

# **REQUEST FOR PROPOSAL**

**by**

**The University of Texas at Arlington**

**for**

**Selection of a Vendor to Provide  
Commencement Flower Sales**

**RFP No. UTA2025-006**

**Submittal Deadline: March 6, 2025**

Issued: January 31, 2025

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**REQUEST FOR PROPOSAL**

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## SECTION 1

INTRODUCTION**1.1 Description of University**

Founded in 1895, The University of Texas at Arlington (UTA) is a Carnegie Research-1 “Very High Research Activity” institution with more than 100 years of academic excellence and tradition.

It is a comprehensive research, teaching, and public service university whose mission is the advancement of knowledge and the pursuit of excellence.

With a global enrollment of more than 60,000, UT Arlington is the largest university in North Texas. It also has one of the most diverse campus populations in the country. Students come from every state and more than 100 countries, contributing to *U.S. News & World Report* ranking it with the fifth-highest undergraduate ethnic diversity index in the country. UT Arlington is a Hispanic-Serving Institution and is ranked No. 1 in the U.S. for veterans and their families by *Military Times*.

The University has research centers in every discipline and state-of-the-art facilities in Arlington and Fort Worth that enable our faculty and students to help solve the world’s most urgent challenges. Of its 220,000-plus alumni, approximately 65% percent live in North Texas. Their presence helps the University create an annual economic impact of almost \$17.1 billion in the region.

**1.2 Background and Special Circumstances**

The University of Texas at Arlington department of Special Event Facilities operates two large public assembly venues: College Park Center (“**CPC**”), a 7,000-seat multi-purpose facility, and Texas Hall (“**TXH**”), a 2,600-seat performing arts center. Both venues are located on The University of Texas at Arlington campus. Currently commencement ceremonies for UTA graduates are held at Globe Life Field (the 40,000-seat baseball field, home of the Texas Rangers) though at any time during the term of any contract resulting from this RFP these ceremonies could be returned to the UT Arlington campus and the venues described above. The University is looking to select one (1) vendor to provide floral and souvenir sales services for these public assembly venues for select events, primarily including graduation and commencement ceremonies.

NOTE: The University reserves the right to make a dual award if deemed to be in the best interest of, and the best value for, our needs.

**1.3 Objective of Request for Proposal**

The University is soliciting proposals in response to this Request for Proposal, UTA2020-007 (this “**RFP**”), for selection of one (1) qualified vendor to provide Floral Sales Services (the “**Services**”) for College Park Center and Texas Hall, which are more specifically described in **SECTION 5** (Scope of Work) of this RFP.

**1.4 Term of the Agreement**

The initial term of the resulting Agreement will be for one (1) year and thereafter the University shall have the right, at its option, to renew the Agreement for up to four (4) additional renewal terms of one (1) year each.

Prices for the initial term are to be firm. At the end of the initial term and each renewal term (if any), the rates may be increased, decreased or remain unchanged. Any price adjustment must be requested by the Vendor in writing, including detailed documentation supporting the increase, at least sixty (60) days prior to the expiration of the current term. Changes, if agreed to, shall be based upon the percentage change in the Bureau of Labor Statistics’ Consumer Price Index (CPI)-All Urban Consumers for Dallas-Fort Worth-Arlington for the previous contract period ([https://www.bls.gov/regions/southwest/news-release/consumerpriceindex\\_dallasfortworth.htm](https://www.bls.gov/regions/southwest/news-release/consumerpriceindex_dallasfortworth.htm)). No change in

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pricing shall exceed the year-over-year percentage change in the CPI index noted above, unless it is deemed in the best interest of the University based on current market conditions and the best value criteria included in Texas Education Code 51.9335.

**1.5 Transition Period Intentionally omitted**

**1.6 Group Purchase Authority**

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

**1.7 Addenda and Additional RFP Documents**

Any addenda or other subsequently released RFP documents will be posted to the University's online solicitation website [www.bidnetdirect.com/arlington](http://www.bidnetdirect.com/arlington) (BidNet). They will not be sent directly to potential proposers. It is the Proposer's responsibility to periodically check the BidNet website [www.bidnetdirect.com/arlington](http://www.bidnetdirect.com/arlington) for additional RFP documents.

**1.8 Parking**

To be aware of the requirements and options available for parking, employees of companies who park their personal vehicle in UTA parking facilities, or any property owned or controlled by UTA, to perform their duties are encouraged to visit the University's Parking and Transportation Services website at <https://www.uta.edu/pats/parking/contractor-vendor.php>

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## SECTION 2

**NOTICE TO PROPOSER****2.1 Submittal Deadline**

University will accept proposals until **3:00 p.m.** Central Standard Time (CST), on March 7, 2025 (**Submittal Deadline**).

**2.2 RFP Contact Information and Questions**

Proposers and other Interested parties must direct all questions or concerns regarding this RFP to the following University contact (the “**University Contact**”). Any direct contact with the end user or other University personnel related to this RFP outside of a Procurement-lead meeting or discussion may be grounds for disqualification of proposal:

Nancy Czarowitz  
Contract Specialist  
Email: czarowitz@uta.edu  
RFP No. UTA2025-006

The University instructs interested parties to restrict all contact and questions regarding this RFP to written communications delivered (i) in accordance with this Section on or before 5:00 p.m. CST February 20, 2025 (**Question Deadline**).

University will provide responses as soon as practicable following the Question Deadline. University intends to respond to all timely submitted questions. However, University reserves the right to decline to respond to any question.

**2.3 Criteria for Selection**

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

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

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

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

**2.3.1 Threshold Criteria Not Scored**

2.3.1.1 Ability of University to comply with laws regarding purchases from persons with disabilities.

**2.3.2 Scored Criteria**

2.3.2.1 Proposed revenue share structure from the propose (15%);

2.3.2.2 Reputation of the Proposer and of the Proposer's goods or services (15% total)

- Based on a survey of references as well as general industry knowledge of the evaluation team. (10%)

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- How many public assembly venues in the DFW market does your company provide services at? Please provide venue information, extent of services provided and references. By listing references, respondent agrees that these references may be contacted and considered in the evaluation of the response. (5%)

Please include:

Company/Venue Name

Venue Capacity

Address

Contact Person

Phone

Email of Contact Person

Number of annual events in venue

2.3.2.3 Quality of Proposer's Goods or Services (15%)

- Please provide information and visual samples of the types of floral and souvenir items to be sold, including description and proposed sales price.

2.3.2.4 Extent to which the goods or services meet the University's needs (10% total);

- Does your company currently provide services for other large public assembly venues, including performing arts centers and arenas? Please indicate the total number of venues in each category. How many of these are collegiate venues? (5%)
- Please include a written management structure, including qualifications for management team personnel and staff-to-supervisor ratios. (5%)

2.3.2.5 Proposer's past relationship with the University (5%);

- Does your company currently provide, or has previously provided, floral sales services with UT Arlington or another UT System university?

2.3.2.6 Total long-term cost to the University of acquiring the Proposer's goods or services (0%);

2.3.2.7 Any other relevant factors that a private business entity would consider in selecting a vendor (40% total)

- How many years has your company provided floral sales services for graduations/commencement ceremonies? (5%)
- Types of product offerings for graduation/commencement ceremonies? (10%)
- Consumer purchase price of product offerings? (15%)
- Does your company offer the ability to order floral arrangements in advance via a web portal and pick up onsite? (10%)

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**2.4 Key Events Schedule**

|   |                                     |
|---|-------------------------------------|
| Date RFP Issued   | January 31, 2025                    |
| Non-Mandatory Pre-Proposal Conference<br>(ref. <b>Section 2.6</b> ) | February 13, 2025, at 9:00 a.m. CST |
| Question Deadline<br>(ref. <b>Section 2.2</b> )                     | February 20, 2025, at 5:00 p.m. CST |
| Submittal Deadline<br>(ref. <b>Section 2.1</b> )                    | March 6, 2025 ,at 3:00 p.m. CST     |

**2.5 Historically Underutilized Businesses - Intentionally omitted****2.6 Pre-Proposal Conference**

University will hold a non-mandatory pre-proposal conference at 9:00 a.m. on February 13, 2025. The pre-proposal conference will be held via Microsoft Teams using the hyperlink and contact information below. The pre-proposal conference will allow all Proposers an opportunity to ask University's representatives relevant questions and clarify provisions of this RFP.

The vendors who wish to join the meeting via Microsoft Teams need to click on the **Join Microsoft Teams Meeting** hyperlink below. You are encouraged to test the link and your connectivity prior to the meeting. Those that wish to call-in may do so by dialing the phone number provided below and using the Conference ID when prompted.

**Microsoft Teams** [Need help?](#)

[Join the meeting now](#)

Meeting ID: 227 602 132 485

Passcode: 8Bx3MB3V

**Dial in by phone**

[+1 817-502-2418,,248474777#](#) United States, Fort Worth

[Find a local number](#)

Phone conference ID: 248 474 777#

For organizers: [Meeting options](#) | [Reset dial-in PIN](#)

The University of Texas at Arlington is not responsible if you are not able to connect to the call for any reason.

