



# TEXAS TECH UNIVERSITY™

## REQUEST FOR PROPOSAL

Request for Proposal ("RFP") Number: \_\_\_\_\_

Name

### RESPONSES MUST BE RECEIVED BEFORE:

4:00 p.m. Central, Day, Date

**NOTE:** Responses must be submitted in the TechBid website <https://bids.scquest.com/apps/Router/PublicEvent?CustomerOrg=TexasTech>

### Request for Proposal Point of Contact:

Name

Texas Tech University  
Procurement Services

Email: email

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## SECTION 1 GENERAL INFORMATION

### 1.1 Introduction

Texas Tech University (“TTU”) is seeking competitive Responses to a Request for Proposal (“RFP”) for **name and specifics/details** for TTU. This RFP provides sufficient information for interested parties to prepare and submit Proposals for consideration by TTU. Additional information may be made available by written request to the point of contact provided on this RFP cover sheet.

An RFP Solicitation Conference is scheduled on the date shown in the “Schedule of Events,” in **Building, Room number** on the TTU campus. Directions to TTU are available at [www.ttu.edu/campusmap/](http://www.ttu.edu/campusmap/) and information about free and paid parking can be found at [www.parking.ttu.edu/default.aspx](http://www.parking.ttu.edu/default.aspx). While this Solicitation Conference ☐ ☐ is not ☐ mandatory, ☐ attendance of potential Proposers is required ☐ ☐ it is highly recommended that all potential Proposers attend ☐. Potential Proposers must email the point of contact to confirm attendance and the number of attendees **NO LATER THAN date**.

The Proposal should be prepared simply and economically, providing a straightforward, concise description of the Proposer’s ability to meet the requirements of this RFP. Emphasis should be on completeness, clarity of content, responsiveness to the requirements, and an understanding of TTU’s needs.

By submitting a Proposal, the Proposer certifies an understanding of this RFP and has full knowledge of the scope, nature, quality, and quantity of the work to be performed, the detailed requirements of the Goods or Services to be provided, and the conditions under which the Goods or Services are to be performed. The Proposer also understands that all costs relating to preparing and responding to this RFP will be the sole responsibility of the Proposer. If selected for award by TTU, the Proposer will notify TTU immediately of any material change in any matters with regard to which the Proposer has made a statement or representation or provided information.

*Proposers are cautioned to read the information contained in this Request for Proposal (RFP) carefully and to submit a complete Proposal to all requirements and questions as directed.*

### 1.2 Information about Texas Tech University

**Texas Tech University** is a national research university founded in 1923 and is the flagship institution of the Texas Tech University System. Dawning a new era of excellence, TTU is advancing at record levels as total research expenditures topped \$150 million for the first time, student enrollment surpassed the 35,000-mark, and nearly 250,000 degrees have been awarded since TTU’s inception. TTU is home to 10 academic colleges, a law school, and a graduate school, offering students more than 150 undergraduate, 100 master’s and 50 doctoral degree programs. TTU is accredited by the Commission on College of the Southern Association of Colleges and Schools. TTU also is a member of the highly-competitive Big 12 Conference. [www.ttu.edu](http://www.ttu.edu). As a State public institution of higher education, TTU is governed by the State legislature and its statutes and by TTU Operating Policies and Procedures. In addition, as a recipient of federal funding, TTU must comply with federal regulations including Uniform Guidance 2 CFR 200.

### 1.3 Scope of Goods or Services

**Provide written summary of the Scope of Work here which will be further specified in Section 3. This paragraph should include a statement of the general goals of the solicitation, along with the key components. The summary should also discuss how this solicitation aligns with parallel projects, and the role of this project in relation to other initiatives here at TTU.**

## 1.4 Term of Award

The Goods or Services requested shall be provided for a period of **number (#)** years effective **date**, or the last signature date, whichever is later, and ending **date**. Any Contract may be renewed for up to **number (#)** one-year Renewal terms upon mutual agreement of the parties, to be evidenced in writing sixty days prior to the expiration date of the initial term.

In accordance with *Regents' Rule* 07.12, any resulting Contract will require a termination without cause provision of 120 days or less.

## 1.5 Schedule of Events

TTU intends to follow the timeline below for evaluating, negotiating, and issuing a Contract:

Distribution of RFP.....	day, date	
Optional Solicitation Conference .....	date, date	
Deadline for Submission of Written Questions.....	day, date, time	Central
Deadline for Submission .....	day, date, time	Central
Evaluation of Proposals.....	date range	
Award Recommendation.....	day, date	
Issuance of Contract.....	day, date	
Term of Contract.....	date range	

\* All dates are tentative and subject to change.

## 1.6 TTU's Right to Reject

This RFP does not commit TTU to select a Proposer or to award a Contract to any Proposer. TTU reserves the right to accept or reject, in whole or in part, any Proposal it receives pursuant to this RFP. Proposals which are qualified with conditional clauses or alterations or items not called for in the RFP, or irregularities of any kind, are subject to disqualification by TTU at its option. If TTU receives fewer than three Proposal responses, TTU has the right to reissue this RFP in order to gain additional competitive Proposals.

## 1.7 Historically Underutilized Business ("HUB") Firms

TTU endeavors to promote full and equal opportunity for businesses to supply TTU with Goods or Services that are necessary to support TTU's educational mission. In this regard, TTU commits to select Proposers in accordance with (i) TTU needs, (ii) TTU resources, (iii) TTU HUB goals (iv) guidelines established by the Texas legislature and Texas Procurement and Support Services (TPASS), and (v) TTU Operating Policies and Procedures for contracting with HUBs, specifically [Operating Policy 72.12](#) Historically Underutilized Businesses. Contractors shall provide TTU full access to documentation relating to the HUB program and any HUB Subcontracting Plan. Failure to comply with any provision of the State or TTU's HUB regulations may result in immediate cancellation of any Contract.

Contractors shall be awarded evaluation points based on the Contractors HUB qualification or HUB Subcontractor utilization. The Mentor-Protégé program provides for HUB utilization evaluation points for Contractors who are not qualified as a HUB Contractor. For additional information about the Mentor-Protégé program please see the

link: <http://www.window.state.tx.us/procurement/prog/hub/mentorprotege/> or email [techbuy.purchasing@ttu.edu](mailto:techbuy.purchasing@ttu.edu).

## 1.8 Definitions

**Addendum:** A written change, addition, alteration, correction, or revision to a Solicitation document or a Contract.

**Amendment:** An agreed addition to, deletion from, correction, or modification of a Contract signed by all authorized parties. An Amendment may include a renewal or extension of a Contract.

**Assignment:** An authorized legal transfer of contractual rights from one party to another party.

**Award:** The act of accepting a bid, proposal, or offer; thereby resulting in a Contract or Purchase Order between TTU and the Vendor.

**Best Value:** Factors to be considered in determining best overall value for the System or the component Institution in accordance with [Texas Education Code §51.9335 \(b\)](#).

**Bid Bond:** An insurance agreement, accompanied by a monetary commitment, by which a third party accepts liability and guarantees that a Bidder will not withdraw a Bid during the Invitation for Bid process. A Bid Bond may also be required in a Request for Proposal process.

**Comptroller:** The Texas Comptroller of Public Accounts.

**Conflict of Interest:** A Conflict of Interest refers to a situation in which an employee's financial, professional, or other personal considerations may directly or indirectly affect, or have the appearance of affecting, the employee's judgment in exercising any duty or responsibility, including the conduct or reporting of research, owed to the Institution. [TTU OP 10.20](#).

**Consultant:** An individual or firm that provides Consulting Services to an Institution and does not involve the traditional relationship of employer and employee [Texas Government Code § 2254.021](#).

