

TEXAS EDUCATION AGENCY

William B. Travis Building

1701 North Congress Avenue

Austin, Texas 78701-1494

REQUEST FOR OFFERS

RFO No.: 701-11-030

Texas Student Data System (TSDS) State-sponsored Student Information System (SSIS)

|  |  |
| --- | --- |
| PROPOSAL DELIVERY LOCATION:Purchasing & Contracts Division Texas Education Agency1701 N. Congress Ave., Rm. 2-125Austin, TX 78701-1494 | REFER INQUIRIES TO:TSDSSSISRFO@tea.state.tx.us |

WITHOUT EXCEPTION - PROPOSAL MUST BE TIME AND DATE STAMPED BY THE TEA PURCHASING AND CONTRACT OFFICE BEFORE:

December 22, 2010 - 2:00 P.M., CT

Pursuant to the Provisions of the Texas Government Code Title 10 Subtitle D Chapter 2156.121 – 2156.127, sealed proposals will be received until the date and time established for receipt. Prices and other proposal details may only be divulged after award of a contract, if a contract is awarded.

All written requests for information will be communicated to all applicants known to the agency. All proposals shall become the property of the State of Texas upon receipt. All proposals must be delivered to the Texas Education Agency Purchasing and Contracts Division as required by the instructions within this request.

All addenda to and interpretation of this solicitation shall be in writing. The State shall not be legally bound by an addendum or interpretation that is not in writing.

Offeror understands and agrees that no public disclosures or news releases pertaining to an award or information provided by TEA to fulfill the requirements of this RFO shall be made without prior written approval of TEA.

NOTE: Failure to formalize the terms of the proposal by signing the Execution of Offer will result in disqualification of the offer contained within the bid package. Offeror must indicate any General Provisions terms in Attachment B, the Master Services Agreement Template (Attachment I), and the LEA Services Agreement (Attachment J) that are not feasible with the submission of the proposal to this RFO. If a proposal is signed and submitted without including a specific identification of all General Provisions that are not feasible, TEA will not negotiate the General Provisions.

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RFO ATTACHMENTS

Attachment A – NOTICE OF INTENT TO SUBMIT OFFER

Attachment B – EXECUTION OF OFFER

Attachment C – TEA HUB FORMS AND INSTRUCTIONS

Attachment D – FORMAT FOR COVER PAGE

Attachment E – PRICING PROPOSAL

Attachment F – SSIS FUNCTIONAL REQUIREMENTS

 (Separate document)

Attachment G – SSIS NON-FUNCTIONAL REQUIREMENTS

 (Separate document)

Attachment H – GLOSSARY

 (Separate document)

Attachment I – TEA STANDARD CONTRACT TEMPLATE

 (Separate document)

Attachment J – MASTER SERVICES AGREEMENT TEMPLATE

 (Separate document)

Attachment K – LEA SERVICES AGREEMENT TEMPLATE

 (Separate document)

Attachment L – OP 10-03 – CONFIDENTIAL ENTERPRISE INFORMATION
(Separate document)

Request for Offer (RFO)

for the

Texas Student Data System (TSDS) State-sponsored Student Information System (SSIS)

# INTRODUCTION AND GENERAL INSTRUCTIONS

## INTRODUCTION

This is an announcement of the Texas Education Agency’s (TEA’s) intention to evaluate and select offers that are submitted in response to this RFO related to the Texas Student Data System (TSDS) state-sponsored Student Information System (SSIS).

The SSIS is a component of the TSDS initiative, which will also include the District Connections Database (DCD). The SSIS will be expected to interface with the DCD.

## SCHEDULE

|  |  |
| --- | --- |
| Task | Due Date\* |
| RFO RELEASED TO THE PUBLIC  | November 16, 2010 |
| OPEN PERIOD FOR QUESTIONS | November 17 – December 6, 2010  |
| OFFEROR’S CONFERENCE, TRAVIS BLDG, ROOM 1-100  | November 30, 2010 at 1:30 P.M. CT  |
| INTENT TO SUBMIT OFFERS DUE | December 1, 2010 |
| DEADLINE FOR QUESTIONS | December 6, 2010  |
| OFFERS DUE | December 22, 2010 before 2:00 P.M. CT  |
| OFFEROR FINALISTS’ PRESENTATIONS\*\* | February 8 - 10, 2011  |
| BEST AND FINAL OFFERS DUE  | February 15, 2011  |
| TEA EXECUTIVE REVIEW | February 18, 2011 |
| AWARD CONTRACT | February 24, 2011 |
| EFFECTIVE DATE OF CONTRACT | March 21, 2011 |

\* Dates may vary as conditions warrant.

\*\*Selected Offeror finalists will be required to be available to present and discuss their offers with TEA between February 8-10, 2011, in Austin, Texas. TEA requests that key staff including the project manager proposed for the project attend the presentation.

## TERM OF THE CONTRACT

Any commercial deliverable products relating to this specific contract shall be procured by the vendor. The term of any services, or deliverables created through services, related to the contract shall be from the date of signature of the parties through August 31, 2015. The anticipated starting date is March 21, 2011.

## NOTICE OF INTENT TO SUBMIT OFFER

All prospective Offerors should notify the Texas Education Agency in writing of their intent to submit an offer (Attachment A) by December 1, 2010, to TEA’s Purchasing and Contracts Division, by email to Norma.barrera@tea.state.tx.us or by fax to 512-475-1706. Failure to notify the Agency of the intent to submit an offer will not disqualify the Offeror from submitting an offer.

## RFO COMMUNICATIONS

In order to assure that no prospective Offeror may obtain a competitive advantage because of acquisition of information unknown to other prospective Offerors, any additional information that is different from or in addition to, information provided in the RFO will be provided only in response to written inquiries. Copies of all such inquiries and the written answers will be posted as addenda to the RFO at the Electronic State Business Daily at <http://esbd.cpa.state.tx.us/>. Addenda will be added as needed on a weekly basis while the RFO is advertised. In order to respond to written questions, the last day to submit questions is December 6, 2010. The addendum will be updated as needed on a weekly basis while the RFO is advertised. NO PHONE INQUIRIES WILL BE ACCEPTED.

All inquiries will result in written responses with copies posted to the Electronic State Business Daily at: <http://esbd.cpa.state.tx.us/>. If respondents do not have Internet access, copies may be obtained through Norma Barrera, 512-463-9041 or fax 512-475-1706.

Upon publication of this RFO, besides written inquiries as described above, employees and representatives of TEA will not answer questions or otherwise discuss the contents of the RFO with any potential vendor or their representatives. If a potential vendor fails to observe this restriction, that vendor’s response to this RFO may be disqualified. This restriction does not preclude discussions for the purpose of conducting business unrelated to this RFO.

TEA will not be bound by any communication with Offerors other than the written addenda issued by the Agency.

## RFO SUBMISSION, DATE, AND TIME

WITHOUT EXCEPTION, OFFER MUST BE TIME AND DATE STAMPED BY THE TEA PURCHASING AND CONTRACTS DIVISION ON OR BEFORE:

December 22, 2010 – 2:00 P.M. Central Time

Offers must be submitted in a sealed envelope (or box as appropriate) with the Offeror’s name, RFO number, and closing date prominently visible on the envelope/package. If multiple envelopes/boxes are used, the Offeror should indicate on the package “specific item # of total # of items.” Pricing proposals must be submitted in a separate envelope/box clearly indicating the Offeror’s name, RFO number, and closing date and labeled “Pricing Proposal”.

Facsimile transmissions (fax) of offers will not be accepted under any circumstances.

### Receipt of Offers

To be eligible to be considered, offers must be received in the TEA's Purchasing and Contracts Division before 2:00 P.M. (Central Time) on the closing date as specified in the RFO. In establishing the time and date of receipt, the Commissioner of Education will rely solely on the time/date stamp of the TEA’s Purchasing and Contracts division.

### Method of Submittal

Regardless of the method of submitting the offer—United States Postal Service (USPS), United Parcel Service, Federal Express, Purolator, or any other delivery service—the offer must be received in the agency’s Purchasing and Contracts Division by 2:00 P.M. (Central Time) on or before the closing date in order to be considered.

TEA WILL NOT accept a USPS postmark and/or round validation stamp, mail receipt with the date of mailing stamped by the USPS, a dated shipping label, invoice or receipt from a commercial carrier, or any other documentation as proof of receipt of any offer. Offerors are advised that TEA assumes no responsibility, due to any circumstances, for the receipt of an offer after the deadline time and date established in this RFO.

### Purchasing and Contracts Division

TEA's Purchasing and Contracts Division is open Monday through Friday, 8:00 A.M. to 5:00 P.M., excluding holidays. Offers will not be considered if received after 2:00 P.M. (Central Time) on the closing date. TEA’s Purchasing and Contracts Division is located on the second floor of the William B. Travis Bldg, 1701 N. Congress (at 17th St. and N. Congress, two blocks north of the capitol) in Rm. 2-125, Austin, TX 78701-1494. The mailing address is:

Purchasing and Contracts Division, Rm. 2-125

Texas Education Agency

William B. Travis Bldg.

