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award.
- Bidder represents and warrants that it has no actual or potential conflicts of interest in providing the requested items to TSU under the RFP and any resulting contract; if any, and that bidder's provision of the requested items under the RFP and any resulting contract, if any, would not reasonably create an appearance of impropriety. The disclosure shall begin at the initial request for bids until the completed delivery of goods/services or until expiration of contract.
- Respondent waives any claim against and releases TSU, its officers, employees, agents, and attorneys from liability with respect to disclosure of information provided under or in this contract or otherwise created, assembled, maintained, or held by respondent and determined by the Attorney General or a court of law to be subject to disclosure under the Texas Public Information Act.
- Respondent will promptly notify TSU in the event that any representations and warranties provided in the contract/solicitation are no longer true and correct. Respondent acknowledges that all of its representatives are warranties contained in any part of its proposal and this contract are material and have been relied upon by TSU in selecting the respondent for the award of the contract. Further, the respondent warrants and represents that all of the statements and representations made to TSU prior to being awarded the contract; and those made during the negotiation of this contract, are material, true and correct.
- **NOTE TO BIDDER:** If bidder takes any exceptions to any provisions of the solicitation, these exceptions must be specifically and clearly identified by section in bidder's bid in Proposal to the solicitation and bidder's proposed alternative must also be provided in the bid. Bidders cannot take a 'blanket exception' to the entire RFP. If any bidder takes a 'blanket exception' to the entire RFP or does not provide proposed alternative language, the bidder's bid may be disqualified from further consideration.
- **PROTEST PROCEDURES:** Any actual or prospective bidder who is aggrieved in connection with this solicitation, evaluation, or award of any contract resulting from this solicitation may formally protest as provided in the TAC rules at 34 TAC Rule 20.384.
- **DISPUTE RESOLUTION:** The dispute resolution process provided for in Chapter 2260, Gov't Code must be used by TSU and the bidder to attempt to resolve any dispute arising under any contract resulting from this RFP.
- **NON-APPROPRIATION OF FUNDS:** Any contract resulting from this RFP is subject to termination or cancellation, without penalty to TSU, either in whole or in part, subject to the availability of state funds. TSU is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If TSU becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds which would render TSU's or bidder's delivery or performance under the contract impossible or unnecessary, the contract will be terminated or cancelled and be deemed null and void. In the event of a termination or

cancellation under this Section, TSU will not be liable to bidder for any damages, which are caused or associated with such termination, or cancellation and TSU will not be required to give prior notice.

- **TEXAS PUBLIC PROPOSAL ACT:** Notwithstanding any provisions of this SOLICITATION to the contrary, bidder understands that TSU will comply with the Texas Public Proposal Act (Chapter 552, Gov't Code) as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. Proposal, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to the Texas Public Proposal Act. Within three (3) days of receipt, bidder will refer to TSU any third party requests, received directly by bidder, for Proposal to which bidder has access as a result of or in the course of performance under any contract resulting from this solicitation. Any part of the solicitation Proposal that is of a confidential or proprietary nature must be clearly and prominently marked as such by the bidder.