**Consulting Services:** The Services of studying and advising an Institution per [Texas Government Code, § 2254.021](#) Consulting Services must be approved by the TTU System Board of Regents per [Regents' Rule Chapter 07](#).

**Contract:** A legally binding written agreement executed between the System or an Institution and a third party in which the parties agree to perform in accordance with the obligations therein. Contracts include, but are not limited to: letter agreements, co-operative agreements, memorandums of understanding (MOU), Interagency Contracts, Interlocal Contracts, easements, licenses, leases, and Purchase Orders. [Regents' Rules Chapter 07](#).

**Contractor:** A business entity or individual that has a Contract or Purchase Order to provide Goods or Services to TTU.

**Contract Administration:** Following the award of a Contract, the department level actions to oversee full compliance with all of the terms and conditions contained within a Contract.

**Contract Administrator:** The Contract Administrator is the department level individual responsible for adherence to all provisions contained within a Contract and for managing the performance of a Contract.

**Contract Close-out:** The process conducted at the completion of the Contract during which the Contract Administrator confirms and documents compliance with the terms and conditions of the Contract, final Deliverables are received, and outstanding payments are made.

**Contract Management:** The complete contracting process from Planning through Contract

**Contract Review Team:** A team comprised of such members as the Contract Manager, the Contract Administrator, and as needed, cross-functional members such as: subject matter experts, information technology, risk management, legal, and price/cost analysts. The size and the members of the team are dependent on the nature and complexity of the project.

**Contractor:** An entity or individual that has a Contract to provide Goods or Services to the System or any component Institution. For the purposes of this RFP, Contractor is used interchangeably with the term “Proposer”.

**Escalation Clause:** A provision in a Contract that allows for increasing or decreasing the Contract price for Goods or Services in step with market prices, an agreed-upon benchmark such as the consumer price index (CPI), or when maintenance and operating costs increase or decrease.

**Fiscal Year (FY):** The twelve-month period starting September 1 and closing on August 31 covered by the State’s annual budget.

**Goods:** Supplies, materials, or equipment as defined in [Texas Government Code §2155.001](#). Goods do not include Services or real property.

**Liquidated Damages:** A specified Contract provision which entitles TTU to demand a set monetary amount determined to be reasonable estimate of damages TTU will incur due to Contractor’s failure to meet Contract requirements.

**Negotiations:** Conferring, discussing, or bargaining to reach a mutual agreement between two or more parties.

**Opening Date:** The date and time, after submission of Proposals, when sealed Proposal Responses are opened.

**Operating Policies and Procedures:** The manuals maintained by each component Institution to standardize and provide a consistent and coherent method of defining Institutional policies. <http://www.depts.ttu.edu/opmanual/>

**Originating Department:** The System or Institutional department from which a Solicitation or Procurement is originated.

**Payment Bond:** A bond solely for the protection and use of Payment Bond beneficiaries who have a direct contractual relationship with the prime Contractor or a Subcontractor to supply labor or material.

**Performance Bond:** An instrument executed, subsequent to award, by a successful Proposer or Bidder that protects an Institution from loss due to the Contractor’s inability to complete the Contract as agreed.

**Procurement (Procure):** Purchasing, renting, leasing, or otherwise acquiring any Goods or Services, including all functions that pertain to the acquisition through Contract Close-out.

**Professional Services:** Services directly related to professional practices as defined by the Professional Services Procurement Act ([Texas Government Code § 2254.002](#)). These include Services within the scope of the practice of: accounting; architecture; land surveying; medicine; optometry; professional engineering; real estate appraising or professional nursing. Services provided by professionals outside the scope of their profession, e.g., Consulting Services provided by accounting firms are not considered Professional Services.



**Proposal:** A Response to a Request for Proposals (RFP) and intended to be used as a basis to negotiate a Contract award.

**Proposal Opening:** The public opening of Proposals, in which the names of the Proposers to a Solicitation are publicly read and recorded. No prices are divulged at a Proposal Opening as these types of Solicitations are subject to Negotiations.

**Proposer:** An entity submitting a Proposal to a Request for Proposal. The term includes anyone authorized to act on behalf of the individual or other entity that submits a Proposal, such as agents, employees, and representatives. See also Proposer.

**Purchase Order:** A legal document issued to the Contractor used to formalize the terms and conditions of any purchase of Goods or Services.

**Regents' Rules:** Rules established by the TTU System Board of Regents that govern all component Institutions. <http://www.texastech.edu/board-of-regents/regents-rules.php>

**Renewal:** the process where an existing Contract is renewed for an additional time period in accordance with the terms and conditions of the original Contract.

**Request for Proposal (RFP):** A Solicitation requesting submittal of a Proposal in response to the required Specifications and usually includes some form of a cost Proposal. The RFP process allows for Negotiations between a Proposer and the issuing Institution.

**Responsible:** A Proposer who is fully capable to meet all of the financial and technical requirements of a Solicitation and any subsequent Contract.

**Responsive:** The Proposer has complied with all material aspects of the Solicitation, including submission of all required documents in accordance with the Specifications.

**Proposer:** An individual or entity submitting a Proposal to a Solicitation.

**Scope of Work (or "SOW"):** A detailed, written description of the conceptual requirements contained within the Specifications.

**Scoring Matrix:** A chart used to document the evaluation criteria of a Proposal.

**Service(s):** The furnishing of labor, time, and effort by a Contractor or Auxiliary Enterprise, including for a Construction Project, which may involve to a lesser degree, the delivery or supply of products.

**Solicitation:** A method or process used to obtain Responses for the purpose of gathering information or entering into a Contract.

**Solicitation Conference:** A meeting chaired by the Procurement Services Office which is designed to help potential Proposers understand the requirements of a Solicitation. May also known as a Pre-proposal Conference.

**Specification(s):** Description of the requirements for Goods or Services including the Scope of Work, to be fulfilled by a Contractor.

**State:** The State of Texas.

**Statute:** a law enacted by a legislature.



**Subcontractor:** An individual or business entity retained by a Contractor to perform part of a Contractor's duties under a Contract.

**System (TTUS):** System shall include the Texas Tech University System and its component Institutions.

**TechBid**—TTU's online system Procurement notification and submittal system.

**Vendor Debarment:** The status of any Vendor who is debarred from conducting business with an Institution by either the Texas Comptroller or the federal government. Debarment protects the State from risks associated with awarding Contracts to Vendors who have exhibited an inability or unwillingness to fulfill contractual requirements or who have displayed improper conduct. Debarment may include a Vendor's successors-in-interest. Debarment does not relieve the Vendor from responsibility for fulfilling existing obligations.

**Vendor Performance Form:** A form prepared by the TTU Contract Administrator that reports satisfactory and unsatisfactory performance by a Contractor.

## SECTION 2

### PROPOSAL REQUIREMENTS AND PROCEDURES

#### 2.1 Point of Contact

All communication relating to this RFP must be submitted in writing by the date indicated in the Schedule of Events. Questions and any Addendum issued related to the RFP, if any, will be posted on the TechBid website (<https://bids.sciquest.com/apps/Router/PublicEvent?CustomerOrg=TexasTech>). Only those replies to questions which are made by formal written Addendum shall be binding. Oral and other interpretations or clarification will be without legal effect. ***Note: It is the responsibility of the Proposer to review TechBid for any Addendum posted. For any problems encountered with TechBid, please email [techbuy.purchasing@ttu.edu](mailto:techbuy.purchasing@ttu.edu).***

Questions must be emailed, faxed or submitted in writing to the TTU point of contact:

TTU Contact's Name

TTU Contact's Email

Texas Tech University

Drane Hall Room #

Box 41094

Lubbock, TX 79409-1094

Fax: (806) 742-3820

#### 2.2 Communications with TTU Personnel

***Except as provided in this RFP and as otherwise necessary for the conduct of existing TTU business operations, Proposers are expressly and absolutely prohibited from engaging in communications with TTU personnel who are involved in any manner in drafting of the RFP, in the review or evaluation of the Proposals, in selection of a Contractor, or negotiation or formalization of a Contract.*** If any Proposer engages in conduct or communications that TTU determines is contrary to the prohibitions set forth in this section, TTU may, at its sole discretion, disqualify the Proposer and remove the Proposal from consideration.