1701 N. Congress Ave.

Austin, TX 78701-1494

### Number of Copies of Offer

Ten (10) copies of the offer must be submitted. The required number of copies of the offer must be received in the TEA Purchasing and Contracts Division by 2:00 P.M. on the established deadline date. Failure to meet this condition shall result in disqualification of offer and the offer shall receive no further consideration.

### Offer Format and Content

Offerors must submit ten (10) electronic CDs or flash drives containing (1) both the PDF and Microsoft Word versions of the entire proposal (including all attachments), and (2) the spreadsheet versions of the required appendices to this RFO. CDs or flash drives must be sent in a sealed package.

Offers shall include a “Table of Contents” and give page numbers for each part of the qualifications. Number all pages of the offer sequentially using Arabic numerals (1, 2, 3, etc.). The Offeror is not required to number the pages of the HUB Subcontracting Plan.

### Response Checklist

|  |  |  |
| --- | --- | --- |
| [ ]  | SCOPE OF THE TECHNICAL SERVICES OFFER  |  |
| [ ]  | COVER PAGE  | Sec. 1.7, Attachment D |
| [ ]  | TABLE OF CONTENTS  | Sec. 1.7  |
| [ ]  | EXECUTIVE SUMMARY  | Sec. 1.7  |
| [ ]  | DEMONSTRATING UNDERSTANDING OF REQUIREMENTS AND ABILITY TO DELIVER  | Sec. 1.7 |
| [ ]  | STRUCTURE OF ORGANIZATION  | Sec. 1.7 |
| [ ]  | CORPORATE OVERVIEW, DIRECTION & STRATEGY  | Sec. 1.7 |
| [ ]  | MANAGEMENT PLAN  | Sec. 1.7 |
| [ ]  | REFERENCES | Sec. 1.7  |
| [ ]  | PRICING PROPOSAL  | Sec. 1.8 Attachment E |
| [ ]  | PAYMENT SCHEDULE  | Sec. 1.9 |
| [ ]  | PROSPECTIVE VENDOR’S FINANCIAL RESPONSIBILITY | Sec. 1.12  |
| [ ]  | SIGNED EXECUTION OF OFFER  | Attachment B  |
| [ ]  | HUB SUBCONTRACTING PLAN FORMS  | Sec. 1.11, Attachment C |

Failure to return all information on the checklist may disqualify the proposal.

### Offerors’ Conference

An Offerors’ conference will be held to assist potential Offerors in clarifying their understanding of the scope and nature of the services required. The conference is scheduled as follows:

Tuesday, November 30, 2010

1:30 P.M. Central Time

Texas Education Agency

1701 North Congress Ave.

Room 1-100 (1st Floor)

Each person attending will be required to sign a register setting out the name, address, telephone number, and email address of the representative, and the firm or organization represented.

The conference will be open to all potential Offerors, and all questions asked and answered will be in the presence of all attending. Oral answers will not be binding until posted to the web site identified in Section 1.5, under RFO Communications. Attendance at the conference is not mandatory.

##  SCOPE OF TECHNICAL SERVICES OFFER

The Scope of Technical Services Offer must NOT include any pricing information. See Pricing instructions in Section 1.8. The Technical Services Offer must include the following elements in order.

* Cover Page: The cover page must contain, at a minimum, all information that is included on Attachment D – Cover Page.
* Table of Contents: The Offeror must include a Table of Contents and provide a unique number on each page of their offer.
* Executive Summary: The Offeror must provide a summary of no more than two pages of the offer and the major benefits to TEA.
* Demonstrating Understanding of Requirements and Ability to Deliver: The Offeror must provide information on the approach to meet the requirements and deliverables, in sufficient detail to demonstrate his or her understanding of the scope of work under this RFO.
* Structure of Organization: The Offeror must provide an organization chart of the Offeror’s organization, highlighting the business unit that will be responsible for managing the project, and an organization chart for the project, noting the structure of the team.
* Corporate Overview, Direction, and Strategy: The Offeror must describe the company’s background and project experience relevant to this RFO. The Offeror must also describe the company’s primary areas of strength and excellence and how it positions or differentiates itself within the Public Education and Information Technology industries. The Offeror must describe the company’s product vision and services vision.
* Management Plan: The Offeror must provide satisfactory evidence of the capability to manage and coordinate the types of activities described in the RFO and to produce the specified service on time. To provide information on qualifications to accomplish the described tasks, Offerors must include a statement on the availability and commitment of the Offeror and the Offeror’s assigned personnel to undertake the project.
* References – Past Performance: The Offeror must provide at least three (3) applicable project experiences from three (3) different LEAs within the past two (2) years similar in size, scope and complexity to the project described in this RFO.

No employees of TEA can be listed in the proposal as references.  They may be listed in a memo transmitting the proposal.

The Offeror must describe the nature of each engagement and include at least two (2) customer reference contacts per project, including current contact information. Education and public sector references may be given additional consideration.

For each reference provided, the Offeror must list the following:
* LEA name
* Point of contact with current telephone number and email address
* Industry/subject focus
* Project description
* Total contract value
* Key technologies employed (hardware and software tools)
* Date the system was placed in production

TEA may contact references to verify past performance in the following areas:

* Quality of deliverables
* Methodology
* Timeliness/adherence to schedule and budget
* Business conduct
* Innovation
* Problem resolution
* Responsiveness to customers
* Customer satisfaction

TEA may require the selected contractor to modify or broaden the scope, or to implement other changes in this project as required by legislation or action by the commissioner of education. Contract terms will allow the agency to modify the contract as needed to provide resources for additional mandates. Offerors are therefore advised to consider this requirement of the prime contractor in the event of changes to the program during the term of the contract period.

## PRICING PROPOSAL

Ten (10) copies of the Pricing Proposal (Attachment E) must be submitted separately from the technical scope of services response package, also on electronic CDs or flash drives. To demonstrate an understanding of what is included in the Pricing Proposal, Offerors must list in their pricing proposals all assumptions used to compile the prices given for the project. Offers must be valid for at least 120 working days from the date of submittal of an offer.

## PAYMENT SCHEDULE

As a part of an offer, Offeror must provide a schedule for the payment of fees based on the completion and acceptance of deliverables in the Pricing Proposal. This payment schedule is subject to negotiation, and must be approved by TEA. Once approved, payments to the selected Offeror will be made according to that schedule.

Unless otherwise indicated by the TEA, payment is only by reimbursement upon satisfactory performance of deliverables. Payment will be made upon submission of properly prepared and certified invoices, which detail the deliverables provided during the invoice period and associated costs. The information provided on each invoice must coincide with the tasks and cost categories outlined in the approved Pricing Proposal, as negotiated by the TEA. Payments shall be made in accordance with the Prompt Payment Act provided in Texas Government Code, Title 10, Subtitle D, Section 2251.

The Awarded Vendor shall be required to deduct a retainage amount of five percent (5%) from each monthly payment requested on all deliverables. The Awarded Vendor, based on satisfactory performance, will be allowed to include the total dollar amount retained in its final invoice for each year of the contract. Performance shall be determined by the timeliness and accuracy of the deliverables.

##  EVALUATION OF OFFERS AND SELECTION OF VENDOR(S)

The TEA, in accordance with Texas Government Code, Section 2157.001, et. seq. will select the offer(s) that represent(s) the best interest of the state and the best value for the state. The TEA reserves the right to negotiate any part of the selected offer(s) (including price, specifications, and terms) in order to obtain a final contract that meets these conditions.

The offer(s) will be selected based on, among other things, demonstrated competence and qualifications of the Offeror and on the reasonableness of the proposed price.

When other considerations are equal, preference will be given to an Offeror whose primary place of business is in Texas or who will manage the project wholly from offices in Austin, Texas. TEA shall also give preference, among offers that are otherwise comparable, to an offer submitted by a Historically Underutilized Business (HUB).

Following are the criteria and the total number of points and weight of each portion of the contract that will be applied in selecting an offer.