- **CONFLICT OF INTEREST:** Under §2155.003, Gov't Code, a TSU employee may not have an interest in, or in any manner be connected with a contract or bid for a purchase of goods or services by an agency of the state; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation. Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Section 1.2 of the State of Texas Procurement Manual, which outlines the ethical standards required of public purchasers, employees, and bidders who interact with public purchasers in the conduct of state business, and with any opinions of or rules adopted by the Texas Ethics Commission. Entities who are interested in seeking business opportunities with the State must be mindful of these restrictions when interacting with public purchasers of TSU or purchasers of other state agencies.
- **FORCE MAJEURE:** Neither bidder nor TSU shall be liable to the other for any delay in, or failure of performance, of any requirement included in any contract resulting from this solicitation caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.
- **INDEPENDENT CONTRACTOR:** Bidder is and shall remain an independent contractor in relationship to TSU. TSU shall not be responsible for withholding taxes from payments made under any contract resulting from this solicitation. Bidder shall have no claim against TSU for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. Respondent acknowledges and agrees that it is furnishing products and services in the capacity of an independent contractor and that Respondent, and its personnel are not employees of the Agency or the State of Texas.
- **INDEMNIFICATION: RESPONDENT SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS AGENCY AND THE STATE OF TEXAS AGAINST CLAIMS OF PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHTS, VIOLATIONS, MISAPPROPRIATION OR INFRINGEMENT ARISING FROM AGENCY'S OR RESPONDENT'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO AGENCY BY RESPONDENT OR OTHERWISE TO WHICH AGENCY HAS ACCESS AS A RESULT OF RESPONDENT'S PERFORMANCE UNDER THE CONTRACT, PROVIDED THAT AGENCY WILL NOTIFY RESPONDENT OF THE CLAIM WITHIN A REASONABLE TIME OF AGENCY'S RECEIVING NOTICE OF ANY SUCH CLAIM. IF RESPONDENT IS NOTIFIED OF ANY CLAIM SUBJECT TO THIS SECTION, RESPONDENT SHALL NOTIFY AGENCY OF THAT CLAIM WITHIN FIVE (5) BUSINESS DAYS OF SUCH NOTICE. RESPONDENT WILL MAKE NO SETTLEMENT OF ANY SUCH CLAIM WITHOUT AGENCY'S PRIOR WRITTEN APPROVAL. RESPONDENT WILL REIMBURSE AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS,**

INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF RESPONDENT OR IF AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND RESPONDENT WILL PAY ALL REASONABLE COSTS OF AGENCY'S COUNSEL.

- **RIGHT TO AUDIT:** In addition to and without limitation on the other audit provisions of this solicitation, pursuant to §2262.003, Texas Government Code, the state auditor may conduct an audit or investigation of the bidder or any other entity or person receiving funds from the state directly under this contract or indirectly through a subcontract under this contract. The acceptance of funds by the bidder or any other entity or person directly under this contract or indirectly through a subcontract under this contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the Legislative audit committee, the bidder or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any Proposal the state auditor considers relevant to the investigation or audit. This solicitation or any contract resulting from this solicitation may be amended unilaterally by TSU to comply with any rules and procedures of the state auditor in the implementation and enforcement of §2262.003, Texas Government Code. Bidder will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the bidder and the requirement to cooperate is included in any subcontract it awards. Respondent will make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, and supporting documents kept current by Respondent pertaining to the contract for purposes of inspecting, monitoring, auditing, or evaluating by Agency and the State of Texas
- **EQUAL OPPORTUNITY / CIVIL RIGHTS:** Respondent agrees that no person will, on the ground of race, color, religion, sex, national origin, age, disability, political affiliation, or religious belief, be excluded from the participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of, or in connection with, any program or activity funded in whole or part with funds available under this contract. Respondent will comply with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 relating to Equal Employment Opportunity," and as supplemented by regulations at 41 C.F.R. Part 60, "Office of Federal Contract Compliance Program, Equal Employment Opportunity Department of Labor." Respondent represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.
- **NON-DISCRIMINATION:** Texas Southern University, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat.252, 42U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will firmly ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in Proposal to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.
- **CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED:** Senate Bill 20 update of Government Code 572.069 states a former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may not accept employment from that person before

the second anniversary of the date the contract is signed or the procurement is terminated or withdrawn.