#### 2.3 Proposal Requirements

2.3.1 The Proposal must contain all the following components in the following order:

- Background of the Proposer;
- Proposer's response to the Scope of Work;
- Proposer's responses to the Proposers Questionnaire;
- Schedule of costs and fees;
- Evidence of insurability and bonding capacity;
- Documentation supporting Proposer's qualifications including HUB certification;
- HUB subcontracting plan (***required*** for Proposals valued at  $\geq \$100,000$ ); and
- Signed Affirmation and Conflict of Interest.

2.3.2 The Proposal may not exceed one hundred pages.

2.3.3 The Proposal must include a cover page, providing the Proposer's Name, Address, and contact information; the RFP name; and RFP number.

2.3.4 The Proposal must include a table of contents, which should contain sufficient detail to facilitate easy reference to the sections of the Proposal.

- 2.3.5 All pages should be typed in 12 point font within margins consistent with 8 1/2 x 11-inch paper and numbered sequentially.

## 2.4 Submittal Instructions for TechBid Proposals

- 2.4.1 TTU **requires** that all Proposals be submitted in the TechBid system at (<https://bids.sciquest.com/apps/Router/PublicEvent?CustomerOrg=TexasTech>).
- 2.4.2 Proposals must be submitted online no later than the date and time indicated in the Schedule of Events. To accommodate any technical issues, it is recommended that the Proposer submit the Proposal at least twenty-four hours prior to the deadline for submission.

## 2.5 HUB Subcontracting Plan

TTU has determined that there *(select one)* are subcontracting opportunities or that there are not subcontracting opportunities. If TTU determines that there are subcontracting opportunities, the Proposer must include a HUB subcontracting plan even if the Proposer intends to self-perform. The required supporting documentation must be submitted with the HUB Subcontracting plan. If TTU determines there are not subcontracting opportunities, no submittal is required unless the Proposer discovers opportunities to subcontract, then a subcontracting plan must be submitted. The Proposer will receive evaluation points for (1) the Proposer's Texas certification as a HUB (2) the percentage of HUB subcontracting use proposed on the Contract and (3) second and third tier HUB subcontracting use. TTU is relying upon Proposer's expertise to fully identify subcontracting opportunities that best align with the TTU organization and this RFP. Proposers who intend to subcontract are responsible for identifying all areas that will be subcontracted.

For assistance with preparation of the subcontracting plan, email [techbuy.purchasing@ttu.edu](mailto:techbuy.purchasing@ttu.edu).

If a properly submitted HUB subcontracting plan contains minor deficiencies (e.g., failure to sign or date the plan, failure to submit already-existing evidence that three HUBs were contacted), TTU may contact the Proposer for clarification to the plan if it contains sufficient evidence that the Proposer developed and submitted the plan in good faith.

HSP forms can be found

at <http://www.depts.ttu.edu/afism/AFISMFormRepository/ProcurementDept/forms/HUB-Merged-Forms.pdf>

TTU's HUB Goals are:

- (1) 11.88 % for heavy construction other than building contracts;
- (2) 12.63 % for all building construction, including general contractors and operative builders' contracts;
- (3) 26.19 % for all special trade construction contracts;
- (4) 21.61 % for professional services contracts;
- (5) 12.9 % for all other services contracts; and
- (6) 29.66% for commodities contracts

## 2.6 Right to Modify, Rescind, or Revoke the RFP

TTU reserves the rights to modify, revoke, or cancel this RFP in whole or in part at any time prior to the date on which TTU executes a Contract with the selected Proposer(s).

## 2.7 Signature and Certification of Proposer

The Proposal must be signed and dated by a representative of the Proposer who is legally authorized to bind the Contractor to the terms and conditions contained in this RFP and who can ensure compliance with the submitted Proposal. Each Proposer submitting a Proposal certifies to both (a) the completeness and accuracy of the information provided in the Proposal and (b) the authority of the individual whose signature appears on the Affirmation and Conflict of Interest to bind the Proposer. Proposals submitted without the required signature will be disqualified.

## 2.8 Compliance with Applicable Laws, Regulations, Ordinances, TTU System *Regents' Rules*, and TTU Operating Policies and Procedures

By submitting a Proposal, the Proposer agrees to and shall comply with all applicable local, state, and federal laws and regulations, as well as with all applicable Operating Policies and Procedures of the TTU System and TTU. TTU Operating Policies and Procedures may be accessed at <http://www.depts.ttu.edu/opmanual/> and TTU System *Regents' Rules* may be accessed at <http://www.texastech.edu/board-of-regents/regents-rules.php>.

## 2.9 Compliance with RFP Requirements

By submitting a Proposal and by signing the Affirmation and Conflict of Interest, the Proposer agrees to be bound by the requirements set forth in this RFP, TTU's General Terms and Conditions contained in the RFP, as well as the TTU Purchase Order terms and conditions, all of which will be incorporated into and be made a part of any Contract awarded by TTU. If the Proposer takes exception to any of the terms or cannot agree to be bound by all terms, TTU, at its sole discretion, may disqualify the Proposal from consideration.

## 2.10 Right of Rejection

A Proposal consisting of only alternate Goods or Services (i.e., a Proposal that offers Goods or Services different from those requested by this RFP and is not otherwise invited) may be considered non-responsive by TTU and is subject to rejection. TTU shall reject a Proposal if the financial Proposal was not arrived at independently without collusion, consultation, communication, or agreement as to any matter relating to such prices with any other potential Proposer. Regardless of the time of detection, TTU shall consider any of the foregoing prohibited actions to be grounds for Proposal rejection or Contract termination and may result in debarment of the Contractor from future TTU Solicitations.

## 2.11 Binding Effect of Proposal

Unless otherwise agreed in writing signed by the Managing Director of Procurement Services, each Proposer agrees to and shall be bound by the information and documentation provided with the Proposal, including prices quoted for Goods or Services. Proposals are to be valid for TTU's acceptance for a minimum of 270 days from the submittal deadline date to allow time for evaluation, selection, Negotiations, and any unforeseen delays. Proposals, if accepted, shall remain valid for the duration of the Contract.

## 2.12 Use and Disclosure of Information

Proposers acknowledge that TTU is an agency of the State of Texas and is therefore required to comply with the Texas Public Information Act Texas Gov't Code Ch. 552. If a Proposal includes proprietary data, trade secrets, or information the Proposer wishes to except from public disclosure, then the Proposer must specifically label such data, secrets, or information as follows: "PRIVILEGED AND CONFIDENTIAL – PROPRIETARY INFORMATION." To the extent permitted by law, information labeled by the Proposer

as proprietary will be used by TTU only for purposes related to or arising out of the (a) evaluation of Proposals, (b) selection of a Proposer or Proposers pursuant to the RFP process, and (c) Negotiation and execution of a Contract, if any, with the Proposer(s) selected.

If the Proposer marks the entire Proposal or substantive portions of the Proposal as confidential, TTU in its sole discretion may declare the Proposal non-responsive and reject it.

By submitting a Proposal, the Proposer hereby grants a limited license to reproduce the Proposal in order to conduct an evaluation and to comply with any legal requirement including but not limited to the Texas Public Information Act and Texas Legislative Budget Board requirements.