1. **PEIMS submissions:** Yes/No
* The Offeror’s SIS Vendor must provide evidence how it has supported its Texas LEA customers’ successful submission of each of the PEIMS student collections.
* Submission 1 – Fall Collection
* Submission 3 – Summer Collection
* Submission 4 – Extended Year Collection
* The Offeror must submit two (2) references from different Texas LEAs that can support the claim.
* If TEA cannot verify that the Offeror’s LEA customers have successfully submitted the PEIMS collections, TEA will not consider the Offer further.
1. Education Service Center (ESC): Yes/No
* The Offeror intends to use Texas Regional Education Service Centers (ESCs) as part of their support structure.
1. Functional requirements: 250 points
* Clarity, completeness, and effectiveness of the offer in fulfilling the functional requirements as outlined in Attachment F
1. Non-functional requirements: 150 points
* Clarity, completeness, and effectiveness of the offer in fulfilling the non-functional requirements as outlined in Attachment G
1. Solution proposal: 50 points
* Approach to meeting the requirements and deliverables, in sufficient detail, to demonstrate understanding of the scope of work under this RFO
* Strategy and work plan for development, deployment, and training on the solution
* Ability to meet specified deadlines
* Outline of the work, demonstrating satisfaction of all technical requirements or alternatives suggested
* Clarity of proposal
1. State adaptation costs: 100 points
* Cost related to adaptation of the COTS product(s) to meet the required base configuration
* Cost of any additional required components
* Cost of all one-time set up charges
1. LEA Pricing Proposal: 100 points
* Pricing methodology for delivering the service to LEAs on a per student basis
* The pricing proposal (Attachment E) must include initial implementation fees as well as the annual subscription fees for sustaining the service over a two (2) year period after initial deployment.
* The SaaS pricing proposal should target supporting a minimum of 500 Texas LEAs and 1.2 million students and by the end of the first two (2) years of deployment.
1. **Offeror Qualifications:** 200 points
* Company’s financial viability and stability
* Client list of public and charter LEAs of 5 references (with at least 3 in Texas) from the past 2 years from which TEA may select references
* Authorization to spend a day at a client site
* Copy of a recently completed implementation project plan
* Copy of a mapping document or a data dictionary from a previous implementation
* Copy of the latest Release Notes for the base SIS
* Copy of the current User Guide for the base SIS
1. **State-Based Support 100 points**
* Effectiveness of the support solution with respect to the use of Texas Regional Education Service Centers (ESCs) as a support channel.
1. **Value-Add Offers:** 50 points
* Additional points for value-added offers that clearly exceed requirements.

TOTAL: 1,000 points

Weights are determined by TEA based on the criticality of the particular factor to the selection process. Offerors are cautioned not to minimize the importance of adequate responses in any area because it carries less weight than other areas.

Review of offers will begin as soon as practical after receipt. The offers receiving the most points during the first round of selection will be asked to send a representative to Austin, Texas, at a time and place to be arranged for oral presentation of offers. The finalists will be rated again following oral presentations as to how well their solution meets the specified requirements. The evaluation team shall consist of TEA staff knowledgeable in the content area, and may also include reviewers from outside the Agency with expertise in the area.

The recommendations of the review panel will be assembled and presented to an Executive Review team who will:

1. Approve the offer in whole or in part;
2. Defer action on the offer for such reasons as a requirement for further evaluation; or
3. Cancel the entire solicitation.

Texas Education Agency will notify each Offeror in writing of the selection or non‑selection for funding. Additional copies of offers not selected for funding will be destroyed in accordance with the agency approved records retention policy.

In the case of a proposal selected for funding, notification to the Offeror will include the contractual conditions, which the Offeror must accept in accordance with federal and/or state law.

TEA may commence negotiations with the top finalist(s) and may determine that the finalist(s) should submit a Best and Final Offer (BAFO). Every finalist will be given a reasonable opportunity for discussion and revision of their offer. After receipt of the BAFO(s), all finalists submitting a BAFO shall be re-evaluated based on the Evaluation Criteria.

## HISTORICALLY UNDERUTILIZED BUSINESSES (HUB) REQUIREMENTS

It is the policy of the TEA to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Business (HUBs) in all contracts. Accordingly, TEA has adopted the Policy on Utilization of HUBs. TEA has determined that subcontracting opportunities are probable in connection with this procurement and the HUB Subcontracting Plan (HSP) is a required element of the response. Failure to submit a required HUB Subcontracting Plan (HSP) will result in rejection of the Offerors response.

A Historically Underutilized Business is defined as a business that

* Is at least 51% owned by an Asian, Pacific American, Black American, Hispanic American, Native American and/or American woman.
* Is an entity with its principal place of business in Texas, and
* Has an owner residing in Texas with a proportionate interest that actively participates in the control, operations and management of the entity’s affairs.

A Subcontractor means a person who contracts with a vendor to work, to supply commodities, or contribute toward completing work for a governmental entity.

The HSP will be incorporated into the contract between the TEA and the selected Offeror.

The selected Offeror shall submit a report for each billing cycle in which a payment was made to any subcontractor during the term of a contract. The Prime Contractor Progress Assessment Report (PAR) must be submitted to the TEA verifying their compliance with the HSP, including the use (%) and expenditures they have made to subcontractors. The PAR is available at <http://www.tea.state.tx.us/tea/hub/HSP-PAR.doc>

Offerors are also encouraged to collaborate with TEA to develop mentor protégé opportunities. A Offeror's participation in a Mentor Protégé Program under TX GOVT Code §2161.065, and the submission of a protégé as a subcontractor in the HUB subcontracting plan constitutes a good faith effort for the particular area to be subcontracted with the protégé.

The Offeror awarded the contract will be responsible for maintaining business records documenting compliance and shall make a compliance report to TEA as requested.

Offerors may not revise the HSP once submitted unless awarded the contract as a result of this RFO. Offeror must seek approval from the TEA HUB Coordinator prior to making any modifications to their HSP. If the HSP is modified without TEA’s prior approval, respondent may be subject to debarment pursuant to TGC § 2161.253(d).

To access qualified HUBs for possible subcontracting opportunities access the Comptroller of Public Accounts –Texas Procurement and Support Services (TPASS).

### How to Retrieve Hubs on the CMBL

1. Open <http://www.window.state.tx.us/procurement/cmbl/cmblhub.html>
2. Search: 🞊 HUBs on CMBL.
3. Selection 1:
Class Code: # 920 [Data Processing and Programming]
Items: 03, 04, 07, 22, 24

Class Code: # 208-11 [Computer Software]

Class Code: # 209-11 [Computer Software]
District: 14

To see the NIGP class codes, click on the Class number in the Commodity Book at: <http://www.window.state.tx.us/procurement/tools/comm-book/>

1. Click Submit Search.

### Definition of Historically Underutilized Business (HUB)

(As defined in TX Govt. Code, §2161.001)

(2) "Historically underutilized business" means an entity with its principal place of business in this state that is:

1. a corporation formed for the purpose of making a profit in which 51 percent or more of all classes of the shares of stock or other equitable securities are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the corporation's control, operation, and management;
2. a sole proprietorship created for the purpose of making a profit that is completely owned, operated, and controlled by an economically disadvantaged person;
3. a partnership formed for the purpose of making a profit in which 51 percent or more of the assets and interest in the partnership are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management;
4. a joint venture in which each entity in the venture is a historically underutilized business, as determined under another paragraph of this subdivision; or
5. a supplier contract between a historically underutilized business as determined under another paragraph of this subdivision and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the goods or otherwise warehouses and ships the goods.

(3) "Economically disadvantaged person" means a person who is economically disadvantaged because of the person's identification as a member of a certain group, including Black Americans, Hispanic Americans, women, Asian Pacific Americans, and Native Americans, and who has suffered the effects of discriminatory practices or other similar insidious circumstances over which the person has no control.

## PROSPECTIVE VENDOR’S FINANCIAL RESPONSIBILITY

All private sector companies, individuals, or non-profit organizations are required to submit along with their offer, indicators of financial stability. For example:

* Private companies must submit their most recent audited financial statement or a certified public accountant compiled financial report.
* Nonprofits must submit an audited financial statement, a certified public accountant compiled financial report, or similar document.
* Individuals must submit those documents which depict their financial stability, such as an audited proprietorship financial statement, statement from a certified public accountant or banker, or a statement from vendors or suppliers.
* All nonprofit organizations are also required to submit proof of nonprofit status. An Offeror may show that it is a nonprofit organization by any of the following means:
* A copy of a letter from the Internal Revenue Service recognizing that contributions to the organization are tax deductible under Section 501(c)(3) of the Internal Revenue Code
* A statement from a state taxing body or the state attorney general certifying that the organization is a nonprofit organization operating within the state and that no part of its net earnings may lawfully benefit any private shareholder or individual
* A certified copy of the Offeror's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the Offeror
* Any item described above if that item applies to a state or national parent organization, together with a statement by the parent organization that it is a local nonprofit affiliate

The Offeror shall provide to agency the Offeror’s 9-digit Federal Employer's Identification Number (FEI); or the Offeror’s 14-digit State of Texas Payee Identification Number (TIN).

## CONFLICT OF INTERESTS

An Offeror will not be selected if it has a conflict of interest that will or may arise during the performance of its obligations under the contract. For this reason, Offeror’s response to this RFO must disclose all business interest and all relationships that could reasonably be considered to pose possible conflicts of interest in the Offeror’s performance of contract obligations. In addition, Offerors must represent and warrant in its response to this RFO and in the contract that in the performance of services under the contract, (1) Offeror does not have and will not have any actual or potential conflict of interest, and (2) Offeror will take whatever reasonable actions may be necessary and prudent to avoid even the appearance of impropriety.

## CONTRACT PROVISIONS

TEA's acceptance of the Vendor's offer in response to the RFO shall create a valid Contract between the Parties consisting of the following:

1. TEA Standard Contract (Attachment I)
2. The RFO and all attachments thereto
3. Any Addenda to the RFO
4. General Conditions contained in the Master Services Agreement (Attachment J) and the LEA Services Agreement (Attachment K)
5. Any Best and Final Offer
6. Any clarifications concerning the Vendor’s proposal in response to the RFO
7. The Vendor’s proposal in response to the RFO

In the event of any conflict between or among the provisions contained in the RFO, the order of Precedence shall be as enumerated above.