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## SECTION 3

**SUBMISSION OF PROPOSAL****3.1 Number of Copies**

Proposer must submit a complete copy of its entire proposal according to the instructions provided in this RFP. A signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) of the submitted proposal.

**3.2 Submission**

University will not accept proposals submitted by email or fax. All proposals and required documents must be submitted through the University's online portal at [www.bidnetdirect.com/arlington](http://www.bidnetdirect.com/arlington).

**3.3 Proposal Validity Period**

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

**3.4 Terms and Conditions**

3.4.1 Proposer must comply with the requirements and specifications contained in this RFP, including the Terms and Conditions (ref. **Section 4** and **APPENDIX TWO**), the Notice to Proposer (ref. **Section 2**), Proposal Requirements (ref. **APPENDIX ONE**) and the Specifications and Additional Questions (ref. **Section 5**). If there is a conflict among the provisions in this RFP, the provision requiring Proposer to supply the better quality or greater quantity of services will prevail, or if such conflict does not involve quality or quantity, then interpretation will be in the following order of precedence:

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

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**3.5 Submittal Checklist**

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

- 3.5.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**)
- 3.5.2 Signed and Completed Pricing and Delivery Schedule (ref. **Section 6**)
- 3.5.3 Responses to Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**)
- 3.5.4 Signed and Completed Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**)
- 3.5.5 Responses to questions and requests for information in the Specifications and Additional Questions Section (ref. **Section 5**)
- 3.5.6 Information requested in **APPENDIX THREE**, Access by Individuals with Disabilities.
- 3.5.7 Responses to questions and requests for information in **APPENDIX FOUR**, Electronic and Information Resources Environment Specifications.
- 3.5.8 Responses to questions and requests for information in **APPENDIX FIVE**, Security Characteristics and Functionality of Contractor's Information Resources.
- 3.5.9 Information requested in **APPENDIX SIX**, Information Security Application Risk Assessment.

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## SECTION 4

**GENERAL TERMS AND CONDITIONS**

The terms and conditions contained in **APPENDIX TWO** or, in the sole discretion of University, terms and conditions substantially similar, will become a part of and govern any agreement that results from this RFP.

Even though **APPENDIX TWO** is only a sample of the terms and conditions, you must return any exceptions or proposed alternate language with your proposal submission.

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**SECTION 5****SPECIFICATIONS AND ADDITIONAL QUESTIONS****5.1 General**

Minimum requirements and specifications for Work, as well as certain requests for information to be provided by Proposer as part of its proposal, are set forth below. As indicated in **Section 2.3**, **Contractor** means the successful Proposer.

**5.2 Minimum Requirements**

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

- 5.2.1 Have no less than three (3) years of continuous operations in the provision of floral sales services for graduation ceremonies at large venues, schools and universities.
- 5.2.2 Must have a local source for floral supplies to restock for multi-day events.
- 5.2.3 Proposer shall provide all necessary point of sale equipment and table skirts needed for onsite sales. Venue will provide tables

**5.3 Additional Questions Specific to this RFP**

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

- 5.3.1 If Proposer takes exception to any terms or conditions set forth in **APPENDIX TWO**), Proposer must submit a list of the exceptions.

**5.4 Scope of Work**

Contractor will provide the following services to University:

- 5.4.1 Floral and souvenir sales for graduation/commencement ceremonies and other select events at College Park Center (7,000-seat arena) and Texas Hall (2,700-seat performing arts venue). Typical annual schedule includes:
  - University of Texas at Arlington Commencements – three (3) ceremonies in December, 6000 graduates and approximately 35,000 guests (daily numbers)
  - University of Texas at Arlington Commencements – three (3) ceremonies in May, 6,000 graduates and approximately 35,000 guests (daily numbers)
  - Twelve (12) high school graduation ceremonies at College Park Center, averaging 600 graduates and 4,500 guests each
  - Four (4) high school graduation ceremonies at Texas Hall, averaging 150 graduates and 1,800 guests each
- 5.4.2 Does your company currently provide floral sales services for large public assembly venues, including performing arts centers, arenas, stadium and convention centers, or other universities or large school districts? Please indicate the total number of each category. How many of these are collegiate venues?

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- 5.4.3 How many years has your company provided similar floral sales services for graduation/commencement ceremonies?
- 5.4.4 How many school/venues in the north Texas region does your company provide services at? Please provide venue information, extent of services provided and references. By listing references, respondent agrees that these references may be contacted and considered in the evaluation of the response.

Please include:

Company/Venue Name  
Venue Capacity  
Address  
Contact Person  
Phone  
Email of Contact Person  
Number of annual events in venue

- 5.4.5 Include no less than three (3) specific examples that prove the ability to handle multiple large events in different venues on the same day.
- 5.4.6 Cut flowers in this class must be of good quality. They must have the characteristics of the species and of the variety (cultivar).

All parts of the cut flowers must be:

- practically free of damage caused by parasites of animal or vegetable origin
- practically free of visible extraneous matters affecting the appearance
- practically free of defects of development
- practically free of bruising.

Stems must be rigid, practically straight, sufficiently strong and single, with healthy leaves.

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## SECTION 6

PRICING AND DELIVERY SCHEDULE

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

**To:** University of Texas at Arlington

**RFP No.:** UTA2025-006

Ladies and Gentlemen:

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

**6.1** As this is a revenue-generating contract for UTA, please state revenue share percentage to be paid to UTA:

\_\_\_\_\_ %

Respectfully submitted,

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

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

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

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

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

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**APPENDIX ONE**  
**PROPOSAL REQUIREMENTS**

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- SECTION 1: GENERAL INFORMATION**
- SECTION 2: EXECUTION OF OFFER**
- SECTION 3: PROPOSER'S GENERAL QUESTIONNAIRE**
- SECTION 4: ADDENDA CHECKLIST**

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**SECTION 1****GENERAL INFORMATION****1.1 Purpose**

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

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

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

**1.2 Inquiries and Interpretations**

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

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

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

**1.3 Public Information**

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

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

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

**1.4 Type of Agreement**

Contractor, if any, will be required to enter into a contract with University in a form that (i) includes terms and conditions substantially similar to the terms and conditions set forth in **APPENDIX TWO**, and (ii) is otherwise acceptable to University in all respects (**Agreement**).

**1.5 Proposal Evaluation Process**

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

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

University may discuss and negotiate all elements of proposals submitted by Proposers within a specified competitive range. For purposes of negotiation, University may establish, after an initial review of the proposals, a competitive range of acceptable or potentially acceptable proposals composed of the highest rated proposal(s). In that event, University may defer further action on proposals not included within the

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competitive range pending the selection of Contractor; provided, however, University reserves the right to include additional proposals in the competitive range if deemed to be in the best interest of University.

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

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

#### **1.6 Proposer's Acceptance of RFP Terms**

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

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

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

#### **1.8 Proposal Requirements and General Instructions**

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

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**1.9 Preparation and Submittal Instructions****1.9.1 Specifications and Additional Questions**

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

**1.9.2 Execution of Offer**

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

**1.9.3 Pricing and Delivery Schedule**

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

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

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

**1.9.4 Proposer's General Questionnaire**

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

**1.9.5 Addenda Checklist**

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

**1.9.6 Submission**

Proposer should submit all proposal materials through the University's online portal at [www.bidnetdirect.com/arlington](http://www.bidnetdirect.com/arlington).

University will not under any circumstances consider a proposal that is received after the Submittal Deadline. University will not accept proposals submitted by telephone, email or FAX transmission.

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

## SECTION 2

EXECUTION OF OFFER

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

**2.1 Representations and Warranties.** Proposer represents, warrants, certifies, acknowledges, and agrees as follows:

- 2.1.1 Proposer will furnish Work to University and comply with all terms, conditions, requirements and specifications set forth in this RFP and any resulting Agreement.
- 2.1.2 This RFP is a solicitation for a proposal and is not a contract or an offer to contract. Submission of a proposal by Proposer in response to this RFP will not create a contract between University and Proposer. University has made no representation or warranty, written or oral, that one or more contracts with University will be awarded under this RFP. Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
- 2.1.3 Proposer is a reputable company that is lawfully and regularly engaged in providing Work.
- 2.1.4 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform Work.
- 2.1.5 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances relating to performance of Work.
- 2.1.6 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in the Agreement under which Proposer will be required to operate.
- 2.1.7 Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
- 2.1.8 Proposer will maintain any insurance coverage required by the Agreement during the entire term.
- 2.1.9 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. University will rely on such statements, information and representations in selecting Contractor. If selected by University, Proposer will notify University immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
- 2.1.10 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, INDEMNIFY, AND HOLD HARMLESS UNIVERSITY, UT SYSTEM, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM (1) ANY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE PERFORMANCE, EXECUTION OR SUBMISSION OF THIS RFP OR (2) PROPOSER'S PERFORMANCE UNDER ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFP.
- 2.1.11 Pursuant to §§[2107.008](#) and [2252.903](#), *Government Code*, any payments owing to Proposer under the Agreement may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until such debt or delinquency is paid in full.
- 2.1.12 Any terms, conditions, or documents attached to or referenced in Proposer's proposal are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFP, and (b) do not place any requirements on University that are not set forth in this RFP. Submission of a proposal is Proposer's good faith intent to enter into the Agreement with University as specified in this RFP and that Proposer's intent is not contingent upon University's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.
- 2.1.13 Pursuant to [Chapter 2271, Texas Government Code](#), Contractor certifies Contractor (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 2.1.14 Pursuant to [Subchapter F, Chapter 2252, Texas Government Code](#), Proposer certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Proposer acknowledges any contract or agreement resulting from this RFP may be terminated and payment withheld if this certification is inaccurate.