### **2.13 Extension of Pricing and Terms and Conditions**

Proposers are requested to extend the pricing and all terms and conditions offered in their Proposal to other Texas state agencies, as well as other State of Texas institutional agencies. In the event an Award is made, the individual agencies may or may not elect to use the Contract.

### **2.14 E-commerce**

TTU utilizes the SciQuest e-commerce platform to issue purchase orders and process invoices. The Contractor agrees to comply with the TTU requirements for participating in electronic commerce.

### **2.15 Withdrawal or Modification**

No Proposal may be changed, amended, or modified after it has been submitted or filed in response to this Solicitation, except for obvious errors or as part of the negotiating process which are approved by the Managing Director of Procurement Services. However, a Proposal may be withdrawn and resubmitted any time prior to the time set for receipt of Proposals. Modifications will be allowed in the TechBid website until the deadline for Proposal submittals. No Proposal may be withdrawn after the submittal deadline without approval by TTU, which shall be based on Proposer's submittal in writing of a reason acceptable to TTU.

### **2.16 Risk of Loss, Damage, or Delay**

Proposer acknowledges and agrees to release and hold harmless TTU, its campus components, Board of Regents, officers, employees, agents, and personnel, from and against any and all claims, liability, damages, and costs, including court costs and attorneys' fees, arising out of or pursuant to a failure to successfully submit or deliver the Proposal to the Procurement Services at TTU, as detailed in this RFP.

### **2.17 Proposal Opening**

Proposals will be opened at the TTU main campus, Drane Hall Building, Room # [REDACTED] after the deadline. The Proposal opening process is open to the public. For convenience, Proposers may request a list of Proposals received by contacting the TTU point of contact after the opening. All submitted Proposals become the property of TTU after the RFP submission deadline and will not be returned.

## SECTION 3

### PROPOSAL CONTENTS/DETAILS

**3.1 Objectives**—This section should include the specific objectives of the project, similar to the scope of the project listed in 1.3, but in more detail, as needed.

**3.2 Project Details**—This section should include as applicable:

- Summaries of the needs and task analyses
- Summaries of project organization and reporting relationships
- Listing of expected deliverables
- Challenges facing the successful Proposer
- Required methodologies
- Location(s) of the work

**3.3 Mandatory Requirements/Conditions**—Outline the items that the Proposer *must* provide (as applicable):

- Proven expertise in providing resources to meet the requirements of the project
- A track record in partnering with higher education entities and others involved in the project
- Availability to provide the services required at the time required
- Sufficient resources/staff with the relevant skills for the project

**3.4 Preferred Requirements/Conditions**—Outline the items that are preferred (nice to have, but not critical) that the *successful* Proposer should include (as applicable):

- Proven expertise in providing resources to meet the requirements of the project
- A track record in partnering with TTU and others involved in the project
- Availability to provide the services required at the time required
- Sufficient resources/staff with the relevant skills for the project

**3.5 Timeline**—Include specific dates for completion of milestones such as analyses, design plans, test sessions, deliverables, etc.

**3.6 Prime Contractor Responsibilities**—necessary skills, experience, coordination of services, facilities, staff qualifications, supervision and training, service delivery

**3.7 Quality Measures**—Include specific information of standards of quality and quantity and TTUS's criteria for evaluating the success of the *project* (not the RFP award process). If appropriate, request that the Proposer describe its own plans for quality assurance and evaluation, including methodology.

### **3.8 Compensation and Fees**

Provide a detailed compensation schedule for the Goods or Services to be delivered or performed in response to this RFP. Proposer should submit a schedule that clearly details the various compensation and fee that will apply if the Proposer is awarded a Contract with TTU. TTU will not be obligated to compensate for any amounts that are not provided in the schedule or not included in the fully executed Contract.

### **3.9 Invoicing and Payment**

3.9.1 Proposer(s) shall submit invoices by electronic means to TTUS Office of Risk Management and provide support for allocation of premium to the components as may be required.

Invoices will be paid net 30 days in compliance with Texas laws. All invoices must reference a valid

TTUS Purchase Order or the invoice will be returned as non-compliant. No commitment for Goods or Services shall be placed without a valid TTUS Purchase Order.

Proposer(s) may submit a Proposal for a prompt payment discount.

TTU has established the following payment schedule for invoices based upon the payment option chosen by the Proposer:

Paper checks – net 30 days

ACH transaction – net 15 days

Single Use Account (SUA) card (JP Morgan) – net 5 days.

\*In the event TTU is making payment on funds appropriated by the State of Texas, payment may be made net 30 as required by law. TTUS will submit an electronic check remittance to the email address on record for all ACH and SUA payments.

### 3.10 Alternate Proposals

TTUS may consider alternate Proposals submitted by Proposer. Proposers submitting alternate Proposals should (i) clearly identify any exceptions taken to the Specifications set forth in this RFP and (ii) include a detailed description of the alternative(s) proposed. Proposer may suggest additions to the specifications set forth in this RFP, and all such suggestions must be clearly defined. Alternate Proposals should be submitted as attachments to the Proposal. Alternate Proposals shall meet the same requirements and shall be in the same format as the Proposal's base format.

**Note: If requesting that samples of Goods to be submitted with the Proposals, clearly define how the samples will be handled (i.e., will they be returned, who will pay for the samples, etc.).**



## SECTION 4

### EVALUATION AND AWARD PROCESS

#### 4.1 Evaluation Process

TTU will utilize a Contract Review Team for the evaluation of this RFP. The Contract will be awarded based on the Proposal judged to be in the best interest of TTU, and the judgment in this regard shall be considered final. Any Contract resulting from this Solicitation shall be awarded to the Proposer providing the Best Value to TTU.

Under § 51.9335 of the Texas Education Code in determining what is the Best Value to an institution of higher education, TTU may consider:

1. Installation costs;
2. The long-term cost to the Institution of acquiring the Contractor's Goods or Services;
3. The quality and reliability of the Goods or Services;
4. Delivery terms;
5. Contractor's past performance including the Contractor's experience;
6. The reputation of the Contractor and of the Contractor's Goods or Services;
7. The extent to which the Goods or Services meet the Institution's needs;
8. The Contractor's past relationship with the Institution;
9. The impact on the ability of the Institution to comply with laws and rules relating to Historically Underutilized Businesses and to the Procurement of Goods or Services from Persons with disabilities;
10. The cost of employee training;
11. The effect of the purchase on the Institution;
12. The Contractor's anticipated economic impact to the region;
13. Other factors relevant to determining the Best Value for the Institution; and
14. Any relevant factor that a private business entity would consider in selecting a Contractor.

#### 4.2 Proposer's Acceptance of Evaluation Methodology

Submission of a Proposal indicates Proposer's acceptance of the evaluation method and Proposer's recognition that some subjective judgments must be made by TTU during the awarding of evaluation criteria points.

#### 4.3 Evaluation Criteria and Weights

Each Proposal shall be evaluated on the ability to meet TTU's requirements and to provide the Best Value to TTU. The Proposal shall be evaluated by awarding points to each of the following evaluation criteria.