- **ANTI-BOYCOTT ISRAEL VERIFICATION:** The Vendor represents that, to the extent this Purchase constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, Vendor (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement. The term “boycott Israel” as used in this paragraph has the meaning assigned to it in Section 808.001 of the Texas Government Code, as amended. The Respondent represents that, to the extent this Solicitation constitutes a contract for goods or services within the meaning of Section 2270.002 of the Texas Government Code, as amended, solely for purposes of compliance with Chapter 2270 of the Texas Government Code, and subject to applicable Federal law, Respondent (1) does not boycott Israel; and (2) will not boycott Israel during the term of this Agreement. The term “boycott Israel” as used in this paragraph has the meaning assigned to it in Section 808.001 of the Texas Government Code, as amended.
- **ENVIRONMENTAL PROTECTION:** Respondent must comply with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. v7401 etseq.) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251 et seq.).
- **CERTIFICATION CONCERNING DEADLINGS WITH PUBLIC SERVANTS:** Respondent, by submitting its proposal, certifies that is has not given and does not 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 this transaction.
- **CERTIFICATION CONCERNING FINANCIAL PARTICIPATION:** Under Texas Govt Code 2155.004, respondent certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated, and payment withheld if this certification is inaccurate. Section 2155.004 prohibits a person or entity from receiving a state contract if that person or entity received compensation for participating in preparing the solicitation or specifications for the contract.
- **CERTIFICATION CONCERNING HURRICANE RELIEF:** A state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that include proposed financial participation by a person who, during the five year period preceding the date of the bid or award, has been: (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Under Texas Govt Code 2261.053 respondent certifies that the individual or business entity named in this proposal or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated, and payment withheld if this certification is inaccurate. Under Texas Govt Code 2155.006 respondent certifies that the individual or business entity named in this proposal or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated, and payment withheld if this certification is inaccurate.
- **CERTIFICATION CONCERNING RESTRICTED EMPLOYMENT FOR FORMER STATE OFFICERS OR EMPLOYEES UNDER TEXAS GOVT CODE 572.069:** Respondent certifies that it has not employed and will not employ a former TSU or state officer who participated in a procurement of contract negotiation for TSU involving respondent within two years after the state officer or employee left state agency employment or service. This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.
- **AMERICAN’S WITH DISABILITIES ACT:** Respondent represents and warrants its compliance with the requirements of the Americans with Disabilities Act (ADA) and its implementing regulations, as each may be amended.
- **BINDING EFFECT:** The contract shall inure to the benefit of, be binding upon, and be enforceable against, each Party and their respective permitted successors, assigns, transferees and delegates.

- **DAMAGE TO GOVERNMENT PROPERTY:** Respondent shall be liable for all damage to government-owned, leased, or occupied property and equipment caused by the Respondent and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the contract. Respondent shall notify the Agency in writing of any such damage within one (1) calendar day. Respondent is responsible for the removal of all debris resulting from work performed under the contract.
- **DISCLOSURE OF INTERESTED PARTIES:** Respondent represents and warrants that if selected for award of a contract as a result of the Solicitation, Respondent will submit to Agency a Certificate of Interested Parties prior to contract award in accordance with Section 2252.908 of the Texas Government Code.
- **DISCOUNTS:** If Respondent at any time during the term of the contract provides a discount on the final contract costs, Respondent will notify Agency in writing ten (10) calendar days prior to effective date of discount. Agency will generate a Purchase Order Change Notice and send a revised Purchase Order to Respondent.
- **DRUG-FREE WORKPLACE:** Respondent represents and warrants that it shall comply with the applicable provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 701 *et seq.*) and maintain a drug-free work environment.
- **ELECTRICAL ITEMS:** All electrical items must meet all applicable OSHA standards and regulations and bear the appropriate listing from Underwriters Laboratory (UL), Factory Mutual Resource Corporation (FMRC), or National Electrical Manufacturers Association (NEMA).
- **FEDERAL OCCUPATIONAL SAFETY AND HEALTH LAW:** Respondent represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).
- **GOVERNING LAW AND VENUE:** The contract shall be governed by and construed in accordance with the laws of the State of Texas, exclusive of conflicts of law provisions. The venue of any suit arising under the contract is fixed in any court of competent jurisdiction of Harris County, Texas.
- **LEGAL AND REGULATORY ACTIONS:** Respondent represents and warrants that it is not aware of and has received no notice of any court or governmental agency actions, proceedings or investigations, etc., ending or threatened against Respondent or any of the individuals or entities included in the Response within the five (5) calendar years immediately preceding the submission of the Response that would or could impair respondent's performance under the contract, relate to the solicited or similar goods or services, or otherwise be relevant to Agency's consideration of the Response. If Respondent is unable to make the preceding representation and warranty, then Respondent instead represents and warrants that it has included as a detailed attachment in its Response a complete disclosure of any such court or governmental agency actions, proceedings or investigations, etc. that would or could impair Respondent's performance under the contract, relate to the solicited or similar goods or services, or otherwise be relevant to Agency's consideration of the Response. In addition, Respondent represents and warrants that it shall notify Agency in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update Agency shall constitute breach of contract and may result in immediate termination of the contract.
- **IMMIGRATION:** Respondent represents and warrants that it shall comply with the requirements of the Immigration and Nationality Act (8 U.S.C. 1101 *et seq.* and all subsequent immigration laws and amendments.
- **LIMITATION ON AUTHORITY:** Respondent shall have no authority to act for or on behalf of Agency or the State of Texas except as expressly provided for in the contract; no other authority, power or use is granted or implied. Respondent may not incur any debt, obligation, expenses, or liability of any kind on behalf of Agency or the State of Texas. The failure of a Party to insist at any time upon the strict performance of any covenant or agreement or to exercise any option, right, power, or remedy contained in the contract shall not be construed as a waiver or a relinquishment thereof for the future.