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- 2.1.15 Pursuant to [Chapter 2274, Texas Government Code](#), Proposer verifies (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) it will not discriminate during the term of any contract or agreement resulting from this RFP against a firearm entity or firearm trade association. Proposer acknowledges any contract or agreement resulting from this RFP may be terminated and payment withheld if this verification is inaccurate.
- 2.1.16 Pursuant to [Chapter 2276, Texas Government Code](#), Proposer verifies (1) it does not boycott energy companies and (2) it will not boycott energy companies during the term of any contract or agreement resulting from this RFP. Proposer acknowledges any contract or agreement resulting from this RFP may be terminated and payment withheld if this verification is inaccurate.
- 2.1.17 Pursuant to Section 161.0085, *Texas Health and Safety Code (enacted by [SB 968, 87<sup>th</sup> Texas Legislature, Regular Session \(2021\)](#))*, Proposer certifies that it does not require a customer to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Proposer's business. Proposer acknowledges any contract or agreement resulting from this RFP may be terminated and payment withheld if this certification is inaccurate.
- 2.1.18 Pursuant to [Executive Order GA-48 of the Governor of Texas effective November 19, 2024](#), Proposer certifies that it and, if applicable, any of its holding companies or subsidiaries, is not:
- Listed in Section 889 of the 2019 National Defense Authorization Act (NDAA); or
  - Listed in Section 1260H of the 2021 NDAA; or
  - Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4; or
  - Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.
- 2.2 No Benefit to Public Servants.** Proposer has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its proposal. Failure to sign this [Execution of Offer](#), or signing with a false statement, may void the submitted proposal or any resulting Agreement, and Proposer may be removed from all proposer lists at University.
- 2.3 Tax Certification.** Proposer is not currently delinquent in the payment of any taxes due under [Chapter 171, Tax Code](#), or Proposer is exempt from the payment of those taxes, or Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at University's option, may result in termination of any resulting Agreement.
- 2.4 Antitrust Certification.** Neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, nor anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in [§15.01 et seq., Business and Commerce Code](#), or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.
- 2.5 Authority Certification.** The individual signing this document and the documents made a part of this RFP, is authorized to sign the documents on behalf of Proposer and to bind Proposer under any resulting Agreement.
- 2.6 Child Support Certification.** Under [§231.006, Family Code](#), relating to child support, the individual or business entity named in Proposer's proposal is not ineligible to receive award of the Agreement, and any Agreements resulting from this RFP may be terminated if this certification is inaccurate.
- 2.7 Relationship Certifications.**
- No relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture, or the members or managers of any Proposer that is a limited liability company, on one hand, and an employee of any member institution of UT System, on the other hand, other than the relationships which have been previously disclosed to University in writing.
  - Proposer has not been an employee of any member institution of UT System within the immediate twelve (12) months prior to the Submittal Deadline.
  - No person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Proposer's proposal or any contract resulting from this RFP (ref. [§669.003, Government Code](#)).
  - All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before University enters into any Agreement resulting from this RFP with Proposer.
- 2.8 Compliance with Equal Employment Opportunity Laws.** Proposer is in compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 2.9 Compliance with Safety Standards.** All products and services offered by Proposer to University in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law ([Public Law 91-596](#)) and the *Texas Hazard Communication Act*, [Chapter 502, Health and Safety Code](#), and all related regulations in effect or proposed as of the date of this RFP.

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

**2.11 Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act Certification.** If Proposer will sell or lease computer equipment to University under any Agreement resulting from this RFP then, pursuant to [§361.965\(c\), Health & Safety Code](#), Proposer is in compliance with the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in [Chapter 361, Subchapter Y, Health & Safety Code](#), and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in [30 TAC Chapter 328, §361.952\(2\), Health & Safety Code](#), states that, for purposes of the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act, the term "computer equipment" means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.

**2.12 Television Equipment Recycling Program Certification.** If Proposer will sell or lease covered television equipment to University (as defined in [§361.971\(3\), Texas Health and Safety Code](#)) under any Agreement resulting from this RFP then, pursuant to [§361.991, Texas Health and Safety Code](#), Proposer is full compliance with the Television Equipment Recycling Program set forth in [Subchapter Z, Chapter 361, Texas Health and Safety Code](#) and [30 TAC Chapter 328, Subchapter J](#).

**2.13 Conflict of Interest Certification.**

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

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

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

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

RFP No.: UTA2025-006

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

**Submitted and Certified By:**

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

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

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

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

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

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

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

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(FAX Number)

---

(Email Address)

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**SECTION 3****PROPOSER'S GENERAL QUESTIONNAIRE**

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

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

**3.1 Proposer Profile**

3.1.1 Legal name of Proposer company:

\_\_\_\_\_

Address of principal place of business:

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_

\_\_\_\_\_

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

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

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

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

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

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

3.1.2 State whether Proposer will provide a copy of its financial statements for the past two (2) years, if requested by University.

3.1.3 Proposer will provide a financial rating of the Proposer entity and any related documentation (such as a Dunn and Bradstreet analysis) that indicates the financial stability of Proposer.

3.1.4 Is Proposer currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, Proposer will explain the expected impact, both in organizational and directional terms.

3.1.5 Proposer will provide any details of all past or pending litigation or claims filed against Proposer that would affect its performance under the Agreement with University (if any).

3.1.6 Is Proposer currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, Proposer will specify the pertinent date(s), details, circumstances, and describe the current prospects for resolution.

3.1.7 Proposer will provide a customer reference list of no less than three (3) organizations with which Proposer currently has contracts and/or to which Proposer has previously provided services (within the past five (5) years) of a type and scope similar to those required

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by University's RFP. Proposer will include in its customer reference list the customer's company name, contact person, telephone number, project description, length of business relationship, and background of services provided by Proposer.

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

### 3.2 Approach to Work

- 3.2.1 Proposer will provide a statement of the Proposer's service approach and will describe any unique benefits to University from doing business with Proposer. Proposer will briefly describe its approach for each of the required services identified in **Section 5.4** Scope of Work of this RFP.
- 3.2.2 Proposer will provide an estimate of the earliest starting date for services following execution of the Agreement.
- 3.2.3 Proposer will submit a work plan with key dates and milestones. The work plan should include:
- 3.2.3.1 Identification of tasks to be performed;
  - 3.2.3.2 Time frames to perform the identified tasks;
  - 3.2.3.3 Project management methodology;
  - 3.2.3.4 Implementation strategy; and
  - 3.2.3.5 The expected time frame in which the services would be implemented.
- 3.2.4 Proposer will describe the types of reports or other written documents Proposer will provide (if any) and the frequency of reporting, if more frequent than required in this RFP. Proposer will include samples of reports and documents if appropriate.
- 3.2.5 Proposer must select, and if necessary complete, one of the following two options regarding cloud computing services ("CCSs"):
- \_\_\_\_\_ **OPTION 1:** Proposer represents and warrants that it will not provide any CCSs either through this Agreement or in furtherance of this Agreement, as provided in Section 2.16 of Appendix One.
- \_\_\_\_\_ **OPTION 2:** Proposer represents and warrants that it will provide the following CCSs either through this Agreement or in furtherance of this Agreement, as provided in Section 2.16 of Appendix One:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

### 3.3 General Requirements

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

### 3.4 Service Support

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

### 3.5 Quality Assurance

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

**3.6 Miscellaneous**

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

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**SECTION 4**  
**ADDENDA CHECKLIST**

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

**To:** University of Texas at Arlington

**RFP No.:** UTA2025-006

Ladies and Gentlemen:

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

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

Respectfully submitted,

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

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

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

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

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

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## APPENDIX TWO

## TERMS AND CONDITIONS

1. **Payment.** University agrees to pay fees due under this Agreement in accordance with the Texas Prompt Payment Act (**Act**), [Chapter 2251, Texas Government Code](#). Pursuant to the Act, payment shall be deemed late on the 31<sup>st</sup> day after the later of: 1) the date the University receives the goods under this Agreement, 2) the date the performance of the services under this Agreement is completed, or 3) the date University receives an invoice for the goods or services. University will be responsible for interest on overdue payments equal to the sum of: 1) one percent, plus 2) the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year (University's fiscal year begins September 1) that does not fall on a Saturday or Sunday. University will have the right to verify the details set forth in Contractor's invoices and supporting documentation, either before or after payment, by (a) inspecting the books and records of Contractor at mutually convenient times; (b) examining any reports with respect to the Project; and (c) other reasonable action. The cumulative amount of all payments will not exceed the amount of this Agreement.