# BACKGROUND, OBJECTIVES, AND SCOPE OF SERVICES

## BACKGROUND INFORMATION

The goal of this project is to implement a voluntary, state-sponsored Student Information System (SSIS) to help LEAs save costs and resources associated with student data management.

TEA collects organization, budget, actual financial, staff and student data for approximately 1,250 Local Education Agencies (LEAs); 8,700 campuses; and over 4.6 million students in the Texas public school system. LEAs spend a significant amount of time, money, and resources to identify requirements, write RFOs, and select and implement student information systems to manage their student data and provide data to TEA. After purchase and initial implementation, there are ongoing fees from vendors to provide help desk support, maintain compliance with local, state, and federal reporting requirements, and provide additional features when requested. The need for compliance with state data requirements makes this especially costly. In addition, there are ongoing hardware and networking infrastructure costs. As student management systems become more sophisticated, LEAs are challenged to find and hire local resources with the required skills to support the solutions and the technical environments.

TEA can greatly reduce the cost and burden to LEAs and provide a much more robust system by offering LEAs (on a voluntary basis) a single state-of-the-art SIS solution that will satisfy LEA needs while simultaneously supporting TEA data collection needs. If the solution is properly executed, it would greatly reduce the burden on many LEAs, providing a consistent method for their SIS activities, and a transparent mechanism for TEA to satisfy data collection and warehousing needs. This would yield immense benefits for both the LEAs and the state. The system would be available to the LEAs at an attractive cost, with assured vendor support for state and local needs.

## OBJECTIVES

The objective of this RFO is to obtain Offers from potential Vendors for a SSIS that fulfills the functional and non-functional requirements and is available on a voluntary basis for the purpose of meeting local student administration and state reporting responsibilities. The solution must be offered as Software as a Service (SaaS) to any and all public and charter LEAs that are part of the public school system in the state of Texas. The SaaS must be deployed in a configuration that includes at least two (2) data centers with mutual failover capabilities located in Texas.

NOTE: Software as a Service (SaaS) is software that is deployed over the Internet. With SaaS, a provider licenses an application to customers as a service on demand, through a subscription model.

The proposed solution should, as closely as possible, deliver the base configuration for the SSIS. The Offeror’s proposal may include multiple vendor products in their integrated SSIS solution. The pricing proposal must include all products.

 The base configuration should be composed of the following features:

* Attendance
* Discipline
* Grading/Gradebook
* Graduation Plan
* Health
* Historical Data
* Master Schedule
* Parent/Student Portal
* Registration/Enrollment
* Reporting
* Special Programs
* Staff Demographics
* State and Federal Reporting
* Student Demographics

Proposals will be given extra credit for integrating the following features:

* Cafeteria Management
* Curriculum Management
* Guidance and Counseling
* Library Management
* Student Fees
* Textbook Management
* Transportation

The solution must:

* Enable Texas LEAs to manage local student information
* Provide a single user sign-on
* Enable enforcement of statewide data standards and to ensure the consistency of data across the state
* Provide a solution designed to support data for up to 500 LEAs serving an estimated 1.2 million students in the first two years after deployment
* Provide a near real-time system such that when data is added or updated, the transaction is immediately updated to the database
* Meet all local, state, and federal requirements for reporting and record maintenance
* Use data edits that are consistent with PEIMS data standards
* Make changes to data standards and related standards quickly and efficiently as mandates change
* Provide customized programs, screens, and other features that, once developed, become part of the overall system and are available to all users
* Provide reports that preclude LEAs from having to develop or contract for standard and commonly used reports
* Provide query tools to enable LEAs to generate ad hoc reports
* Enable LEAs to view reports before printing and print reports on any printer in the LEA, including those at local workstations
* Enable LEAs to import and export data as needed for local, state, and federal reporting
* Enable LEAs to manage access to the application
* Provide a [service level agreement](http://en.wikipedia.org/wiki/Service_level_agreement) to meet LEAs’ needs for service and support
* Enable LEAs to submit the three PEIMS student submissions and adhere to PEIMS data standards (<http://ritter.tea.state.tx.us/peims/standards/wedspre/index.html>)

Though responses may vary, a typical solution is expected to include:

* A deliverable solution built on commercial software and technology that satisfies most completely the functional and non-functional requirements for the SSIS
* Demonstration or documented evidence that the performance of the solution and the recommended infrastructure will satisfy LEA needs. This solution must support an environment of 500,000 concurrent users performing typical day-to-day functions including student registration, attendance entry, student scheduling, and grade entry.
* Implementation support to include startup and migration of five (5) years of LEA data
* Production support for that solution, specifically, support for Vendor value-added components of the commercial product
* Customer assistance/support for the solution, including basic help desk support for simple user questions concerning the base commercial solution and for any questions concerning Vendor added components
* Training model, including user documentation, to educate customers to use the proposed solution
* Maintenance and security support (not including user account provisioning) for the solution, including:
* The incorporation or merger of any revisions of the technology
* The merger of other Vendor-developed, added value components created separately as part of a commercial-off-the-shelf (COTS) solution
* A solution support plan that utilizes the existing Texas regional Education Service Centers (ESCs) to support the LEAs
* Project management and reporting
* Solution modification, enhancement, testing and performance tuning, including, but not limited to requests for specific enhancements to reporting capabilities and / or the incorporation of additional data for existing or new reporting needs
* Special requests, specified as average price per request

## SCOPE OF DELIVERABLES AND SERVICES

The following is provided as a high-level description of deliverables and services required. Selection of the Offeror includes an evaluation of the Offeror’s approach and methodology for performing the deliverables and services described below. The TEA Contract Manager will supply the Awarded Vendor with all required Software Requirements Specifications.

### Deliverable Solution

Prior to the contract award, the Vendor shall demonstrate:

1. Demonstrated capability to provide direct availability of the solution through a web site
2. Demonstrated flexibility in reporting
3. Demonstrated ease of use for non-technical users
4. Demonstrated ability to meet functional requirements
5. A description of the recommended infrastructure required to support the solution and make the solution available through the Vendor website and meet the performance requirements described herein
6. Demonstrated performance that the solution can scale to the performance requirements described herein when using the recommended infrastructure. Though this demonstration and analysis may or may not use architecture strictly identical to the recommended architecture, the demonstration and analysis should prove beyond a reasonable doubt that the solution can meet or exceed the performance requirements using the recommended architecture.

### Implementation Support

The Vendor should present a comprehensive plan for implementation of Software as a Service to LEAs. The Vendor should describe its implementation strategies and methodologies to ensure a smooth transition that fulfills LEA needs. The Vendor should specify its implementation process, timeframe and client requirements.

### Production Support

Production support of the solution must include the ability to provide installation, configuration, performance analysis support, and bug fixes for the awarded vendor components.

Support includes those activities that are required for ensuring that the solution is available for use, that it functions as designed, and that the expected results are produced.

Any production problems found must be logged in a problem-tracking system. Production problems are handled by the awarded vendor by performing analysis, code fixing, testing, user verification, and documenting the resolution.

### Customer Assistance/Support

Customer assistance/support by the awarded vendor includes those activities that ensure user questions for any underlying technology are answered, problems are researched and resolved, research and analysis tasks are conducted, and overall assistance is provided for users to perform their jobs as they relate to the solution.

### Maintenance and Security

Maintenance includes those activities that are required to keep the SSIS environment stable and in concert with the proper release levels of the operating system, database, and solution.

Security includes those activities that are required to ensure the confidentiality, integrity and availability of the product and data. Confidential information is governed by the Family Educational Rights and Privacy Act (FERPA), and violation of FERPA can result in serious consequences for the TEA or LEAs, including loss of all federal funding. The awarded vendor agrees to uphold all FERPA regulations and to follow the TEA’s operating procedure OP 10-03 – Confidential, Sensitive and Restricted Enterprise Information, included in this RFO as Attachment G. This will include the appropriate exclusion of any reported element that would violate FERPA requirements. A FERPA violation is extremely serious and may result in immediate termination of the awarded contract or other legal action. FERPA regulations may be found at the following web site address: <http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>.

Note: The awarded vendor project staff will be required to sign the TEA Agent Access to Confidential Information agreement form. This form states:

Confidentiality Clause: I understand that any unauthorized disclosure of confidential student information is illegal as provided in the Family Educational Rights and Privacy Act of 1972 (FERPA) and in the implementing of federal regulations found in 34 CFR, Part 99.

By singing this Contract I agree to the following:

* I will not permit access to confidential information to persons not authorized by an LEA.
* I will return all copies of documents provided by an LEA.
* I will maintain confidentiality of the information provided in the LEA documents or written materials I have been provided or have access to.
* I will not distribute any personal student data either verbally or in writing that I have access to.
* I understand that any data, reports or documents that I generate or interpret are to be protected.

I also understand that failure to observe these restrictions is prohibited by the Texas Government Code, Section 552.352 and that such an offense constitutes a Class A misdemeanor.