- **LOBBYING PROHIBITION:** Respondent represents and warrants that Agency's payments to Respondent and Respondent's receipt of appropriated or other funds under the contract are not prohibited by Sections 556.005 or 556.0055 of the Texas Government Code.
- **MEDIA RELEASES:** Respondent shall not use Agency's name, logo, or other likeness in any press release, marketing material, or other announcement without Agency's prior written approval. Agency does not endorse any vendor, commodity, or service. Respondent is not authorized to make or participate in any media releases or public announcements pertaining to this procurement, the Response or the services to which they relate without Agency's prior written consent, and then only in accordance with explicit written instructions from Agency.
- **NO FELONY CRIMINAL CONVICTIONS:** Respondent represents that neither Respondent nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, has been convicted of a felony criminal offense or that if such a conviction has occurred Respondent has fully advised Agency of the facts and circumstances surrounding the convictions.
- **NO QUANTITY GAURANTEES:** Agency makes no express or implied warranty whatsoever that any minimum compensation or minimum quantity will be guaranteed under the contract.
- **NO THIRD-PARTY BENEFICIARIES:** The contract is made solely and specifically among and for the benefit of the parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the contract as a third-party beneficiary or otherwise. Nothing contained in the contract, either expressed or implied, is intended to confer on any person other than the Parties, or their respective permitted successors, assigns, transferees or delegates, any interests, rights, remedies, obligations or liabilities pursuant to, or by reason of, this contract.
- **PERMITS, CERTIFICATIONS AND LICENSES:** Respondent represents and warrants that it has determined what licenses, certifications and permits are required under the contract and has acquired all applicable licenses, certifications, and permits.
- **PROPERTY RIGHTS:** For purposes of the contract, the term "Work" is defined as all work papers, work products, materials, approaches, designs, specifications, systems, software, programs, source code, documentation methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the services provided under the contract. Agency and Respondent intend this agreement to be a contract for the services and each considers the Work and any and all documentation or other products and results of the services to be rendered by Respondent to be a work made for hire. Respondent and Respondent's employees will have no rights in or ownership of the Work and any and all documentation or other products and results of the services or any other property of Agency. Respondent acknowledges and agrees that the Work (and all rights therein) belongs to and shall be the sole and exclusive property of Agency. If for any reason the Work would not be considered a work-for-hire under applicable law, Respondent does hereby sell, assign, and transfer to Agency, its successors and assigns, the entire right, title and interest in and to the copyright in the Work and any registrations and copyright applications relating thereto and any renewals and extensions thereof, and in and to all works based upon, derived from, or incorporating the Work, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing. Respondent agrees to execute all papers and to perform such other property rights, as Agency may deem necessary to secure for Agency or its designee the rights herein assigned. In the event that Respondent has any rights in and to the Work that cannot be assigned to Agency, Respondent hereby grants to Agency an exclusive, worldwide, royalty-free, irrevocable, and perpetual license to directly and indirectly reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, such rights to make, have made, use, sell and offer for sale any products developed by practicing such rights, and to otherwise use such rights, with the right to sublicense such rights through multiple levels of sublicenses. No later than the first calendar day after the termination or expiration of the contract or upon Agency's request, Respondent shall deliver to Agency all completed, or partially completed, Work and any and all documentation or other products and results of the services. Failure to timely deliver such Work or any and all documentation or other products and results of the services will be considered a material breach of the contract. Respondent will not