The evaluation will be based on the following: *(Select at least 4 or more criteria and assign each a weight. This following is just a suggested list; other criteria can be added. The HUB evaluation criteria must always be included.)*

Qualifications of the Proposer.....	x points
Pricing Proposal .....	x points
Value added options .....	x points
Number and scope of conditions attached to the Proposal .....	x points
Quality of resources available for delivering the Goods or Services .....	x points
Availability of Contractor's personnel, equipment, or facilities .....	x points
Quality, availability, and adaptability of Contractor's supplies, materials, or equipment .....	x points
Demonstrated ability to meet project timelines.....	x points
Ability, capacity, and skill of Proposer to provide the Services required.....	x points
Experience and qualifications.....	x points

Range of previous relevant experience .....	x points
Qualifications of the Proposer (in particular, project team members).....	x points
Experience with Contracts of similar scope.....	x points
Experience with higher education institutions .....	x points
Reputation for personal and professional integrity and competency .....	x points
Sufficiency of financial resources to perform or provide the Goods or Services .....	x points
Cost (including delivery, installation, life cycle, if applicable).....	x points
Ability to provide reliable maintenance Contracts and support.....	x points
Ability to provide future maintenance, parts, or Services .....	x points
Availability of employee training .....	x points
Quality of performance in previous TTU Contracts .....	x points
Any previous or existing noncompliance with Contract requirements.....	x points
HUB status or HUB Subcontractor utilization .....	x points
<b>TOTAL .....</b>	<b>100 points</b>

#### 4.4 Consideration of Additional Information

Consideration may also be given to any additional written information and comments that may serve to clarify the Proposal information to TTU.

#### 4.5 Oral Presentations and Interviews

Upon completion of the initial review and evaluation of the Proposals submitted, selected Proposers may be invited to participate in oral presentations. Oral presentations and interviews are an option of the Contract Review Team and may or may not be conducted; therefore, Proposals must be complete when submitted.

#### 4.6 Award Process

During the opening, Proposals will be acknowledged publicly to identify the names of the Proposers, but will be afforded security sufficient to preclude disclosure of the contents of the Proposal, including prices or other information, prior to award. After opening, an Award may be made on the basis of the Proposals initially submitted, without discussion, clarification, or modification, or on the basis of Negotiation with any of the Proposers or, at TTU's sole option and discretion, TTU may discuss or negotiate all elements of the Proposal with selected Proposers representing a competitive range. For purposes of Negotiation, a competitive range of acceptable or potentially acceptable Proposals may be established comprising the highest rated Proposals.

#### 4.7 Best and Final Offer

When deemed appropriate by the Contract Review Team, after the submission of Proposals but before the final selection of the successful Proposal(s), TTU may permit Proposers to revise their Proposals in order for TTU to obtain a best and final offer. TTU is not bound to accept the best and final offer if it does not represent the Best Value to TTU as determined by the Contract Review Team.

#### 4.8 Award of Contract

TTU reserves the right to award a Contract for one or more portions of the Scope of Work, award multiple Contracts to more than one Proposer, to reject any and all Proposals, or terminate the Solicitation process.

#### 4.9 Protest Procedures

Any actual or prospective Proposer or Contractor who believes he or she has been aggrieved in connection with the Solicitation, evaluation, or Award of a Contract may formally protest to the Managing Director of Procurement Services.

#### **4.10 Contract Documents**

The Contract entered into by the parties shall consist of the RFP, the Proposal, a written Contract (if applicable), and a Purchase Order(s) when an expenditure is required, all of which shall be referred to collectively as the Contract documents.

## **SECTION 5**

### **PROPOSER'S QUESTIONNAIRE**

The Proposer recognizes that in selecting a Contractor, TTU will rely in part on the answers provided in response to the Proposer's questionnaire. Accordingly, Proposer certifies that to the best of its knowledge, all Responses are true, correct, and complete. TTU reserves the right to contact references or contact name listed below and shall be free from any liability to Proposer for conducting such inquiry.

- 5.1** Provide a summary of the Proposer's overall capabilities, current workload, resources available to provide the Goods or Services, recent and related experience, and expertise.
- 5.2** Provide a resume for each of the proposed key personnel highlighting relevant past experience.
- 5.3** Provide balance sheets or financial statement for the past two fiscal years. TTU may consider the Proposer's financial capacity to provide the requested Goods or Services.
- 5.4** Provide a detailed description of similar Services completed or Goods sold within the past five years. Include a description of Services provided or Goods sold, budget and timeline performance, and key personnel involved.
- 5.5** Provide three professional references (key contact names, titles, email, and telephone numbers) that have direct knowledge of your ability to provide Goods or Services outlined in this RFP.
- 5.6** Provide any details of all pending arbitration/mediation, litigation, or claims filed against the Proposer in the past five years.
- 5.7** Is the Proposer (including any parent companies) currently for sale or involved in any transaction to acquire other business entities or to become acquired by another business entity? If yes, please explain the impact.
- 5.8** Is the Proposer (including any parent companies) currently in default on any financial instrument or contract? If yes, specify date(s), details, circumstances, and prospects for resolution.
- 5.8** Is the Proposer unable to agree to any of the General Terms and Conditions or the attached Contract (Section 6 of this RFP)? If the Proposer takes exception to any of TTU's General Terms and Conditions or the attached Contract, the Proposer must submit those exceptions as part of its Proposal to this questionnaire. The Proposer's exceptions will be reviewed by TTU and may result in disqualification of the Proposal. If Proposer's exceptions do not result in disqualification of the Proposal, then TTU may consider Proposer's exceptions for incorporation into any resulting Contract.

## SECTION 6

### GENERAL TERMS AND CONDITIONS

These General Terms and Conditions or ones that are substantially similar will be contained in any resulting Contract arising out of this RFP. In addition, and to the extent they do not conflict with these terms, TTU Purchase Order terms and conditions will apply to all Procurements of Goods or Services by TTU. They are found at <http://goo.gl/sz1k6>.

#### 6.1 Publicity

Contractor agrees that it will not publicize the Contract or disclose, confirm, or deny any details thereof to third parties and will not use TTU's name or protected marks without the prior express written approval of TTU.

#### 6.2 Independent Contractor Status

Contractor is an independent contractor. Contractor is not a state employee, partner, joint venturer, or agent of TTU. As an independent contractor, Contractor is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort including worker's compensation insurance. Contractor is responsible for its conduct of business operation, including employee salaries, travel expenses, etc.

#### 6.3 Subcontractors

Contractors who subcontract all or a portion of the Scope of Work must have identified all proposed Subcontractors to TTU in their submitted Proposals. Contractor will not delegate any of its duties or responsibilities under the Contract to any Subcontractor, except as expressly provided for in the Contract documents. Subcontractors providing Goods or Services under the Contract must meet the same requirements and level of experience required of the Contractor. The utilization of any Subcontractor for providing Goods or Services under the Contract will not relieve the Contractor of the responsibility for ensuring the requested Goods or Services are provided. All Subcontractors are subject to the Affirmation and Conflict of Information acknowledgements and disclosures as set forth in the RFP.

#### 6.4 Insurance Requirements

Consistent with its status as an independent contractor, Contractor will carry and cause its Subcontractors to carry at least the following insurance, with companies authorized to do business in Texas or eligible surplus lines insurers operating in accordance with the Texas insurance Code.

TTU in no way warrants that these limits are sufficient to protect the Contractor from liabilities that might arise out of the performance of the Scope of Work. The Contractor will assess its own risks and, if it deems appropriate or prudent, maintain higher limits or broader coverages. The Contractor is not relieved of any liability or other obligations assumed by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. All policies will be written on a primary basis, non-contributory with any other insurance coverage or self-funded plans which TTU maintains.