### ESC Support Plan

Support by the awarded vendor should include how the vendor intends to use Texas regional ESCs. Texas’ 20 regional education service centers (ESCs, regions, centers) play an integral role in the provision of necessary and essential services to school districts and charter schools in the implementation of school reform and school improvement. Regional education service centers provide training, technical assistance, administrative support, and an array of other services as determined by the legislature, the commissioner of education, and the needs of local school districts and charter schools.  Most often associated with assistance to small and medium-sized school districts, the ESCs have a long history of providing assistance to all districts, including metropolitan and large suburban districts.

A complete list of ESCs can be found at the following web site address: <http://ritter.tea.state.tx.us/ESC/>.

### Project Management and Reporting

Though it is expected that a useable product will be available soon after contract award, any project management efforts to support, maintain, or enhance the delivered product will be governed by these project management efforts.

Project management and reporting includes reporting on a weekly basis to the TEA contract manager to exchange information to ensure that TEA and the Awarded Vendor are mutually aware of current status, issues, and future directions.

The Awarded Vendor will also submit a written weekly status report to the TEA Contract Manager. During the first month of the engagement, the Awarded Vendor will work with the TEA Contract Manager to create a project plan. The project plan will focus on describing the Awarded Vendor’s procedures for maintenance, including maintenance records, documenting dependencies, risks, production defect tracking, and reporting.

The Awarded Vendor must use a formal project plan and a controlled approach supported by standard industry project management software to include project planning, scheduling, tracking, oversight, monitoring of resources, complying with TEA software development standards, processes, and procedures. General project management and support activities include, but are not limited to, the following:

* Ensure compliance with the TEA’s requirements and approved project plan and schedules
* Identify and notify the TEA Contract Manager of any problems or issues that arise
* Maintain regular communication on the progress of all affected activities with the TEA Contract Manager throughout the project
* Report on problems identified by agency staff and external customers with proposed solutions to the TEA Contract Manager in a timely manner
* Provide weekly status reports to the TEA Contract Manager in sufficient detail to convey clearly the status of each activity and milestone and progress toward each deliverable. Microsoft Project is a common reporting tool used by TEA

The weekly written status report must include at a minimum, the following:

* Date of the report and period covered by the report
* Name of the author of the report
* A list of activities and accomplishments for the completed reporting period
* A list of planned activities and accomplishments for the next reporting period
* A percent completion of upcoming milestones
* A list of risks and proposed mitigation plans, and
* A list of issues requiring TEA decisions

### Software Modification, Enhancement, Testing, and Performance Tuning

Software modification, enhancement and testing are defined as changes to existing programs or procedures and new program development. These efforts are scoped and managed through formal Software Change Requests (SCRs). The time required to accomplish a change may vary in size and duration based on the business and technical requirements. It may range from less than one hour of effort to hundreds of hours of efforts. Time estimates may be required and should include analysis, requirement(s) definition, design, coding, testing, implementation, documentation, and adherence to software change and version control processes. The remediation of existing security vulnerabilities is considered to be maintenance, not enhancement or new functionality.

Performance tuning should be performed as needed to ensure there is no performance degradation as a result of application modifications or system upgrades. This tuning includes those activities performed to maximize overall system performance to ensure the best throughput.

### Scope of Services

The TEA expects the Awarded Vendor to be responsible for the following:

* Data center operations
* Production server hardware
* Production communications networks / LAN administration
* Database administration
* Production server administration
* User account administration
* Production server OS-level security

## SERVICES TO PERFORM

Specific services required for the solution implementation, support, maintenance, and enhancements are as follows:

### Implementation Support

Provide implementation support for the solution consisting of:

* Analysis of total cost of ownership
* Customer readiness assessment
* Configuration and setup
* Data migration
* Initial training

### Production Support

Provide production support for the solution, currently consisting of:

* Support for any maintenance or configuration issues not satisfied by the initial setup
* Data loading as requested
* Report validation
* Support of security profiles and roles as requested
* Document support processes as requested

### Customer Assistance/Support

* Provide basic customer assistance/support for the underlying business intelligence or reporting technology in the value-added product
* Provide customer assistance/support the value-added portions of the product
* Coordinate corrective actions with users, as needed, on customer assistance issues
* Provide customer assistance/support for customers to determine user requirements to enhance and add new functionality to existing reports
* Provide customer assistance by acknowledging requests and answering questions received via pager, telephone, email, and the Vendor’s change management system

### Maintenance and Security

* Provide maintenance for the solution
* Provide maintenance support for customer security requirements to the solution
* Provide maintenance support related to migrating new or revised code and reports into test and production
* Provide support for change control and configuration management of the solution
* Provide maintenance support for modifications required by the legislative mandates, as needed
* Support for performance tuning for planning and testing of hardware/software upgrades related to the platform and operating system
* Ensure the software assets are protected and backed up

### Project Management and Reporting

* Keep TEA Contract Manager informed on issues and the status of work planned and completed
* Attend weekly status meetings with the TEA Contract Manager
* Provide related training to keep staff up-to-date on the functionality and technology of the solution

### Software Modification, Enhancement, Testing, and Performance Tuning

* Provide software modification, enhancement, and testing of enhancements to the solution
* Provide support related to migrating new or revised code and reports for the solution from development to test and finally to production
* Provide support for determining potential enhancements, their impact, cost and schedule, as directed by TEA. These may include legislated mandates that TEA chooses to fulfill using this product.
* Work directly with customers to determine user requirements for enhancements, modifications, and adding new functionality to the solution
* Formally document enhancements and modifications to the solution
* Document new report development and report enhancements
* Develop and execute a performance test plan for all major upgrades. Conduct performance benchmarks on the existing version of the application and on the upgraded software, prior to moving to production. Compare the results and continue tuning the new release until performance meets or exceeds the existing version of the application. Document all testing and produce a report which summarizes the results.

NOTICE OF INTENT TO SUBMIT AN OFFER

The undersigned organization hereby files a notice of intent to submit an offer for the

Texas Student Data System (TSDS) State-sponsored Student Information System (SSIS)

RFO No.: 701-11-030

Name of Organization:

Point of Contact:

E-Mail:

Mailing Address:

Phone Number: ( ) Fax: ( )

Filing of this notice is not mandatory; however, it will assist the Texas Education Agency in anticipating the volume of proposals in order to better expedite the review process and finalize contract awards.

Filing this notice in no way binds the organization to submit an offer for this RFO.

Offerors who do not file this notice are still eligible to submit a proposal.

PLEASE SUBMIT THIS NOTICE BY EMAIL OR FAX AS SOON AS POSSIBLE AFTER RECEIPT OF THE REQUEST FOR PROPOSAL, BUT NOT LATER THAN WEDNESDAY, December 1, 2010 TO:

Purchasing & Contracts Division

Attn: Terry Alexander

terry.alexander@tea.state.tx.us

FAX (512) 475-1706

EXECUTION OF OFFER, AFFIRMATION OF TERMS AND CONDITIONS, AND PROPOSAL PREFERENCES

A. As used in these General Provisions:

* *Contract* means the entire document, and all of TEA’s attachments, appendices, schedules (including but not limited to the General Provisions and the Special Provisions), amendments and extensions of or to the Standard Contract;
* *Receiving Agency or Party or TEA* means the Texas Education Agency;
* *Performing Agency or Contractor* means the party or parties to this Contract other than TEA, including its or their officers, directors, employees, agents, representatives, consultants and subcontractors, and subcontractors’ officers, directors, employees, agents, representatives and consultants;
* *Project Manager/Administrator* means the respective person(s) representing TEA or Contractor, as indicated by the Contract, for the purposes of administering the Contract Project;
* *Contract Project* means the purpose intended to be achieved through the Contract;
* *Amendment* means a Contract that is revised in any respect, and includes both the original Contract, and any subsequent amendments or extensions thereto;
* *Works* means all tangible or intangible material, products, ideas, documents or works of authorship prepared or created by Contractor for or on behalf of TEA at any time after the beginning date of the Contract (“Works” includes but is not limited to computer software, data, information, images, illustrations, designs, graphics, drawings, educational materials, assessment forms, testing materials, logos, trademarks, patentable materials, etc.); and,
* *Intellectual Property Rights* means the worldwide intangible legal rights or interests evidenced by or embodied in: (a) any idea, design, concept, method, process, technique, apparatus, invention, discovery, or improvement, including any patents, trade secrets, and know-how; (b) any work of authorship, including any copyrights, moral rights or neighboring rights; (c) any trademark, service mark, trade dress, trade name, or other indicia of source or origin; (d) domain name registrations; and (e) any other similar rights. The Intellectual Property Rights of a party include all worldwide intangible legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.

B.  **Contingency**: The Contract(s), including any amendments, extensions or subsequent contracts, are executed by TEA contingent upon the availability of appropriated funds by legislative act. Notwithstanding any other provision in this Contract or any other document, this Contract is void upon the insufficiency (in TEA’s discretion) or unavailability of appropriated funds. In addition, this Contract may be terminated by TEA at any time for any reason upon notice to Contractor. Expenditures and/or activities for which Contractor may claim reimbursement shall not be accrued or claimed subsequent to receipt of such notice from TEA.