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

2. **Prompt Payment Discount.** Intentionally omitted
3. **Tax Exemption.** University (a State agency) is exempt from Texas Sales & Use Tax on Work in accordance with [§151.309, Texas Tax Code](#) and [34 Texas Administrative Code \(TAC\) §3.322](#). Pursuant to [34 TAC §§3.322\(c\)\(4\)](#) and (g)(3), this Agreement is sufficient proof of University's tax exempt status and University is not required to provide further evidence of its exempt status.
4. **Contractor's Obligations.**
  - 4.1 Contractor will perform Work in compliance with (a) all federal, state or local, laws, statutes, regulations and ordinances (collectively, **Applicable Laws**), and (b) the Board of Regents of The University of Texas System *Rules and Regulations* (<http://www.utsystem.edu/offices/board-regents/regents-rules-and-regulations>) the rules, regulations, and policies of The University of Texas System (<https://www.utsystem.edu/sites/policy-library>); and the institutional rules, regulations and policies of University ( ) (collectively, **University Rules**). Contractor represents and warrants that neither Contractor nor any firm, corporation or institution represented by Contractor, or anyone acting for the firm, corporation or institution, (1) has violated the antitrust laws of the State of Texas, [Chapter 15, Texas Business and Commerce Code](#), or federal antitrust laws, or (2) has communicated directly or indirectly the content of Contractor's response to University's procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for this Agreement.
  - 4.2 Contractor represents and warrants that (a) it will use its best efforts to perform Work in a good and workmanlike manner and in accordance with the highest standards of Contractor's profession or business, and (b) all Work performed will be of the quality that prevails among similar businesses of superior knowledge and skill engaged in providing similar services in major United States urban areas under the same or similar circumstances.
  - 4.3 Contractor will call to University's attention in writing all information in any materials supplied to Contractor (by University or any other party) that Contractor regards as unsuitable, improper or inaccurate in connection with the purposes for which the material is furnished.
  - 4.4 University at all times is relying on Contractor's skill and knowledge in performing Work. Contractor represents and warrants that Work will be accurate and free from any material defects. Contractor's duties and obligations under this Agreement will not be in any way diminished by reason of any approval by University. Contractor will not be released from any liability by reason of any approval by University.

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- 4.5 Contractor will, at its own cost, correct all material defects in Work as soon as practical after Contractor becomes aware of the defects. If Contractor fails to correct material defects in Work within a reasonable time, then University may correct the defective Work at Contractor's expense. This remedy is in addition to, and not in substitution for, any other remedy for defective Work that University may have at law or in equity.
- 4.6 Contractor will maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this Agreement. Contractor will cause all persons connected with Contractor directly in charge of Work to be duly registered and licensed under all Applicable Laws. Contractor will assign to the Project a designated representative who will be responsible for administration and coordination of Work.
- 4.7 Contractor represents and warrants it is duly organized, validly existing and in good standing under the laws of the state of its organization; it is duly authorized and in good standing to conduct business in the State of Texas; it has all necessary power and has received all necessary approvals to execute and deliver this Agreement; and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.
- 4.8 Contractor represents and warrants that neither the execution and delivery of this Agreement by Contractor nor the performance of its duties and obligations under this Agreement will (a) result in the violation of any provision of its organizational documents; (b) result in the violation of any provision of any agreement by which it is bound; or (c) conflict with any order or decree of any court or other body or authority having jurisdiction.
- 4.9 Intentionally omitted
- 4.10 Intentionally omitted
- 4.11 If this Agreement requires Contractor's presence on University's premises or in University's facilities, Contractor agrees to cause its employees, representatives, agents, or subcontractors to become aware of, fully informed about, and in full compliance with all applicable University Rules, including those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.
5. **Texas Family Code Child Support Certification.** Pursuant to [§231.006, Texas Family Code](#), Contractor certifies it is not ineligible to receive the award of or payments under this Agreement, and acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
6. **Tax Certification.** If Contractor is a taxable entity as defined by [Chapter 171, Texas Tax Code](#), then Contractor certifies it is not currently delinquent in the payment of any taxes due under Chapter 171, Contractor is exempt from the payment of those taxes, or Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.
7. **Payment of Debt or Delinquency to the State.** Pursuant to [§§2107.008](#) and [2252.903, Texas Government Code](#), Contractor agrees any payments owing to Contractor under this Agreement may be applied directly toward any debt or delinquency Contractor owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until paid in full.
8. **Loss of Funding.** Performance by University under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (**Legislature**) and/or allocation of funds by the Board of Regents of The University of Texas System (**Board**). If Legislature fails to appropriate or allot necessary funds, or Board fails to allocate necessary funds, then University will issue written notice to Contractor and University may terminate this Agreement without further duty or obligation. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond University's control.
9. **Notices.** Except as otherwise provided by this Section, notices, consents, approvals, demands, requests or other communications required or permitted under this Agreement, will be in writing and sent via certified mail, hand delivery, overnight courier, facsimile transmission (to the extent a facsimile number is provided below), or email (to the extent an email address is provided below) as indicated below, and notice will be deemed given (i) if delivered by certified mail, when deposited, postage prepaid, in the United States mail, or (ii) if delivered by hand, overnight courier, facsimile (to the extent a facsimile number is provided below) or email (to the extent an email address is provided below), when received:

If to University: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Fax: \_\_\_\_\_

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Email: \_\_\_\_\_  
Attention: \_\_\_\_\_

with copy to: \_\_\_\_\_  
\_\_\_\_\_

Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Attention: \_\_\_\_\_

If to Contractor: \_\_\_\_\_  
\_\_\_\_\_

Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Attention: \_\_\_\_\_

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

- 10. **State Auditor's Office.** Contractor understands acceptance of funds under this Agreement constitutes acceptance of authority of the Texas State Auditor's Office or any successor agency (**Auditor**), to conduct an audit or investigation in connection with those funds (ref. §§[51.9335\(c\)](#), [73.115\(c\)](#) and [74.008\(c\)](#), *Texas Education Code*). Contractor agrees to cooperate with Auditor in the conduct of the audit or investigation, including providing Auditor any information Auditor considers relevant to the investigation or audit. Contractor will include this provision in all contracts with permitted subcontractors. This provision is included pursuant to [Section 2262.154 of the Texas Government Code](#).
- 11. **Venue; Governing Law.** Tarrant County, Texas, will be the proper place of venue for suit on or in respect of this Agreement. This Agreement, all of its terms and conditions, all rights and obligations of the parties, and all claims arising out of or relating to this Agreement, will be construed, interpreted and applied in accordance with, governed by and enforced under, the laws of the State of Texas.
- 12. **Breach of Contract Claims.** To the extent that [Chapter 2260, Texas Government Code](#), as it may be amended from time to time (**Chapter 2260**), is applicable to this Agreement and is not preempted by other Applicable Laws, the dispute resolution process provided for in [Chapter 2260](#) will be used, as further described herein, by University and Contractor to attempt to resolve any claim for breach of contract made by Contractor:
  - 12.1. Contractor's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business will be submitted to the negotiation process provided in [subchapter B](#) of Chapter 2260. To initiate the process, Contractor will submit written notice, as required by [subchapter B](#) of Chapter 2260, to University in accordance with the notice provisions in this Agreement. Contractor's notice will specifically state that the provisions of [subchapter B](#) of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that University allegedly breached, the amount of damages Contractor seeks, and the method used to calculate the damages. Compliance by Contractor with [subchapter B](#) of Chapter 2260 is a required prerequisite to Contractor's filing of a contested case proceeding under [subchapter C](#) of Chapter 2260. The chief business officer of University, or another officer of University as may be designated from time to time by University by written notice to Contractor in accordance with the notice provisions in this Agreement, will examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve the claims.
  - 12.2. If the parties are unable to resolve their disputes under **Section 12.1** the contested case process provided in [subchapter C](#) of Chapter 2260 is Contractor's sole and exclusive process for seeking a remedy for any and all of Contractor's claims for breach of this Agreement by University.
  - 12.3. Compliance with the contested case process provided in [subchapter C](#) of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under [Chapter 107, Texas Civil Practices and Remedies Code](#). The parties hereto specifically agree that (i) neither the execution of this Agreement by University nor any other conduct, action or inaction of any representative of University relating to this Agreement constitutes or is intended to constitute a waiver of University's or the state's sovereign immunity to suit and (ii) University has not waived its right to seek redress in the courts.

- 12.4 The submission, processing and resolution of Contractor's claim is governed by the published rules adopted by the Texas Attorney General pursuant to [Chapter 2260](#), as currently effective, thereafter enacted or subsequently amended.
- 12.5 University and Contractor agree that any periods provided in this Agreement for notice and cure of defaults are not waived.

**13. Records.** Records of Contractor's costs, reimbursable expenses pertaining to the Work and payments will be available to University or its authorized representative during business hours and will be retained for seven (7) years after the expiration or termination of this Agreement or until all audit, claim, and litigation matters are resolved, whichever is later, unless University otherwise instructs Contractor in writing. (Ref. [Section 441.1855 of the Texas Government Code](#)).