6.4.1 The Contractor agrees to furnish insurance certificates reflecting the following coverage:

<u>Type of Coverage</u>	<u>Limits of Liability</u>
Workers Compensation (Coverage A)	Statutory
Employer's Liability (Coverage B)	\$1,000,000
Commercial General Liability, including products and completed operations	
a. General Aggregate	\$2,000,000
b. Products/Completed Operations Aggregate	\$2,000,000

c. Each Occurrence Limit	\$1,000,000
d. Personal Advertising Injury	\$1,000,000
e. Damage to Rented Premises	\$50,000
f. Medical Payments (any one person)	\$5,000
Automobile Liability (covering leased, hired, non-owned and employee non-owned vehicles)	
Bodily Injury/Property Damage (each accident)	\$1,000,000
Personal Injury Protection	Statutory
Crime Coverage (if applicable)	50% of Contract value or \$100,000 whichever is greater
Liquor Liability (if applicable)	
a. Each Occurrence	\$1,000,000
b. Aggregate	\$2,000,000
Professional Liability (if applicable)	\$1,000,000

*NOTE: An umbrella policy may be used to reach required limits.*

- 6.4.2 Commercial General Liability (CGL) must include coverage for liability arising from Goods or Services-completed operations and liability assumed under an insured Contract.

6.4.2.1 If the CGL insurance has a general aggregate limit then ISO endorsement CG 25 04 (03/97 Edition) or its equivalent must be added. The Designated Location(s) General Aggregate Limit must be maintained for the duration of the Contract, and the limit must be twice the minimum required occurrence limit.

6.4.2.2 Contractor will name TTU, and its Board of Regents, officers, employees, agents, and volunteers as Additional Insureds on ISO endorsement CG 20 26 or its equivalent. The policy shall include ISO endorsement CG 20 01 04 13

6.4.2.3 The CGL policy shall contain no endorsements or modification limiting the scope of coverage for liability assumed under a contract, or liability arising from pollution.

- 6.4.3 Additional Insured, Subrogation

All policies must include a waiver of subrogation favoring TTU. With the exception of the Workers' Compensation and Professional Liability policies, TTU must be an additional insured on all policies.

- 6.4.4 Certificates of Coverage

At least thirty (30) days prior to the effective date of the Contract and at least thirty (30) days prior to the commencement of any renewal term of the Contract, or upon renewal of the policies, Contractor shall furnish Procurement Services with certificates of insurance in a form acceptable to TTU's Risk Manager, certifying that the Contractor carries the required insurance policies and coverage. The certificates shall be sent to Procurement Services at [techbuy.purchasing@ttu.edu](mailto:techbuy.purchasing@ttu.edu).

- 6.4.4 Notification of Cancellation

The Contractor will endeavor to notify Procurement Services 30 days before any material change or cancellation of any insurance policy. In the event the Contractor receives notice of modification or cancellation of any of the policies required under any Contract, then prior to the effective date of modification or cancellation of the policy, the Contractor will obtain a policy of insurance affording the required coverage from an insurance carrier acceptable to TTU's System Risk Manager. If the Contractor fails to obtain such an insurance policy, TTU may immediately terminate the Contract after providing the Contractor with notice of such termination.

## 6.5 Acceptance of Goods and Services

All Goods and Services provided under any resulting Contract will be to the satisfaction of TTU and in accordance with the Specifications, terms, and conditions of the Contract. TTU reserves the right to inspect the Goods or Services performed and to determine the quality, acceptability, and fitness of such Goods or Services. No payment made by TTU will (a) be construed to be final acceptance or approval of that part of the Goods or Services to which the payment was made, or (b) relieve Contractor of any of its duties or obligations under the Contract.

## 6.6 Warranties

The Contractor warrants and implies that Goods delivered to TTU under the Contract are merchantable and fit for use for the particular purpose set forth in the Contract. The Contractor warrants that Services furnished under the Contract will, at the time of acceptance, be free from defects in workmanship and conform to the requirements of the Contract. TTU may provide the Contractor with notice of any defect or nonconformance on or before the time period set forth in the Contract. The Contractor will correct or re-perform, at no cost to TTU, any Service that does not conform to the requirements of the Contract.

## 6.7 Infringement of Patents and Copyrights

The Contractor agrees to protect TTU from claims involving infringement of patents or copyrights. If applicable to any awarded Contract, Contractor will defend, at its expense, any proceeding against TTU ("Claim") to the extent such Claim is based upon an allegation that Contractor's product, as of its delivery date under the Contract, infringes a valid United States patent or copyright or misappropriates a third party's trade secret. Contractor will indemnify TTU for any judgments, settlements, and reasonable attorney fees resulting from a Claim.

## 6.8 Taxes

- 6.8.1 TTU, as an agency of the State of Texas, qualifies for exemption from state and local sales and use taxes pursuant to the provisions of the Texas Limited Sales, Excise, and Use Tax Act in accordance with Section 151.309, Texas Tax Code, and Title 34 Texas Administrative Code Section 3.322. The Contractor may claim exemption from payment of applicable state taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts.
- 6.8.2 The Contractor shall collect and pay all taxes imposed upon the sale of items included in the Contract, as required by federal, state or local law. The Contractor shall be responsible for and pay all social security, unemployment insurance, old age retirement, and other federal and state taxes that are measured by the wages, salaries, or other remuneration paid to persons employed by the Contractor.

## 6.9 Access by Individuals with Disabilities

Contractor will address all applicable technical standards (1 TAC 206, and 1 TAC 213) by completing a Voluntary Product Accessibility Template (VPAT) attesting to any electronic and information resource's (EIR) accessible features and capabilities or provide a similarly formatted document as the VPAT attesting to the EIR's accessible features and capabilities. TTU reserves the right to perform testing on the Contractor's deliverables to ensure the accuracy of their VPAT response regarding conformance with the 1TAC 206/1TAC 213 technical standards.

## 6.10 Federal Funding



6.10.1 This Contract may be funded wholly or partially with federal funds. The Proposer will comply with all applicable provisions of federal law. TTU utilizes [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl) and <http://www.gsa.gov> for all federal guidelines.

## **6.11 Time of Performance**

Time is of the essence in providing Goods or Services under a Contract. Contractor agrees to perform all obligations and provide Goods or Services on the schedules set forth in this RFP or as agreed upon in written Contract. TTU will have no obligation to accept late performance by the Contractor.

## **6.12 Termination**

6.12.1 The Contract may be terminated, without penalty, by TTU, with or without cause by giving at least thirty (30) days written notice of such termination.

6.12.2 The Contract is subject to termination, without penalty, in whole or in part, if funds are not appropriated by the legislature of the State of Texas.

6.12.3 The Contract may be terminated by either the Contractor or by TTU upon thirty (30) days written notice to the other, if the other party fails to perform or comply with any of the material terms, covenants, Contracts or conditions hereof, and such failure is not cured during such thirty (30) day period. The termination of the Contract, under any circumstances whatsoever, shall not effect or relieve Contractor from any obligation or liability that may have been incurred or will be incurred pursuant to the Contract and such termination by TTU shall not limit any other right or remedy available to TTU at law or in equity.

6.12.4 TTU may terminate the Contract immediately without further notice if the Contractor (i) petitions for reorganization under the Bankruptcy Code or is adjudged bankrupt; (ii) becomes insolvent or a receiver is appointed due to the insolvency; or (iii) makes a general assignments or sale of its assets or business for the benefit of creditors.

6.12.5 In no event will termination by TTU as provided for under this section give rise to any liability on the part of TTU including, but not limited to, claims of Contractor for compensation for anticipated profits, unabsorbed overhead, or interest on borrowing. TTU's sole obligation hereunder is to pay Contractor for Goods or Services received prior to the date of termination.

## **6.13 Contract Amendments**

No Amendment to any awarded Contract shall become valid unless agreed to by TTU in writing and signed by both parties. All correspondence regarding Amendments to a Contract must be forwarded to the TTU Procurement Services Department for prior review and approval. Only the Managing Director of Procurement Services or his or her designee will be authorized to process changes or Amendments. All Amendments must be signed by the same person who signed the original Contract, their successor, or a person with equivalent signatory authority.

## **6.14 Retention of Documents**

The Contractor will maintain records generated pursuant to the Contract for the full term of the Contract plus a period of at least two (2) years after expiration or termination of the Contract.