C. **Indemnification**:

For local educational agencies (LEAs), regional education service centers (ESCs), institutions of higher education (IHEs), and state agencies: Contractor, to the extent permitted by law, shall hold TEA harmless from and shall indemnify TEA against any and all claims, demands, and causes of action of whatever kind or nature asserted by any third party and occurring or in any way incident to, arising from, or in connection with, any acts of Contractor in performance of the Contract Project.

For all other contractors, including nonprofit organizations and for-profit businesses: Contractor shall indemnify, hold harmless, and defend TEA and the State, all of its officers, agents, and employees from any and all claims, actions, suits, demands, and causes of action of whatever kind or nature asserted by any third party and occurring or in any way incident to, arising from, or in connection with, any acts or omissions of the Contractor or any agent, employee, subcontractor, or supplier of Contractor in performance of the Contract Project.

D.  **Subcontracting**: Contractor shall not assign, transfer or subcontract any of its rights or responsibilities under this Contract without prior formal written amendment to this Contract properly executed by both TEA and Contractor. The TEA Project Manager must pre-approve any changes in key personnel throughout the contract term. Any changes to the HUB Subcontracting Plan (HSP) must be approved by the Agency HUB Coordinator before staffing changes are initiated.

E.  **Encumbrances/Obligations**: All encumbrances, accounts payable, and expenditures shall occur on or between the beginning and ending dates of this Contract. All goods must have been received and all services rendered during the Contract period in order for Contractor to recover funds due. In no manner shall encumbrances be considered or reflected as accounts payable or as expenditures.

F. **Contractor's Proposal**: Contractor’s proposal that was furnished to TEA in response to a request for proposal is incorporated in this Contract by reference. The provisions of this Contract shall prevail, however, in all cases of conflict arising from the terms of Contractor's proposal whether such proposal is a written part of this Contract or is attached as a separate document.

1. **Requirements, Terms, Conditions, and Assurances**: The terms, conditions, and assurances, which are stated in the Request for Proposal, in response to which Contractor submitted a proposal, are incorporated herein by reference for all purposes, although the current General Provisions shall prevail in the event of conflict.
2. **Records Retention**: Contractor shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Contractor in connection with the Contract Project. These records and accounts shall be retained by Contractor and made available for programmatic or financial audit by TEA and by others authorized by law or regulation to make such an audit for a period of not less than five (5) years from the date of completion of the Contract Project or the date of the receipt by TEA of Contractor's final claim for payment or final expenditure report in connection with this Contract, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed.

Contractor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor’s office, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor’s Office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirements to cooperate is included in any subcontract it awards.

1. **Intellectual Property Ownership**: Contractor agrees that all Works are, upon creation, works made for hire and the sole property of TEA. If the Works are, under applicable law, not considered works made for hire, Contractor hereby assigns to TEA all worldwide ownership of all rights, including the Intellectual Property Rights, in the Works, without the necessity of any further consideration, and TEA can obtain and hold in its own name all such rights to the Works. Contractor agrees to maintain written agreements with all officers, directors, employees, agents, representatives and subcontractors engaged by Contractor for the Contract Project, granting Contractor rights sufficient to support the performance and grant of rights to TEA by Contractor. Copies of such agreements shall be provided to TEA promptly upon request.

 Contractor warrants that (i) it has the authority to grant the rights herein granted, (ii) it has not assigned or transferred any right, title, or interest to the Works or Intellectual Property Rights that would conflict with its obligations under the Contract, and Contractor will not enter into any such agreements, and (iii) the Works will be original and will not infringe any intellectual property rights of any other person or entity. These warranties will survive the termination of the Contract. If any preexisting rights are embodied in the Works, Contractor grants to TEA the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to (i) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such preexisting rights and any derivative works thereof and (ii) authorize others to do any or all of the foregoing. Contractor agrees to notify TEA on delivery of the Works if they include any such preexisting rights. On request, Contractor will provide TEA with documentation indicating a third party’s written approval for Contractor to use any preexisting rights that may be embodied or reflected in the Works.

Contractor agrees, at Contractors expense, to indemnify, hold harmless and defend TEA and the State from claims involving infringement of third parties’ licenses, trademarks, copyrights or patents.

 **For School Districts and Nonprofit Organizations**: The foregoing Intellectual Property Ownership provisions apply to any school districts, nonprofit organizations, and their employees, agents, representatives, consultants and subcontractors.

 **For Education Service Centers (ESCs)**: The foregoing Intellectual Property Ownership provisions apply to an Education Service Center (ESC) and its employees, agents, representatives, consultants, and subcontractors. If an ESC or any of its subcontractor(s) wish to obtain a license agreement to use, advertise, offer for sale, sell, distribute, publicly display, publicly perform or reproduce the Works, or make derivative works from the Works, then express written permission must first be obtained from TEA Legal Division.

 **For Colleges and Universities**: The foregoing Intellectual Property Ownership provisions apply to any colleges and universities and their employees, agents, representatives, consultants, and subcontractors; provided, that for all Works created or conceived by colleges or universities under the Contract, they are granted a non-exclusive, non-transferable, royalty-free license to use the Works for their own academic and educational purposes only. Colleges and universities are prohibited, however, from advertising, offering for sale, selling, distributing, publicly displaying, publicly performing, or reproducing the Works, or making derivative works from the Works that are created or conceived under this Contract, without the express written permission of TEA Legal Division.

1. **Sanctions for Failure to Perform or for Noncompliance**: If Contractor, in TEA's sole determination, fails or refuses for any reason to comply with or perform any of its obligations under this Contract, TEA may impose such sanctions as it may deem appropriate. This includes but is not limited to the withholding of payments to Contractor until Contractor complies; the cancellation, termination, or suspension of this Contract in whole or in part; and the seeking of other remedies as may be provided by this Contract or by law. Any cancellation, termination, or suspension of this Contract, if imposed, shall become effective at the close of business on the day of Contractor's receipt of written notice thereof from TEA.
2. **Contract Cancellation, etc.**: If this Contract is cancelled, terminated, or suspended by TEA prior to its expiration date, the reasonable monetary value of services properly performed by Contractor pursuant to this Contract prior to such cancellation, termination or suspension shall be determined by TEA and paid to Contractor as soon as reasonably possible.
3. **Refunds Due to TEA**: If TEA determines that TEA is due a refund of money paid to Contractor pursuant to this Contract, Contractor shall pay the money due to TEA within 30 days of Contractor's receipt of written notice that such money is due to TEA. If Contractor fails to make timely payment, TEA may obtain such money from Contractor by any means permitted by law, including but not limited to offset, counterclaim, cancellation, termination, suspension, total withholding, and/or disapproval of all or any subsequent applications for said funds.
4. **Capital Outlay**: If Contractor purchases capital outlay (furniture and/or equipment) to accomplish the Contract Project, title will remain with Contractor for the period of the Contract. TEA reserves the right to transfer capital outlay items for Contract noncompliance during the Contract period or as needed after the ending date of the Contract. This provision applies to any and all furniture and/or equipment regardless of unit price and how the item is classified in Contractor's accounting record. This provision is applicable when federal funds are utilized for the Contract.
5. **TEA Property (terms)**: In the event of loss, damage or destruction of any property owned by or loaned by TEA while in the custody or control of Contractor, Contractor shall indemnify TEA and pay to TEA the full value of or the full cost of repair or replacement of such property, whichever is the greater, within 30 days of Contractor's receipt of written notice of TEA's determination of the amount due. This applies whether the property is developed or purchased by Contractor pursuant to this Contract or is provided by TEA to Contractor for use in the Contract Project. If Contractor fails to make timely payment, TEA may obtain such money from Contractor by any means permitted by law, including but not limited to offset or counterclaim against any money otherwise due to Contractor by TEA.
6. **State of Texas Laws**: In the conduct of the Contract Project, Contractor shall be subject to Texas State Board of Education rules pertaining to this Contract and the Contract Project, and to the laws of the State of Texas governing this Contract and the Contract Project. This Contract constitutes the entire agreement between TEA and Contractor for the accomplishment of the Contract Project. This Contract shall be interpreted according to the laws of the State of Texas except as may be otherwise provided for in this Contract.
7. **Federal Regulations Applicable to All Federally Funded Contracts**:

 1. For Local Education Agencies (LEAs): 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 75 or 76 as applicable, 77, 79, 80, 81, 82, 85, 99, 104, 47 CFR 0 and 64, and OMB Circulars A-87 (Cost Principles) and A-133 (Audits);

 2. For Education Service Centers (ESCs): 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 75 or 76 as applicable, 77, 79, 80, 81, 82, 85, 99, 104, 47 CFR 0 and 64, and OMB Circulars A-87 (Cost Principles) and A-133 (Audits);

 3. For Institutions of Higher Education (IHEs): 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 74, 77, 79, 81, 82, 85, 99, 104, OMB Circular A-21 (Cost Principles), 47 CFR 0 and 64, OMB Circular A-133 (Audits), and OMB Circular A-110 (Uniform Administrative Requirements);

 4. For Nonprofit Organizations: 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 74, 77, 79, 81, 82, 85, 99, 104, 47 CFR 0 and 64, OMB Circulars A-122 (Cost Principles) and A-133 (Audits), and OMB Circular A-110 (Uniform Administrative Requirements);

 5. For State Agencies: 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 76, 80, 81, 82, 85, 99, 104, 47 CFR 0 and 64, OMB Circulars A-87 (Cost Principles) and A-133 (Audits), and OMB Circular A-110 (Uniform Administrative Requirements); and

 6. For Commercial (for-profit) Organizations: 29 CFR 1630 and 48 CFR Part 31.

 7. For American Recovery and Reinvestment Act funded projects: FAR 52.204-11, 52.212-5, 52.214-26, 52.215-2, and OMB Guidance Memo M-09-15.