**14. Insurance.**

14.1 Contractor, consistent with its status as an independent contractor will carry and will cause its subcontractors to carry, at least the following insurance, with companies authorized to do insurance business in the State of Texas or eligible surplus lines insurers operating in accordance with the [Texas Insurance Code](#), having an A.M. Best Rating of A-VIII or better, and in amounts not less than the following minimum limits for each coverage. The insurance requirements herein are minimum requirements for this Agreement and in no way limit Contractor's obligations (including Contractor's indemnity obligations) contained in this Agreement. Contractor is solely responsible for procuring insurance in addition to that set forth in this **Section 14** as Contractor determines is necessary to protect the Contractor or its agents, representatives, employees, or subcontractors.

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

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

Workers' Compensation policy must include identification of the U.S. states where Contractor is to perform Work for University.

14.1.2 Commercial General Liability Insurance should be provided on an occurrence basis with limits of not less than:

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

Contractor's Commercial General Liability Insurance policy must be on an ISO CG 00 01 or a substitute form providing equivalent coverage that includes bodily injury, property damage and liability assumed under an insured contract, including defense costs with respect to liability arising out of activities performed by or on behalf of Contractor.

14.1.3 Business Auto Liability Insurance must be on an ISO CA 00 01 or substitute form providing equivalent coverage that covers all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 single limit of liability per accident for Bodily Injury and Property Damage.

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

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14.1.4 Umbrella/Excess Liability Insurance with limits of not less than \$2,000,000 per occurrence and aggregate. The Umbrella/Excess Liability policy will be excess over and at least as broad as the underlying coverage as required under sections 14.1.1 Employer's Liability; 14.1.2 Commercial General Liability; and 14.1.3 Business Auto Liability Inception and expiration dates will be the same as the underlying policies. Drop down coverage will be provided for reduction or exhaustion of underlying aggregate limits and will provide a duty to defend for any insured.

14.1.5 Liquor Liability Insurance, Intentionally omitted

14.1.6 Professional Liability (Errors & Omissions) Insurance Intentionally omitted

14.1.7 Contractor's Employee Dishonesty Insurance Intentionally omitted

14.1.8 Contractor will maintain Cyber Liability insurance with limits of not less than \$10,000,000 for each cyber incident and that provides coverage for:

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

If the Cyber Liability policy is written on a claims-made basis, then (a) Contractor must ensure that the retroactive date for that policy is prior to the commencement of this Agreement, and (b) if non-renewed at any time during and up until the Work under this Agreement is completed, or the Agreement expires, is terminated or is cancelled, Contractor shall purchase an Extended Reporting Period for at least a two-year period.

14.2 Contractor will deliver to University:

14.2.1 After the execution and delivery of this Agreement and prior to the performance of any Work by Contractor, Contractor must provide evidence of insurance on a Texas Department of Insurance ("TDI") approved certificate form (the Acord form is a TDI-approved form) verifying the existence of all required insurance policies; and, if the coverage period shown on the current certificate form ends during the Term, then prior to the end of the coverage period, Contractor must provide a new certificate form verifying the continued existence of all required insurance policies. Certificates of Insurance shall reflect applicable limits, sub-limits, self-insured retentions, and deductibles provided by Contractor. The certificate of insurance must confirm the required coverages in the "Description of Operations" or "Additional Remarks" section or Contractor must provide a copy of

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the declarations page. In the event Contractor maintains broader coverage and/or higher limits than the minimums shown above, University requires and shall be entitled to the broader coverage and/or higher limits maintained by Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to University.

- 14.2.1.1 **All insurance policies** (except for workers' compensation, employer's liability, and professional liability) will be endorsed and name or list (1) University, (2) The University of Texas System, and (3) The University of Texas System Board of Regents as Additional Insureds for liability caused by Contractor's acts or omissions with respect to its on-going and completed operations. A Blanket Additional Insured Certificate is also acceptable. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage.
- 14.2.1.2 Contractor hereby waives all rights of subrogation against (1) University, (2) The University of Texas System, and (3) The University of Texas System Board of Regents. **All insurance policies** will be endorsed to provide a waiver of subrogation in favor of the entities identified in the preceding sentence. A Blanket Waiver of Subrogation Certificate is also acceptable. No policy will be canceled until after thirty (30) days' unconditional written notice to University. Contractor will send notice to University thirty (30) days in advance of any cancellation, material change, or non-renewal relating to any insurance policy required in this **Section 14**.
- 14.2.1.3 Contractor will pay any deductible or self-insured retention and be responsible for any applicable policy waiting periods for claims covered by policies Contractor is required to provide under this Agreement.
- 14.2.1.4 Certificates of Insurance: Additional Insured/Blanket Additional Insured, Waiver of Subrogation/Blanket Waiver of Subrogation Endorsements as required by this Agreement will be mailed, faxed, or emailed to the following University contact:

Name:  
Address:  
Facsimile Number:  
Email Address:

- 14.3 Subject to Section 33, herein, Contractor's insurance will be kept in force until all Work has been fully performed and accepted by University in writing or the Agreement expires, is terminated or is cancelled, whichever is later.
- 14.4 University reserves the right to approve the security of the insurance coverages provided by Contractor's Insurers, as well as the terms, conditions, and Certificates of Insurance. Failure of Contractor to fully comply with the requirements of this **Section 14** is a material breach of the Agreement and, notwithstanding any requirements for notice and opportunity to cure in **Article 25** herein, is a basis for immediate termination of the Agreement by University, at University's election.
- 14.5 Nothing in this Agreement shall be deemed to limit Contractor's liability under this Agreement to the insurance coverages required by this **Section 14**. No limitation of liability provided to Contractor under this Agreement, if any, is intended nor shall run to the benefit of any insurance company or in any way prejudice, alter, diminish, abridge or reduce, in any respect, the amount of proceeds of insurance otherwise payable to University under the insurance coverages required to be carried by Contractor under this Agreement, it being the intent of the Parties that the full amount of insurance coverage bargained for be actually available notwithstanding any limitation of liability contained in this Agreement.

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**15. Indemnification.**

- 15.1 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS UNIVERSITY, THE UNIVERSITY OF TEXAS SYSTEM, AND THEIR RESPECTIVE AFFILIATED ENTERPRISES, REGENTS, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND AGENTS (COLLECTIVELY, **INDEMNITEES**) FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING (COLLECTIVELY, **CLAIMS**) BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED BY, OR RESULTING (1) FROM CONTRACTOR'S PERFORMANCE UNDER OR BREACH OF THIS AGREEMENT AND/OR (2) IN WHOLE OR IN PART FROM ANY NEGLIGENT ACT, NEGLIGENT OMISSION OR WILLFUL MISCONDUCT OF CONTRACTOR, ANYONE DIRECTLY EMPLOYED BY CONTRACTOR OR ANYONE FOR WHOSE ACTS CONTRACTOR MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.
- 15.2 IN ADDITION, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY INTEREST ARISING BY OR OUT OF THE PERFORMANCE OF SERVICES OR THE PROVISION OF GOODS BY CONTRACTOR, OR THE USE BY INDEMNITEES, AT THE DIRECTION OF CONTRACTOR, OF ANY ARTICLE OR MATERIAL; PROVIDED, THAT, UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR INFRINGEMENT, UNIVERSITY WILL PROMPTLY NOTIFY CONTRACTOR AND CONTRACTOR WILL BE GIVEN THE OPPORTUNITY TO NEGOTIATE A SETTLEMENT. IN THE EVENT OF LITIGATION, UNIVERSITY AGREES TO REASONABLY COOPERATE WITH CONTRACTOR. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

- 16. Ethics Matters; No Financial Interest.** Contractor and its employees, agents, representatives and subcontractors have read and understand University's Conflicts of Interest Policy at <http://www.utsystem.edu/board-of-regents/policy-library/policies/int180-conflicts-interest-conflicts-commitment-and-outside->, University's Standards of Conduct Guide at <https://www.utsystem.edu/documents/docs/policies-rules/ut-system-administration-standards-conduct-guide>, and Contractor and its employees, agents, representatives and subcontractors have read and understand University's Conflicts of Interest Policy and the University's Standards of Conduct Guide at <https://www.uta.edu/compliance/> and applicable state ethics laws and rules at <https://www.utsystem.edu/offices/systemwide-compliance/ethics>. Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause University employees to violate University's Conflicts of Interest Policy, University's Standards of Conduct Guide, or applicable state ethics laws or rules. Contractor represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

If applicable, Contractor agrees to comply with [§2252.908, Texas Government Code \(Disclosure of Interested Parties Statute\)](#), and [1 TAC §§46.1 through 46.5 \(Disclosure of Interested Parties Regulations\)](#), as implemented by the Texas Ethics Commission (TEC), including, among other things, providing the TEC and University with information required on the form promulgated by TEC. Contractor may learn more about these disclosure requirements, including the use of TEC's electronic filing system, by reviewing the information on TEC's website at [https://www.ethics.state.tx.us/resources/FAQs/FAQ\\_Form1295.php](https://www.ethics.state.tx.us/resources/FAQs/FAQ_Form1295.php).