## **6.15 Right to Audit**

6.15.1 TTU shall have the right, at its sole cost, to either use its own employees or engage an independent third party to audit the financial records of the Contractor pertaining to any awarded Contract. Such

audit shall be completed by TTU or its representatives at the Contractor's office, on reasonable advance notice, and on dates and times mutually agreed to by the parties. In the event such audit reveals any underpayment to or overpayment by TTU, the Contractor shall promptly pay the amount to TTU. If such audit reveals any overpayment to or underpayment by TTU, TTU shall promptly pay the amount to the Contractor.

6.15.2 The Contractor understands that acceptance of funds under the Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. The Contractor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. The Contractor will ensure that this clause concerning the authority to audit funds received indirectly by Subcontractors through the Contractor and the requirement to cooperate is included in any subcontract awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, audit documentation, and records of the Contractor relating to this Contract for any purpose.

## **6.16 Confidentiality**

Contractor and TTU acknowledge that they or their employees may, in the performance of the resultant Contract come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any person, firm, corporation, or other organizations, whether or not directly or indirectly affiliated with Contractor or TTU unless required by law.

In the course of providing services during the term of the Contract, Contractor may have access to student education records that are subject to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g, *et seq.* and the regulations promulgated there under. Such information is considered confidential and is therefore protected. To the extent that Contractor has access to "education records" under the Contract, it is deemed a "school official," as each of these terms are defined under FERPA. Contractor agrees that it shall not use education records for any purpose other than in the performance of the Contract. Except as required by law, Contractor shall not disclose or share education records with any third party unless permitted by the terms of the Contract or to Subcontractors who have agreed to maintain the confidentiality of the education records to the same extent required of Contractors under the Contract.

***Contractor shall not make available information on any student, faculty, or staff member for marketing purposes.***

## **6.17 Severability**

If one or more provisions of the Contract, or the application of any provision to any party or circumstance, is held invalid, unenforceable, or illegal in any respect, the remainder of the Contract and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.

## **6.18 Non-Waiver of Defaults**

Any failure of TTU at any time to enforce or require the strict keeping and performance of any of the terms and conditions of this Contract shall not constitute a waiver of such terms, conditions, or rights, and shall not affect or impair it or the right of TTU at any time to avail itself of same.

## **6.19 Assignment**

Neither this Contract, nor any rights or obligations of monies due hereunder are assignable or transferable

(as security for advances or otherwise) unless agreed to in writing by TTU. Contractor shall not subcontract any portion of the Goods or Services encompassed by the Contract without TTU's prior written approval. TTU shall not be required to recognize any assignment or subcontract made without its prior written approval, and any such assignment by Contractor shall be wholly void and ineffective for all purposes unless made in conformity with this section.

## **6.20 Texas Public Information Act**

All information, documentation and other material submitted by Contractor under this RFP or any resulting Contract is subject to public disclosure under the Texas Public Information Act (the "Act") (Texas Government Code, Chapter 552). Contractor is hereby notified that TTU strictly adheres to this statute and the interpretations thereof rendered by the Courts and Texas Attorney General.

TTU will use its best efforts to maintain the confidentiality of all Contractors' submitted information except where TTU is required to disclose it under the Act. The Texas Attorney General will ultimately decide whether a Contractor's proprietary information (such as financial information, client lists, etc.) is released to the public, however TTU will give Contractor notice of all requests for its proprietary information in accordance with the Act. TTU cannot represent Contractor interests to the Texas Attorney General and Contractors seeking to protect their proprietary information will be required to submit a letter, brief, or memorandum to the Attorney General with reasons in support of withholding their information. Please note that in general, Contractor pricing information will be disclosed under the Public Information Act. If Contractors have further questions regarding the Public Information Act, they should seek appropriate legal counsel.

## **6.21 Disclosure of Interested Parties**

As applicable and pursuant to Texas Government Code § 2252.908, the Contractor must complete Form 1295 for certification and filing with the Texas Ethics Commission no later than thirty (30) days after the effective date of the Contract. The form is found at <https://www.ethics.state.tx.us/index.html>.

## **6.22 Registration of Sex Offenders**

All sex offenders required to register with local law enforcement authorities under § 62.151 of the Texas Code Of Criminal Procedure who intend to provide Services on any campus of TTU for a consecutive period exceeding fourteen (14) days or for an aggregate period exceeding thirty (30) days in a calendar year are required to register with the Texas Tech Police Department (TTPD) within 7 days of beginning work on any campus of TTU. In addition, such sex offenders are required to notify TTPD within seven (7) days of terminating Services on any campus. Therefore, if employees or agents of Contractors and Subcontractors will be performing Services on any TTU campus, it is the Contractor's responsibility to comply with this requirement. For additional information, please contact TTPD at 2901 4<sup>th</sup> St., Lubbock, TX 79409, 806-742-3931, or [www.depts.ttu.edu/ttpd/Clery/ttpd\\_clery\\_08.pdf](http://www.depts.ttu.edu/ttpd/Clery/ttpd_clery_08.pdf)

## **6.23 Indemnification**

THE CONTRACTOR AGREES TO AND SHALL INDEMNIFY AND HOLD HARMLESS TTU AND TEXAS TECH UNIVERSITY TEXAS SYSTEM, AND THEIR RESPECTIVE AFFILIATED ENTERPRISES, REGENTS, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND AGENTS, AGAINST ANY AND ALL LIABILITY, CLAIMS, SUITS, LOSSES, COSTS AND LEGAL FEES CAUSED BY, ARISING OUT OF, OR RESULTING FROM ANY NEGLIGENT ACT OR OMISSION OF THE CONTRACTOR IN THE PERFORMANCE OR FAILURE TO PERFORM WITHIN THE CONTRACT INCLUDING THE NEGLIGENT ACTS OR OMISSION OF ANY SUBCONTRACTOR OR ANY DIRECT OR INDIRECT EMPLOYEES OF THE CONTRACTOR OR SUBCONTRACTORS. THE INDEMNIFICATION OBLIGATIONS SET FORTH IN THE CONTRACT SHALL SURVIVE TERMINATION OR EXPIRATION OF THE CONTRACT.

## 6.24 Governing Law and Venue

The Contract and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof will be construed, interpreted, and applied in accordance with, and governed by and enforced under the laws of the State of Texas. Lubbock County, Texas shall be the proper place of venue for suit on or in respect to the Contract.

## 6.25 Dispute Resolution

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

- (a) A contracting party's claim for breach of this Contract that the parties cannot resolve in the ordinary course of business shall be submitted to the Negotiation process provided in Chapter 2260, Subchapter B. To initiate the process, the contracting party shall submit written notice, as required by Subchapter B, to the Director of Procurement Services. Said notice specifically states that the provisions of Chapter 2260, Subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of TTU and the contracting party that are otherwise entitled to notice under this Contract. Compliance by the contracting party with Subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, Subchapter C.
- (b) The contested case process provided in Chapter 2260, Subchapter C, shall be the contracting party's sole and exclusive process for seeking a remedy for an alleged breach of Contract by TTU if the parties are unable to resolve their disputes in the ordinary course of business or under Chapter 2260, Subchapter B, unless, after considering the recommendation of the Administrative Law Judge, the Legislature grants the contracting party consent to sue under Chapter 107 of the civil Practices and Remedies Code.
- (c) Neither the execution of this Contract by TTU nor any other conduct of any representative of TTU relating to the Contract shall be considered a waiver of TTU's sovereign immunity to suit.
- (d) The dispute resolution process provided for in Chapter 2260 will not, at any time, affect TTU's right of ability to bring suit against the contracting party for disputes arising under this Contract, nor will it affect TTU's ability to assert all claims and defenses in a lawsuit.
- (e) Pursuant to Chapter 2260, the submission, processing and resolution of the contracting party's claim is governed by the published rules adopted by the Texas Attorney General's Office, as currently effective, hereafter enacted or subsequently amended.
- (f) Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by TTU the contracting party shall continue performance and shall not be excused from performance during the period any breach of Contract claim or dispute is pending under either of the above processes; however, the contracting party may suspend performance during the pendency of such claim or dispute if the contracting party has complied with all provisions of Section 2251.051, Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.