Q. **Point of Contact**: All notices, reports and correspondence required by this Contract shall be in writing and delivered to the TEA project manager listed below or their successors in office:

|  |  |
| --- | --- |
| **TEA** | **CONTRACTOR** |
|  |   |
|   |  |
| Texas Education Agency |  |
| William B. Travis Building |  |
| 1701 N. Congress Avenue |  |
| Austin, Texas 78701 |  |

R. **Time and Effort Recordkeeping**: For those personnel whose salaries are prorated between or among different funding sources, time and effort records will be maintained by Contractor that will confirm the services provided within each funding source. Contractor must adjust payroll records and expenditures based on this documentation. This requirement applies to all projects, regardless of funding source, unless otherwise specified. For federally funded projects, time and effort records must be in accordance with the requirements in the applicable OMB cost principles.

1. **Federal Rules, Laws, and Regulations That Apply to all Federal Programs**: Contractor shall be subject to and shall abide by all federal laws, rules, and regulations, pertaining to the Contract Project, including, but not limited to:
2. Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. sec. 12101, and the regulations effectuating its provisions contained in 28 CFR Parts 35 and 36, 29 CFR Part 1630, and 47 CFR Parts 0 and 64;
3. Title VI of the Civil Rights Act of 1964, as amended (prohibition of discrimination by race, color, or national origin), and the regulations effectuating its provisions contained in 34 CFR Part 100;
4. Title IX of the Education Amendments of 1972, as amended (prohibition of sex discrimination in educational institutions) and the regulations effectuating its provisions contained in 34 CFR Part 106, if Contractor is an educational institution;
5. Section 504 of the Rehabilitation Act of 1973, as amended (nondiscrimination on the basis of handicapping condition), and the regulations effectuating its provisions contained in 34 CFR Parts 104 and 105.
6. The Age Discrimination Act of 1975, as amended (prohibition of discrimination on basis of age), and the implementing regulations contained in 34 CFR, Part 110;
7. Family Educational Rights and Privacy Act of 1975, as amended, and the implementing regulations contained in 34 CFR, Part 99, if Contractor is an educational institution;
8. Section 509 of H.R. 5233 as incorporated by reference in P.L. 99-500 and P.L. 99-591 (prohibition against the use of federal grant funds to influence legislation pending before Congress);
9. P.L. 103-227, Title X, Miscellaneous Provisions of the GOALS 2000: Educate America Act; P.L. 103-382, Title XIV, General Provisions of the Elementary and Secondary Education Act, as amended; and
10. General Education Provisions Act, as amended.
11. **Forms, Assurances, and Reports**: Contractor shall timely make and file with the proper authorities all forms, assurances and reports required by federal laws and regulations. TEA shall be responsible for reporting to the proper authorities any failure by Contractor to comply with the foregoing laws and regulations coming to TEA's attention, and may deny payment or recover payments made by TEA to Contractor in the event of Contractor's failure so to comply. Contractor who is indebted or owes delinquent taxes to the state will have any payments under the Contract applied toward the debt or delinquent taxes owed the state until the account is paid in full, regardless of when the debt or delinquency was incurred. This provision does not apply if the warrant or transfer results in payments being made in whole or in part with money paid to the state by the Federal Government.
12. **Signature Authority; Final Expression; Superseding Document**: Contractor certifies that the person signing this Contract has been properly delegated this authority. The Contract represents the final and complete expression of the terms of agreement between the parties. The Contract supersedes any previous understandings or negotiations between the parties. Any representations, oral statements, promises or warranties that differ from the Contract shall have no force or effect. The Contract may be modified, amended or extended only by formal written amendment properly executed by both TEA and Contractor.
13. **Antitrust:**  By signing this Contract, Contractor, represents and warrants that neither Contractor nor any firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such firm, corporation or institution has, (1) violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws; or (2) communicated directly or indirectly the Proposal to any competitor or any other person engaged in such line of business during the procurement process for this Contract.
14. **Family Code Applicability**: By signing this Contract, Contractor, if other than a state Party, certifies that under Section 231.006, Family Code, that Contractor is not ineligible to receive specified grant, loan, or payment under this Contract and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate. TEA reserves the right to terminate this Contract if Contractor is found to be ineligible to receive payment. If Contractor is found to be ineligible to receive payment and the Contract is terminated, Contractor is liable to TEA for attorney’s fees, the costs necessary to complete the Contract, including the cost of advertising and awarding a second contract, and any other damages or relief provided by law or equity.
15. **Dispute Resolution**: The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by TEA and Contractor to attempt to resolve all disputes arising under this Contract. The parties may agree to mediation of their dispute at any time.  However, if all issues in dispute are not completely resolved through direct negotiations between the parties within 180 days after the agency receives Contractor’s notice of claim, then the parties must submit the dispute to mediation before a mutually acceptable mediator in Travis County, Texas.  The mediation must be completed on or before 270 days after the agency receives Contractor’s notice of claim.  Completion of the mediation is a condition precedent to the filing of a contested case hearing under Chapter 2260.   The agency’s participation in mediation or any other dispute resolution process shall not waive any of the agency’s contractual or legal rights and remedies, including but not limited to sovereign immunity.
16. **Interpretation**: In the case of conflicts arising in the interpretation of wording and/or meaning of various sections, parts, Appendices, General Provisions, Special Provisions, Exhibits, and Attachments or other documents, the TEA Contract and its General Provisions, Appendices and Special Provisions shall take precedence over all other documents which are a part of this contract.
17. **Education Service Center**: No funds transferred to Regional Education Service Centers or to school districts may be used to hire a registered lobbyist.
18. **Compliance with Laws**: Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting Contractor’s performance, including if applicable, workers’ compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment and licensing laws and regulations. For the entire duration of the Contract, Contractor shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Contract. When required or requested by the Agency, Contractor shall furnish TEA with satisfactory proof of its compliance with this provision.
19. **Public Information**: The TEA is subject to the provisions of the Texas Public Information Act. If a request for disclosure of this Contract or any information related to the goods or services provided under the Contract or information provided to the TEA under this Contract constituting a record under the Act is received by the TEA, the information must qualify for an exception provided by the Texas Public Information Act in order to be withheld from public disclosure. Contractor authorizes the TEA to submit any information contained in the Contract, provided under the Contract, or otherwise requested to be disclosed, including information Contractor has labeled as confidential proprietary information, to the Office of the Attorney General for a determination as to whether any such information may be exempt from public disclosure under the Act. If the TEA does not have a good faith belief that information may be subject to an exception to disclosure, the TEA is not obligating itself by this Contract to submit the information to the Attorney General. It shall be the responsibility of the Contractor to make any legal argument to the Attorney General or appropriate court of law regarding the exception of the information in question from disclosure. The Contractor waives any claim against and releases from liability the TEA, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by the Contractor and determined by the Attorney General or a court of law to be subject to disclosure under the Texas Public Information Act.
20. **Gratuities**: By signing this Contract, Contractor represents and warrants that the Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response.
21. **Venue and Jurisdiction**: Subject to and without waiving any of the Agency’s rights, including sovereign immunity, this Contract is governed by and construed under and in accordance with the laws of the State of Texas. Venue for any suit concerning this solicitation and any resulting contract or purchase order shall be in a court of competent jurisdiction in Travis County, Texas.
22. **Protests**: Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of this or any other contract by the Texas Education Agency may submit a formal protest to the Director of the Agency’s Contracts and Purchasing Division.  This protest procedure shall be the exclusive method by which anyone may make a challenge to any aspect of the Agency’s contracting process.  The Agency will not be required to consider the merits of any protest unless the protest is submitted timely, in a sworn written protest petition, and in strict compliance with all requirements in applicable law and Agency’s rules (Title 19 of the Texas Administrative Code, at § 30.2002, or any amendment or successor rules).

 If the protest procedure results in a final determination by the Agency that a violation of law has occurred in its contracting process in a case in which a contract has been awarded, then the Agency may declare the contract void at inception.  In that event, the party who had been awarded the contract shall have no rights under the contract and no remedies under the law against the Agency.