- 17. Undocumented Workers.** The *Immigration and Nationality Act (8 USC §1324a) (Immigration Act)* makes it unlawful for an employer to hire or continue employment of undocumented workers. The United States Immigration and Customs Enforcement Service has established the [Form I-9 Employment Eligibility Verification Form \(I-9 Form\)](#) as the document to be used for employment eligibility verification ([8 CFR §274a](#)). Among other things, Contractor is required to: (1) have all employees complete and sign the I-9 Form certifying that they are eligible for employment; (2) examine verification documents required by the I-9 Form to be presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the I-9 Form, and complete the certification portion of the I-9 Form; and (4) retain the I-9 Form as required by Applicable Laws. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status. If Contractor employs unauthorized workers during performance of this Agreement in violation of the Immigration Act then, in addition to other remedies or penalties prescribed by Applicable Laws, University may terminate this Agreement in accordance with **Section 25**. Contractor represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.
- 18. Force Majeure.** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character (**force majeure occurrence**). Provided, however, in the event of a force majeure occurrence,

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Contractor agrees to use its best efforts to mitigate the impact of the occurrence so that University may continue to provide during the occurrence.

19. **Entire Agreement; Modifications.** This Agreement (including all exhibits, schedules, supplements and other attachments (collectively, **Exhibits**)) supersedes all prior agreements, written or oral, between Contractor and University and will constitute the entire agreement and understanding between the parties with respect to its subject matter. This Agreement and each of its provisions will be binding upon the parties, and may not be waived, modified, amended or altered, except by a writing signed by University and Contractor. All Exhibits are attached to this Agreement and incorporated for all purposes.
20. **Captions.** The captions of sections and subsections in this Agreement are for convenience only and will not be considered or referred to in resolving questions of interpretation or construction.
21. **Waivers.** No delay or omission in exercising any right accruing upon a default in performance of this Agreement will impair any right or be construed to be a waiver of any right. A waiver of any default under this Agreement will not be construed to be a waiver of any subsequent default under this Agreement.
22. **Ownership and Use of Work Material.** Intentionally omitted
23. **Confidentiality and Safeguarding of University Records; Press Releases; Public Information.** Under this Agreement, Contractor may (1) create, (2) receive from or on behalf of University, or (3) have access to, records or record systems (collectively, **University Records**). Among other things, University Records may contain social security numbers, credit card numbers, or data protected or made confidential or sensitive by Applicable Laws. Contractor represents, warrants, and agrees that it will: (1) hold University Records in strict confidence and will not use or disclose University Records except as (a) permitted or required by this Agreement, (b) required by Applicable Laws, or (c) otherwise authorized by University in writing; (2) safeguard University Records according to the security controls, including reasonable administrative, physical and technical standards (such as standards established by the National Institute of Standards and Technology and the Center for Internet Security, as well as the Payment Card Industry Data Security Standards) that are proportionate to the University's risk under the Agreement based on the sensitivity of University's Records, and no less rigorous than the standards by which Contractor protects its own confidential information, and periodically provide to University evidence that Contractor meets the security controls required under the Agreement; (3) continually monitor its operations and take any action necessary to assure that University Records are safeguarded and the confidentiality of University Records is maintained in accordance with all Applicable Laws and the terms of this Agreement; and (4) comply with University Rules regarding access to and use of University's computer systems, including UTS165 at <https://www.utsystem.edu/sites/policy-library/policies/uts-165-information-resources-use-and-security-policy>. At the request of University, Contractor agrees to provide University with a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of University Records.
24. **HIPAA Compliance.** Intentionally omitted
25. **Default and Termination**
- 25.1 In the event of a material failure by a party to this Agreement to perform in accordance with its terms (**default**), the other party may terminate this Agreement upon fifteen (15) days' written notice of termination setting forth the nature of the material failure; provided, that, the material failure is through no fault of the terminating party. The termination will not be effective if the material failure is fully cured prior to the end of the fifteen-day (15-day) period.
- 25.2 University may, without cause, terminate this Agreement at any time upon giving seven (7) days' advance written notice to Contractor. Upon termination pursuant to this Section, Contractor will be entitled to payment of an amount that will compensate Contractor for Work satisfactorily performed from the time of the last payment date to the termination date in accordance with this Agreement; provided, that, Contractor has delivered all Work Material to University. Notwithstanding any provision in this Agreement to the contrary, University will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice, that could have been avoided or mitigated by Contractor.
- 25.3 Termination under **Sections 25.1** or **25.2** will not relieve Contractor from liability for any default or breach under this Agreement or any other act or omission of Contractor.

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- 25.4 If Contractor fails to cure any default within fifteen (15) days after receiving written notice of the default, University will be entitled (but will not be obligated) to cure the default and will have the right to offset against all amounts due to Contractor under this Agreement any and all reasonable expenses incurred in connection with University's curative actions.
26. **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors.
27. **Severability.** In case any provision of this Agreement will, for any reason, be held invalid or unenforceable in any respect, the invalidity or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if the invalid or unenforceable provision had not been included.
28. **Limitation of Liability.** EXCEPT FOR UNIVERSITY'S OBLIGATION (IF ANY) TO PAY CONTRACTOR CERTAIN FEES AND EXPENSES UNIVERSITY WILL HAVE NO LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT. NOTWITHSTANDING ANY DUTY OR OBLIGATION OF UNIVERSITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR, NO PRESENT OR FUTURE AFFILIATED ENTERPRISE, SUBCONTRACTOR, AGENT, OFFICER, DIRECTOR, EMPLOYEE, REPRESENTATIVE, ATTORNEY OR REGENT OF UNIVERSITY, OR THE UNIVERSITY OF TEXAS SYSTEM, OR ANYONE CLAIMING UNDER UNIVERSITY HAS OR WILL HAVE ANY PERSONAL LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT.
29. **Assignment and Subcontracting.** Intentionally omitted
30. **Subcontracting.** Intentionally omitted
31. **Historically Underutilized Business Subcontracting Plan.** Intentionally omitted
32. **Responsibility for Individuals Performing Work; Criminal Background Checks.** Each individual who is assigned to perform Work under this Agreement will be an employee of Contractor or an employee of a subcontractor engaged by Contractor. Contractor is responsible for the performance of all individuals performing Work under this Agreement. Prior to commencing Work, Contractor will (1) provide University with a list (**List**) of all individuals who may be assigned to perform Work, and (2) have an appropriate criminal background screening performed on all the individuals. Contractor will determine on a case-by-case basis whether each individual assigned to perform Work is qualified to provide the services. Contractor will not knowingly assign any individual to provide services on University's campus who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses. Contractor will update the List each time there is a change in the individuals assigned to perform Work.
- Prior to commencing performance of Work under this Agreement, Contractor will provide University a letter signed by an authorized representative of Contractor certifying compliance with this Section. Contractor will provide University an updated certification letter each time there is a change in the individuals assigned to perform Work.
33. **Limitations.** THE PARTIES ARE AWARE THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS (**LIMITATIONS**) ON THE AUTHORITY OF UNIVERSITY (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS THAT MAY BE PART OF THIS AGREEMENT, INCLUDING TERMS AND CONDITIONS RELATING TO LIENS ON UNIVERSITY'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY, AND TERMS AND CONDITIONS RELATED TO LIMITATIONS WILL NOT BE BINDING ON UNIVERSITY EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.
34. **Survival of Provisions.** No expiration or termination of this Agreement will relieve either party of any obligations under this Agreement that by their nature survive expiration or termination.
35. **Relationship of the Parties.** For all purposes of this Agreement and notwithstanding any provision of this Agreement to the contrary, Contractor is an independent contractor and is not a state employee, partner, joint venturer, or agent of University. Contractor will not bind nor attempt to bind University to any agreement or contract. As an independent contractor, Contractor is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including workers' compensation insurance.
36. **State of Texas Computer Equipment Recycling Program Certification.** Intentionally omitted