**SECTION 7**  
**AFFIRMATION AND CONFLICT OF INTEREST DISCLOSURE**

Signing this Proposal with a false statement is a material breach of Contract and shall void the submitted Proposal or any resulting Contracts, and the Proposer may be reported to the Texas Comptroller for Public Accounts for disbarment. By signature hereon affixed, the Proposer hereby certifies that:

- 7.1 The Proposer is not currently delinquent in the payment of any debt or taxes owed the State of Texas.
- 7.2 Proposer 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.
- 7.3 Proposer certifies as follows: "Pursuant to § 231.006, Family Code, re: child support, the Proposer certifies that the individual or business entity named in this proposal is not ineligible to receive the specified payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate."
- 7.4 The Proposer has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, compensation, gift, loan, gratuity, special discount, trip, favor, or service to officer or employee of TTU or TTU System in connection with the submitted Proposal.
- 7.5 The Proposer has not received compensation for participation in the preparation of the Specifications for this RFP.
- 7.6 Neither the Proposer nor the firm, corporation, partnership, or institution represented by the Proposer, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in § 15.01, et seq., Texas Business and Commerce Code, or the Federal Antitrust Laws, nor communicated directly or indirectly the Proposal made to any competitor or any other person engaged in such line of business.
- 7.7 The Proposer certifies that the Proposer and any principals of the Proposer are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of Contracts by any federal agency, and have not within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government Contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a government entity with commission of any of these offenses.
- 7.8 Under § 2155.006(b) of the Texas Government Code, TTU may not accept a Proposal or award a Contract, including a Contract for which purchasing authority is delegated, that includes a proposed financial participation by a person who, during the five-year period preceding the date of the Proposal or award, has been: (i) 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 § 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (ii) 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 § 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.
- 7.9 Proposer agrees to comply with Texas Government Code § 2155.4441, pertaining to service Contract use of products produced in the State of Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.
- 7.10 Proposer certifies that they are in compliance with § 618.003 of the Government Code, relating to contracting with executive head of a State agency. If § 618.003 applies, Proposer will complete the



following information in order for the Proposal to be evaluated:

Name of Former Executive: \_\_\_\_\_

Name of State Agency: \_\_\_\_\_

Date of Separation from State Agency: \_\_\_\_\_

Position with Proposer: \_\_\_\_\_

Date of Employment with Proposer: \_\_\_\_\_

- 7.11 The Proposal must include the name and Social Security Number of each person maintaining an ownership interest of 25% or more of the business entity submitting the Proposal. Contractors that have pre-registered this information on the Texas Comptroller's Centralized Master Bidders' List will be deemed to have satisfied this requirement.

NAME

SSN

_____	_____
_____	_____
_____	_____
_____	_____

## 7.12 Conflict of Interest Summary

- 7.12.1 The Contractor certifies that (i) no relationship, whether by blood, marriage, business association, capital funding Contract or by any other such kinship or connection to the second degree of consanguinity exists between any owner of the Proposer that is a sole proprietorship, the officers or directors of the Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint ventures of any Proposer that is a joint venture, or the members or managers of any Proposer that is a limited liability company, on one hand, and an officer or employee of TTU, on the other hand, and
- 7.12.2 The Proposer, and any executives, managers, or employees of the Proposer have not been an employee of TTU or TTU System within the immediate twenty-four (24) months prior to the submittal deadline. If any previous employee of TTU is employed by the Proposer, that information shall be submitted in 7.13.
- 7.12.3 An officer or employee of TTU may not be in any dual employment positions that would result in a conflict of interest or conflict of commitment in relation to his or her position at TTU. If such circumstance arises, the officer or employee shall remove himself or herself from the process and disclose the relationship to his or her direct supervisor. The supervisor is responsible for reviewing all Procurements of Goods and Services for any potential conflict of interest. As necessary, the supervisor shall consult with the Managing Director of Procurement Services. A TTU department may not hire a Contractor to provide Goods or Services if a current TTU officer or employee of such department is also employed by such Contractor; a current officer or employee of such department has a direct or indirect ownership interest in such Contractor; or the hiring of such Contractor would result in the furtherance of any private interest or gain for a current officer or employee of such department. If any owner of any such Contractor who provides Goods or Services to TTU is a TTU employee, compliant payment to any Contractor classified as a sole proprietorship or an individual shall be made through the Payroll Services department as additional compensation.

- 7.12.4 TTU shall not enter into a Contract that requires Regents' approval prior to execution or has a value of at least \$1 million without the requisite disclosures by potential Contractors. [Texas Government Code § 2252.908](#).

All disclosures by Proposer in connection with this affirmation will be subject to administrative review and approval before TTU enters into a Contract with Proposer. Any violation of this conflict of interest policy may result in immediate cancellation of any resulting Contract in addition to a potential debarment of the Contractor from doing business with the State of Texas.

### 7.13 Conflict of Interest Affirmation:

**By signing and submitting the Proposal, the Proposer confirms that it acknowledges compliance and has provided all relevant information required below.**

- ☐ Represent and warrant that Proposer's provision of Goods or Services or other performance under the Contract will not constitute an actual or potential Conflict of Interest and represent and warrant that it will not reasonably create even the appearance of impropriety.
- ☐ Disclose any current or former employees who are current or former employees of the Institution.

Former Employee Name

TTU Department

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- ☐ Disclose any actual or proposed personnel who are, or are related to, current or former employees of the Institution.

Actual or Proposed Personnel

Related Party

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- ☐ Represent and warrant that Proposer has not given and will not give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant or employee or representative of the Institution in connection with the Solicitation or any resulting Contract.
- ☐ Verify that the Contractor or any of the Contractor's principals (including, but not limited to, an owner, proprietor, sole or majority shareholder, director, president, or managing partner) are not debarred, suspended, or otherwise excluded from doing business with TTU or TTU System. TTU may also verify that an entity or principals are not debarred, suspended or otherwise excluded to confirm that no Contracts are awarded, extended or renewed.



**Proposer Information and Signature**

Proposer certifies that the individual signing this document and the documents made a part of this RFP is authorized to sign such documents on behalf of Proposer and to bind Proposer under any Contract that may result from the submission of Proposer's Proposal.

By signing the Proposal, the Contractor certifies that if a Texas address is shown as the address of the Contractor, the Contractor qualifies as a Texas Resident Bidder, as defined in 34 TAC § 20.38.

Payee Identification Number (PIN): \_\_\_\_\_

Sole Proprietor should also enter social security No.: \_\_\_\_\_

Contractor: \_\_\_\_\_

Name (Typed): \_\_\_\_\_

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

Street: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Fax No.: \_\_\_\_\_

E-mail: \_\_\_\_\_

**Signature (INK):** \_\_\_\_\_

**Other Preferences** as defined in 34 TAC sec. 20.38 (check any that are applicable)

- ☐ Supplies, materials, equipment, or services produced in TX/ offered by TX bidders
- ☐ 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

**THIS SHEET MUST BE COMPLETED, SIGNED, AND RETURNED WITH PROPOSER'S PROPOSAL. FAILURE TO SIGN AND RETURN THIS SHEET WILL RESULT IN THE REJECTION OF YOUR PROPOSAL.**