make or retain any copies of the Work or any and all documentation or other products and results of the services without the prior written consent of Agency.

- **REFUND:** Respondent will promptly refund or credit within thirty (30) calendar days any funds erroneously paid by Agency which are not expressly authorized under the contract.
- **SECURE ERASURE OF HARD DISK CAPABILITY:** All equipment provided to Agency by Respondent that is equipped with hard disk drives (*i.e.*, computers, telephones, printers, fax machines, scanners, multifunction devices, etc.) shall have the capability to securely erase data written to the hard drive prior to final disposition of such equipment, either at the end of the equipment's useful life or the end of the related services agreement for such equipment, in accordance with 1 TAC § 202.
- **SEVERABILITY:** If any provision of the contract is construed to be illegal, invalid or unenforceable, such construction will not affect the legality, validity or enforceability of any of its other provisions. It is the intent and agreement of the parties to this contract that that this contract shall be deemed amended by modifying such provision to the extent necessary to render it valid, legal and enforceable while preserving its intent or, if such modification is not possible, by substituting another provision that is valid, legal and enforceable and that achieves the same objective. All other provisions of this contract will continue in full force and effect.
- **SOVEREIGN IMMUNITY:** Nothing in the contract shall be construed as a waiver of the Agency's or the State's sovereign immunity. This contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the Agency or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to Agency or the State of Texas under the contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. Agency does not waive any privileges, rights, defenses, or immunities available to Agency by entering into the contract or by its conduct prior to or subsequent to entering into the contract.
- **SURVIVAL:** Expiration or termination of the contract for any reason does not release Respondent from any liability or obligation set forth in the contract that is expressly stated to survive any such expiration or termination, that by its nature would be intended to be applicable following any such expiration or termination, or that is necessary to fulfill the essential purpose of the contract, including without limitation the provisions regarding indemnification and rights and remedies upon termination.
- **UNFAIR BUSINESS PRACTICES:** Respondent represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Respondent has not been found to be liable for such practices in such proceedings. Respondent certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations or allegations of any unfair business practices in an administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.
- **USE OF STATE PROPERTY:** Respondent is prohibited from using State Property for any purpose other than performing Services authorized under the contract. State Property includes, but is not limited to, Agency's office space, identification badges, Agency information technology equipment and networks (*e.g.*, laptops, portable printers, cell phones, iPads, external hard drives, data storage devices, any Agency-issued software, and the Agency Virtual Private Network (VPN client)), and any other resources of Agency. Respondent shall not remove State Property from the continental United States. In addition, Respondent may not use any computing device to access Agency's network or e-mail while outside of the continental United States. Respondent shall not perform any maintenance services on State Property unless the contract expressly authorizes such services. During the time that State Property is in the possession of Respondent, Respondent shall be responsible for (i) all repair and replacement charges incurred by Agency that are associated with loss of State Property or damage beyond normal wear and tear and (ii) all charges attributable to Respondent's use of State Property that exceeds the contract scope. Respondent shall fully reimburse such charges to Agency within ten (10) calendar days of Respondent's receipt of Agency's notice of amount due. Use of State Property for a purpose not authorized by contract shall constitute breach of contract and may result in termination of the contract and the pursuit of other remedies available to Agency under contract, at law, or in equity.