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37. **Quality Assurance.** C Intentionally omitted
38. **External Terms.**
39. **Certifications of Nonsegregated Facilities and Equal Employment Opportunities Compliance.** Intentionally omitted
40. **Debarment.** Intentionally omitted
41. **Office of Inspector General Certification.** Intentionally omitted
42. **Access to Documents.** Intentionally omitted
43. **Affirmative Action.** Intentionally omitted
44. **OSHA Compliance.** T Intentionally omitted
45. **Discrimination Prohibited.** Intentionally omitted
46. **Federal Requirements for Telecommunications Equipment or Services.** Intentionally omitted
47. **FERPA Compliance.** Intentionally omitted
48. **Payment Card Industry Standards.** University is required to validate compliance on a periodic basis with applicable Payment Card Industry Data Security Standards (**PCI DSS**), including Payment Application Data Security Standards (**PA DSS**), promulgated by the Payment Card Industry Security Standards Council (**PCI SSC**). The compliance validation process requires University to undergo an assessment of (1) system components used to process, store or transmit cardholder data, and any other components that reside on the same network segment as those system components, as well as (2) related processes used to process, store or transmit cardholder data, (System Components in Scope). Some or all System Components in Scope have been outsourced to Contractor under this Agreement. Contractor will cause its agents and subcontractors to comply with all terms of this Section applicable to Contractor. Contractor will achieve and maintain compliance under the current versions of PCI DSS and PA DSS published on the PCI SSC website for service providers and payment applications. Contractor will provide to University (1) on or before the date this Agreement is signed by University, and (2) within ten (10) days after each anniversary of the date this Agreement is signed by University, a copy of Contractor's annual attestation of compliance signed by a Qualified Security Assessor (**QSA**) as described on the PCI SSC website.
- If Contractor is unable to provide the required attestations of compliance, Contractor will permit University or University's QSA to assess all System Components in Scope that are hosted or managed by Contractor or by Contractor's agents or subcontractors. Contractor will create and maintain reasonably detailed, complete and accurate documentation describing the systems, processes, network segments, security controls, and dataflow used to receive, transmit, store and secure cardholder data. The documentation will conform to the most current version of PCI DSS. Contractor will, upon written request by University, make the documentation and the individuals responsible for implementing, maintaining and monitoring System Components in Scope available to (1) QSAs, forensic investigators, consultants and attorneys retained by University to facilitate the validation of University's PCI DSS compliance, and (2) University's information technology, information security, audit, compliance and other staff.
- Contractor will retain the documentation for at least one (1) year after termination of this Agreement.
49. **Enforcement.** Intentionally omitted
50. **Access by Individuals with Disabilities.** Contractor represents and warrants (**EIR Accessibility Warranty**) the electronic and information resources and all associated information, documentation, and support Contractor provides to University under this Agreement (**EIRs**) comply with applicable requirements in [1 TAC Chapter 213](#) and [1 TAC §206.70](#) (ref. [Subchapter M, Chapter 2054, Texas Government Code](#)). To the extent Contractor becomes aware the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. If Contractor fails or is unable to do so, University may terminate this Agreement and, within thirty (30) days after termination, Contractor will refund to University all amounts University paid under this Agreement.

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51. **EIR Environment Specifications.** Exhibit \_\_\_\_\_, Environment Specifications, establishes specifications, representations, warranties and agreements related to the environment specifications of EIR that Contractor is providing to University under this Agreement. The specifications, representations, warranties and agreements in Exhibit \_\_\_\_\_, Environment Specifications, are binding on Contractor. Contractor agrees to perform Work in compliance with Exhibit \_\_\_\_\_, Environment Specifications.
52. **Security Characteristics and Functionality of Contractor's Information Resources.** Exhibit \_\_\_\_\_, Security Characteristics and Functionality of Contractor's Information Resources, establishes specifications, representations, warranties and agreements related to the products and services Contractor is providing to University under this Agreement. The specifications, representations, warranties and agreements in Exhibit \_\_\_\_\_, Security Characteristics and Functionality of Contractor's Information Resources, are binding on Contractor. Contractor agrees to perform Work in compliance with Exhibit \_\_\_\_\_, Security Characteristics and Functionality of Contractor's Information Resources.
53. **Contractor Certification regarding Boycotting Israel.** Intentionally omitted
54. **Contractor Certification regarding Business with Certain Countries and Organizations.** Intentionally omitted
55. **Contractor Verification Regarding Discrimination Against Firearm Entities or Trade Associations.** Intentionally omitted
56. **Contractor Verification Regarding Boycotting Energy Companies.** Intentionally omitted
57. **Contractor Certification Regarding COVID-19 Vaccination.** Intentionally omitted
58. **Cybersecurity Training Program.** If Contractor and/or its subcontractors, officers, or employees will have an account on a state computer system (for example, an account to an application, database, or network), then pursuant to [Section 2054.5192, Texas Government Code](#), Contractor and its subcontractors, officers, and employees must complete a cybersecurity training program certified under [Section 2054.519, Texas Government Code](#) and selected by the University. The cybersecurity training program must be completed by Contractor and its subcontractors, officers, and employees during the term and any renewal period of this Agreement. Contractor shall verify completion of the program to the University.
59. **Texas Public Information Act - Subchapter J Requirements.** Intentionally omitted
60. **Contractor Certification Relating to Critical Infrastructure.** P Intentionally omitted
61. **Contractor Compliance and Warranty Relating to Cloud Computing Services.** The Texas Department of Information Resources (DIR) has established and implemented a state risk and authorization management program providing a standardized approach for security assessment, authorization, and continuous monitoring of cloud computing services (CCSs) that store, process, or transmit the data of Texas state agencies (TX-RAMP). The requirements of TX-RAMP include [Section 2054.0593 of the Texas Government Code, Title 1, Rule 202.77 of the Texas Administrative Code](#), and DIR's TX-RAMP Manual.
- Contractor represents and warrants that throughout the term of this Agreement it will comply with the requirements of TX-RAMP and that all CCSs subject to TX-RAMP will comply with the requirements of and be certified under TX-RAMP. The CCSs subject to TX-RAMP include those provided by Contractor either through this Agreement or in furtherance of this Agreement, including CCSs provided through Contractor's subcontractors or third-party providers. A CCS used in furtherance of this Agreement includes a CCS that Contractor or its subcontractors or third-party providers use to store, process, or transmit University data, even if the University itself does not access or use that CCS. Contractor's subcontractors or third-party providers responsible solely for servicing or supporting a CCS provided by Contractor or another Contractor subcontractor or third-party provider shall not be required to provide evidence of TX-RAMP certification; instead, Contractor will be responsible for providing such evidence. The list of current TX-RAMP certified CCSs and DIR's TX-RAMP Manual are set forth at <https://dir.texas.gov/txramp>.
- Contractor understands and agrees that the University may not enter into or renew a contract with Contractor to purchase CCSs that are subject to TX-RAMP unless Contractor demonstrates compliance with TX-RAMP requirements. Contractor acknowledges this Agreement may be terminated and payment withheld if Contractor does not comply with TX-RAMP or this Section.]
62. **Certification Required by Texas Governor Executive Order GA-48.** Pursuant to [Executive Order GA-48 of the Governor of Texas effective November 19, 2024](#), Contractor certifies that it and, if applicable, any of its holding companies or subsidiaries, is not:

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- a. Listed in Section 889 of the 2019 National Defense Authorization Act (NDAA); or
- b. Listed in Section 1260H of the 2021 NDAA; or
- c. Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4; or
- d. Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.

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## APPENDIX THREE

## ACCESS BY INDIVIDUALS WITH DISABILITIES

**Access by Individuals with Disabilities:** Contractor represents and warrants (**EIR Accessibility Warranty**) the electronic and information resources and all associated information, documentation, and support Contractor provides to University under this Agreement (**EIRs**) comply with the accessibility requirements in federal and Texas law and regulation applicable to University and/or Contractor, including (1) [28 C.F.R. Part 35, Subpart H](#) and (2) [1 TAC Chapter 213](#) and [1 TAC §206.70](#) (ref. [Subchapter M, Chapter 2054, Texas Government Code](#)). the Level A and Level AA success criteria and conformance requirements specified in Web Content Accessibility Guidelines (WCAG) 2.1, [1 TAC §206.70, and 1 TAC §213.30](#). To the extent Contractor becomes aware the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. If Contractor fails or is unable to do so, University may terminate this Agreement and, within thirty (30) days after termination, Contractor will refund to University all amounts University paid under this Agreement. Contractor will provide all assistance and cooperation necessary for performance and documentation of accessibility testing, planning, and execution criteria conducted by University or University's third party testing resources, as required by [1 TAC §213.38\(g\)](#).

**Accessibility Information**

- A. Proposer must provide the following accessibility information for the electronic and information resources (**EIRs**)<sup>1</sup> products or services proposed by Proposer, where applicable, through one or more of the following methods, as required by [1 TAC §213.38\(b\)](#):
1. inclusion in its proposal of (or URLs to) manufacturer pages of completed Voluntary Product Accessibility Templates (**VPATs**)<sup>2</sup> or accessibility conformance reports (**ACRs**)<sup>3</sup> for applicable Commercial Off the Shelf products / or services;
  2. inclusion in its proposal of other documents / forms that provide credible evidence of the Proposer's capability or ability to produce accessible EIR products and services. Such evidence may include, but is not limited to, Proposer's internal accessibility policy documents, contractual warranties for accessibility, accessibility testing documents, and examples of prior work results; or
  3. inclusion in its proposal of the URL to a web page which explains how to request completed ACRs or VPATs for any product Proposer proposes to provide to the University under any contract resulting from this RFP.
- B. Credible evidence of Proposer's capability or ability to produce accessible EIR products and services. Such evidence may include, but is not limited to, Proposer's internal accessibility policy documents, contractual warranties for accessibility, accessibility testing documents, and examples of prior work results.

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<sup>1</sup> Electronic and information resources are defined in [§2054.451, Government Code](#) and [1 TAC §213.1 \(9\)](#).