- **COMPUTER EQUIPMENT RECYCLING PROGRAM:** If Respondent is submitting a Response for the purchase or lease of computer equipment, then Respondent certifies that it is in compliance with Subchapter Y, Chapter 361 of the Texas Health and Safety Code related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules, 30 TAC Chapter 328.
- **DEALINGS WITH PUBLIC SERVANTS AFFIRMATION:** Pursuant to Section 2155.003 of the Texas Government Code, Respondent represents and warrants that it has not given, offered to give, nor intends 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 the contract.
- **DISASTER RECOVERY:** In accordance with 13 TAC § 6.94(a)(9), Respondent shall provide to Agency the descriptions of its business continuity and disaster recovery plans.
- **DISCLOSURE OF PRIOR STATE EMPLOYMENT:** In accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, Respondent certifies that it does not employ an individual who has been employed by Agency or another agency at any time during the two years preceding the submission of the Response or, in the alternative, Respondent has disclosed in its Response the following: (i) the nature of the previous employment with Agency or the other agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination.
- **E-VERIFY PROGRAM:** Respondent certifies that for contracts for services, Respondent shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of the contract to determine the eligibility of: (1) all persons employed by Respondent to perform duties within Texas; and (2) all persons, including subcontractors, assigned by Respondent to perform work pursuant the contract within the United States of America.
- **EXECUTIVE HEAD OF A STATE AGENCY AFFIRMATION:** Under Section 669.003 of the Texas Government Code, relating to contracting with an executive head of a state agency, Respondent represents that no person who served as an executive of Agency, in the past four (4) years, was involved with or has any interest in the contract. If Respondent employs or has used the services of a former executive of Agency, then Respondent shall provide the following information in the Response: name of the former executive, the name of the state agency, the date of separation from the state agency, the position held with Respondent, and the date of employment with Respondent.
- **FALSE STATEMENTS:** Respondent represents and warrants that all statements and information prepared and submitted in this document are current, complete, true and accurate. Submitting the Response with a false statement is a material breach of contract and may void the submitted Response and any resulting contract.
- **FINANCIAL PARTICIPATION PROHIBITED AFFIRMATION:** Pursuant to Section 2155.004(a) of the Texas Government Code, Respondent certifies that neither Respondent nor any person or entity represented by Respondent has received compensation from Agency to participate in the preparation of the specifications or solicitation on which this Response or contract is based. Under Section 2155.004(b) of the Texas Government Code, Respondent certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract and acknowledges that the contract may be terminated, and payment withheld if this certification is inaccurate.
- **FOREIGN TERRORIST ORGANIZATIONS:** Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization as prohibited by Section 2252.152 of the Texas Government Code.
- **SIGNATURE AUTHORITY:** By submitting the Response, Respondent represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract which may result from the submission of this Response.
- **TECHNOLOGY ACCESS CLAUSE:** Respondent expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, Respondent represents and warrants to Agency that the technology provided to Agency for purchase is capable, either by virtue of features included within the

technology or because it is readily adaptable by use with other technology, of: providing equivalent access for effective use by both visual and non-visual means; representing information, including prompts used for interactive communications, in formats intended for non-visual use; and being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this Section, the phrase “equivalent access” means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans With Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance. In accordance with Section 2157.005 of the Texas Government Code, the Technology Access Clause contract provision remains in effect for any contract entered into before September 1, 2006.

- **TELEVISION EQUIPMENT RECYCLING PROGRAM:** If Respondent is submitting a Response for the purchase or lease of television equipment then, Respondent certifies that it is in compliance with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.

End of Section V

End of the solicitation