<sup>2</sup> A Voluntary Product Accessibility Template is a vendor-supplied form for a commercial off-the-shelf Electronic and Information Resource used to document its compliance with technical accessibility standards and specifications. See [1 TAC §213.1 \(22\)](#). For further information, see this [VPAT document](#) provided by the Information Technology Industry Council.

<sup>3</sup> Accessibility conformance reports are an accessibility report of an EIR item's compliance with Section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. §794(d), 36 C.F.R. §1194.1, that is created using a VPAT template. See [1 TAC §213.1 \(1\)](#).

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**APPENDIX FOUR****ELECTRONIC AND INFORMATION RESOURCES ENVIRONMENT SPECIFICATIONS**

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

University is primarily a Microsoft products environment.

**Basic Specifications**

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

**Security**

1. Has the EIR been tested for application security vulnerabilities? For example, has the EIR been evaluated against the Open Web Application Security Project (**OWASP**) Top 10 list that includes flaws like cross site scripting and SQL injection? If so, please provide the scan results and specify the tool used. University will not take final delivery of the EIR if University determines there are serious vulnerabilities within the EIR.

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2. Which party, Proposer or University, will be responsible for maintaining critical EIR application security updates?
3. If the EIR is hosted, indicate whether Proposer's will permit University to conduct a penetration test on University's instance of the EIR.
4. If confidential data, including HIPAA or FERPA data, is stored in the EIR, will the data be encrypted at rest and in transmittal?

#### Integration

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

#### Accessibility Information

Proposer must provide the following accessibility information for the electronic and information resources (**EIRs**)<sup>4</sup> products or services proposed by Proposer, where applicable, through one or more of the following methods, as required by [1 TAC §213.38\(b\)](#):

- (A) inclusion in its proposal of (or URLs to) manufacturer pages of completed Voluntary Product Accessibility Templates (**VPATs**)<sup>5</sup> or accessibility conformance reports (**ACRs**)<sup>6</sup> for applicable Commercial Off the Shelf products / or services;
- (B) inclusion in its proposal of other documents / forms that provide credible evidence of the Proposer's capability or ability to produce accessible EIR products and services. Such evidence may include, but is not limited to, Proposer's internal accessibility policy documents, contractual warranties for accessibility, accessibility testing documents, and examples of prior work results; or
- (C) inclusion in its proposal of the URL to a web page which explains how to request completed ACRs or VPATs for any product Proposer proposes to provide to the University under any contract resulting from this RFP.

If Proposer cannot provide credible accessibility documentation for an EIR, then the Proposer's EIR shall be considered noncompliant.

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<sup>4</sup> Electronic and information resources are defined in [§2054.451, Government Code](#) and [1 TAC §213.1 \(9\)](#).

<sup>5</sup> A Voluntary Product Accessibility Template is a vendor-supplied form for a commercial off-the-shelf Electronic and Information Resource used to document its compliance with technical accessibility standards and specifications. See [1 TAC §213.1 \(22\)](#). For further information, see this [VPAT document](#) provided by the Information Technology Industry Council.

<sup>6</sup> Accessibility conformance reports are an accessibility report of an EIR item's compliance with Section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. §794(d), 36 C.F.R. §1194.1, that is created using a VPAT template. See [1 TAC §213.1 \(1\)](#).



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

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

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

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

**General Protection of University Records**

1. Describe the security features incorporated into Information Resources (ref. **Section 5.3.4**) to be provided or used by Proposer pursuant to this RFP.

2. List all products, including imbedded products that are a part of Information Resources and the corresponding owner of each product.

3. Describe any assumptions made by Proposer in its proposal regarding information security outside those already listed in the proposal.

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

4. Describe the monitoring procedures and tools used for monitoring the integrity and availability of all products interacting with Information Resources, including procedures and tools used to, detect security incidents and to ensure timely remediation.

5. Describe the physical access controls used to limit access to Proposer's data center and network components.

6. What procedures and best practices does Proposer follow to harden all systems that would interact with Information Resources, including any systems that would hold or process University Records, or from which University Records may be accessed?

7. What technical security measures does the Proposer take to detect and prevent unintentional, accidental and intentional corruption or loss of University Records?

8. Will the Proposer agree to a vulnerability scan by University of the web portal application that would interact with Information Resources, including any systems that would hold or process University Records, or from which University Records may be accessed? If Proposer objects, explain basis for the objection to a vulnerability scan.

9. Describe processes Proposer will use to provide University assurance that the web portal and all systems that would hold or process University Records can provide adequate security of University Records.

10. Does Proposer have a data backup and recovery plan supported by policies and procedures, in place for Information Resources? If yes, briefly describe the plan, including scope and frequency of backups, and how often the plan is updated. If no, describe what alternative methodology Proposer uses to ensure the restoration and availability of University Records.

11. Does Proposer encrypt backups of University Records? If yes, describe the methods used by Proposer to encrypt backup data. If no, what alternative safeguards does Proposer use to protect backups against unauthorized access?

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12. Describe the security features incorporated into Information Resources to safeguard University Records containing confidential information.

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

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

#### **Access Control**

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

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

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

#### **Use of Data**

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

1. What administrative safeguards and best practices does Proposer have in place to vet Proposer's and third-parties' staff members that have access to the environment hosting all systems that would hold or process University Records, or from which University Records may be accessed, to ensure that University Records will not be accessed or used in an unauthorized manner?
2. What safeguards does Proposer have in place to segregate University Records from system data and other customer data and/or as applicable, to separate specific University data, such as HIPAA and FERPA protected data, from University Records that are not subject to such protection, to prevent accidental and unauthorized access to University Records ?
3. What safeguards does Proposer have in place to prevent the unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access, or disclosure of University Records?

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4. What procedures and safeguards does Proposer have in place for sanitizing and disposing of University Records according to prescribed retention schedules or following the conclusion of a project or termination of a contract to render University Records unrecoverable and prevent accidental and unauthorized access to University Records? Describe the degree to which sanitizing and disposal processes addresses University data that may be contained within backup systems. If University data contained in backup systems is not fully sanitized, describe processes in place that would prevent subsequent restoration of backed-up University data.

#### **Data Transmission**

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

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

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

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

#### **Notification of Security Incidents**

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

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

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

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

#### **Compliance with Applicable Legal & Regulatory Requirements**

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

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

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

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

## APPENDIX SIX

## INFORMATION SECURITY APPLICATION RISK ASSESSMENT

1. Documentation that is needed to conduct an Information Security Application Risk Assessment for cloud services is listed below. To speed the process of the assessment, submit the following documentation.
  - a. Texas Risk and Authorization Program (TX-RAMP) certification:
    - i. Level 1 certification is required for non-Confidential Information
    - ii. Level 2 certification is required for mission critical cloud services, or services dealing with Confidential Information
    - iii. A TX-RAMP Provisional certification is acceptable, which allows vendors to conduct business with state agencies while working toward the appropriate certification.
    - iv. See Section 2 below for information on submitting a TX-RAMP certification application
  - b. A completed copy of the Higher Education Cloud Vendor Assessment Tool (HECVAT) - Lite version found on the Educause website [Click Here](#). UTA's Information Security Office (ISO) will evaluate an alternate assessment tool on a case-by-case basis if the vendor is unable to complete a HECVAT. (A current copy of the TX-RAMP security assessment will be acceptable.)
  - c. A SOC 2 Type 2 report or any other third party report to attest to your security practices
  - d. If the application/service deals with PCI information we need proof of PCI certification
  - e. If there are any data exchanges between your application and UTA Systems, please provide details of data transfer, the type of data being transferred, and how the data is being secured in transit.
  - f. For accessibility, a Voluntary Product Accessibility Template (VPAT) document, form 508 for software, or form WCAG for Online Resources. See <https://www.itic.org/policy/accessibility> (Scroll down to the links).
2. Information and Useful links for TX-RAMP:

Vendor link to submit for a Provisional, Level 1 or Level 2 TX-RAMP Certification:

- a. <https://survey.alchemer.com/s3/6510630/TX-RAMP-Vendor-Contact>

If Proposer does not currently have a TX-RAMP certification, please consider applying for the provisional certification as well as the appropriate level TX RAMP Cert. This allows 18 months to get the full TX-RAMP Cert and still conduct business with State Agencies.

- b. Overview for vendors: [https://dir.texas.gov/sites/default/files/2022-01/TX-RAMP Overview Webinar For Vendors.Update.pdf](https://dir.texas.gov/sites/default/files/2022-01/TX-RAMP%20Overview%20Webinar%20For%20Vendors%20Update.pdf).
- c. Texas Department of Information Resources (TX DIR) TX-RAMP Information: <https://dir.texas.gov/texas-risk-and-authorization-management-program-tx-ramp>
- d. TX-RAMP Manual: [TX-RAMP Program Manual v2](#)
- e. TX-RAMP FAQs by the Texas Dept of Information Resources: <https://dir.texas.gov/sites/default/files/2022-01/TX-RAMP%20FAQ.12.30.21.pdf>

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