1. **Liability for and Payment of Taxes:**  Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Contractor or its employees. TEA shall not be liable for any taxes resulting from this Contract.
2. **Severability:** In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, the invalid provision will be deemed severable and stricken from the contract as if it had never been incorporated herein. The remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.
3. **Conformance**: The Contractor warrants that all goods and services furnished shall conform in all respects to the terms of this Contract, including any drawings, specifications or standards incorporated herein, and any defects in materials, workmanship, and free from such defects in design. In addition, respondent warrants that goods and services are suitable for and will perform in accordance with the purposes for which they are intended.
4. **Felony Criminal Convictions:** Contractor represents and warrants that Contractor has not and Contractor’s employees assigned to TEA projects have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Contractor has fully advised TEA as to the facts and circumstances surrounding the conviction.
5. **Criminal Background Checks:** If during the term of this Contract, Contractor, and/or Contractor staff, or subcontractor have access to Texas public school campuses, all Contractor and/or Contractor’s staff must submit to a national criminal history record information review (includes fingerprinting) and meet all eligibility standards and criteria as set by Agency before serving in assignments on behalf of the Agency. This requirement applies to all individuals who currently serve or will serve in Agency assignments that have the possibility of direct contact with students. Assignments are contingent upon meeting Agency eligibility standards.  Contractor and/or any staff member of Contractor who may perform services under this contract must complete this criminal history review before the beginning of an assignment. If said individuals have not completed this requirement or the review results in a determination that Contractor is not eligible for assignment, this contract will be terminated effective immediately or the date of notice of non-eligibility, whichever is earliest.
6. **Assignment of Contract**: This Contract may not be assigned, sold, or transferred without the express written consent of the TEA Purchasing and Contracts Division. An attempted assignment after Contract award without the TEA approval will constitute a material breach of contract.
7. **Buy Texas:** In accordance with Government Code, Section 2155.444, the State of Texas requires that during the performance of a contract for services, Contractor shall purchase products and materials produced in the State of Texas when available at a price and time comparable to products and materials produced outside the state. This provision does not apply if Contractor receives any federal funds under this Contract.
8. **Excluded Parties List System:** The Texas Education Agency is federally mandated to adhere to the directions provided in the President’s Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal General Services Administration’s Excluded Parties List System (EPLS, <http://www.epls.gov>), which is inclusive of the United States Treasury’s Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Contractor certifies that they are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement and that Offeror is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.
9. **Suspension and Debarment**: Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded from participation in this transaction by any federal, state or local government entity. If Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this contract.
10. **Web Accessibility Policy**: State law requires State Agencies and institutions of higher education to provide persons and employees with disabilities access comparable to access and use provided to the public and State employees without disabilities for the following: telephones and other telecommunications products, information kiosks, transaction machines, internet websites, and multimedia resources. TEA adheres to the standards set forth in TAC §206 State Web Sites, TAC §213 Electronic and Information Resources, and the Federal 508 requirements which may be viewed at <http://www.governor.state.tx.us/disabilities/resources/keylaws/access>. This policy is applicable to all TEA contractors who develop or provide any of the services or products listed above as a result of a TEA contract award or approved vendor list. All documents created or developed under this Contract must also be compliant with all state and federal regulations for web accessibility (i.e., Americans with Disabilities Act (ADA) compliance, <http://www.dir.state.tx.us/general_info/accessibility.htm>).

1. **Collusion:** Contractor certifies and represents that Contractor has not colluded with, nor received any assistance from, any person who was paid by TEA to prepare specifications or a solicitation on which a respondent’s bid or proposal is based and will not allow any person who prepared the respective specifications or solicitation to participate financially in any contract award.
2. **Social Security Numbers Withheld:** TEA will not provide Social Security Numbers (SSNs) to any Contractor under this contract. TEA, its contractors and their subcontractors, will not require or request school districts to provide SSNs under this contract.
3. **Proprietary or Confidential Information:** Contractor, its employees and subcontractors, agree that in executing tasks on behalf of the TEA, they will not use any student-identifying information in any way that violates the provisions of FERPA, and will destroy or return all student-identifying information within thirty (30) days of project completion. Contractor also agrees not to disclose any information to which it is privy under this Contract without the prior consent of the agency. Contractor will indemnify and hold harmless the State of Texas, its officers and employees, and TEA, its officers and employees for any claims or damages that arise from the disclosure by Contractor or its contractors of information held by the State of Texas.
4. **Independent Contractor**: Contractor shall serve as an independent contractor in providing services under this Contract.  Contractor’s employees are not and shall not be construed as employees or agents of the State of Texas.
5. **Vendor Performance:** All state agencies must report unsatisfactory vendor performance on purchases over $25,000. Offerors who are in default or otherwise not in good standing under any other current or prior contract with TEA at the time of selection will not be eligible for award of this contract. Agencies report satisfactory and exceptional vendor performance to assist in determining best value. In accordance with Texas Government Code, §2155.074 and §2155.75, vendor performance may be used as a factor in future contract awards.

. Contractor performance information is located on the CPA web site at:

<http://www.window.state.tx.us/procurement/prog/vendor_performance/>

1. **Termination:** This contract shall terminate upon full performance of all requirements contained in this contract, unless otherwise extended or renewed as provided in accordance with the contract terms and conditions.
2. **Termination for Convenience:** Either Party may terminate this Contract at any time, in whole or in part, without penalty, by providing thirty (30) calendar days advance written notice to the other Party. In the event of such a termination, the Contractor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TEA shall be liable for reimbursing only those expenses incurred by the Contractor that are permitted under this Contract and were incurred prior to the effective termination date.
3. Termination for Cause/Default: If the Contractor fails to provide the goods or services contracted for according to the provisions of the Contract, or fails to comply with any of the terms or conditions of the Contract, TEA may, upon written notice of default to the Contractor, immediately terminate all or any part of the Contract. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law or under the Contract.

TEA may exercise any other right, remedy or privilege which may be available to it under applicable law of the state and any other applicable law or may proceed by appropriate court action to enforce the provisions of the Contract, or to recover damages for the breach of any agreement being derived from the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless TEA notifies the Contractor in writing prior to the exercise of such remedy.

The Contractor shall remain liable for all covenants and indemnities under the Contract. The Contractor shall be liable for all costs and expenses, including court costs, incurred by TEA with respect to the enforcement of any of the remedies listed herein.

1. **Termination Due to Changes in Law:** If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either Party cannot reasonably fulfill this Contract and if the Parties cannot agree to an amendment that would enable substantial continuation of the Contract, the Parties shall be discharged from any further obligations under this Contract.
2. **Rights upon Termination or Expiration of Contract**: In the event that the Contract is terminated for any reason, or upon its expiration, TEA shall retain ownership of all associated work products and documentation obtained from the Contractor under the Contract.
3. **Survival of Terms**: Termination of the Contract for any reason shall not release the Contractor from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.
4. **Amendments:**
5. All amendments to this Contract will be in a manner as prescribed by the Project Administrator of TEA, subject to Paragraph B of the General Provisions and will be made on AMENDMENT TO TEXAS EDUCATION AGENCY STANDARD CONTRACT form supplied by TEA. Amendments must be mailed to the Purchasing and Contracts Division, Room 2-125, Texas Education Agency, William B. Travis Building, 1701 North Congress, Austin, Texas 78701. An amendment to this Contract will become effective on the date of signature of TEA.
6. The Contractor is permitted to rebudget among direct cost categories within the approved budget to meet unanticipated requirements and to make limited changes to the approved budget without submitting a written amendment. However, a revised budget document must be submitted to the TEA Project Manager for approval. Once approved, the documents must be submitted and Contracts office and will be incorporated into the Contract file. Failure to submit the documents may result in invoices being rejected or payment delayed.
7. Written amendments are required for the following Contract changes:
	1. any revision which would result in the need for additional funding;
	2. any revision to the scope or objectives of the Contract (regardless of whether there is an associated budget revision requiring prior approval);
	3. a request to extend the period of the Contract;
	4. cumulative transfers among direct cost categories which exceed or are expected to exceed ten percent of the current total approved budget category
	5. any reduction of funds or reduction in the scope of work;
	6. whenever a line item within a class/object code is added;
	7. an increase in the quantity of capital outlay item(s) requested; and
	8. an increase or decrease in the number of positions charged to Contract.

All amendments must be signed by both parties.

1. **Payment:**

Payment for goods or services purchased with State-appropriated funds is made by warrant (check) or by electronic Direct Deposit from the State Treasury. Direct Deposit is the preferred method of payment. Any payment owed by an agency must be mailed or transmitted electronically to the vendor no later than 30 days after the later of:

   (1) the day on which the agency received the goods;

   (2) the date the performance of the service under the contract is completed; or

(3) the day on which the agency received the complete and correct invoice for goods or services.

ZZ.. **IRS Withholding:** Certain payments by some governmental entities to contractors after December 31, 2011 are subject to a 3% federal withholding requirement. The Internal Revenue Service (IRS) has proposed regulations regarding the 3% withholding requirement.  Contractors and potential contracts should review this website for more information:     [http://www.irs.gov/govt/fslg/article/0,,id=204409,00.html](http://www.irs.gov/govt/fslg/article/0%2C%2Cid%3D204409%2C00.html)

If the TEA determines that any payments due under this contract are subject to the 3% withholding requirement, the TEA shall withhold such amounts consistent with the statute. It is the Contractor’s sole responsibility to assert and establish to the satisfaction of the TEA the availability of any applicable exemption from withholding.

Additional information and a Direct Deposit Authorization application may be found at: <https://fmx.cpa.state.tx.us/fm/payment/index.php>.

1. Payment for service(s) described in this Contract is contingent upon satisfactory completion of the service(s). Satisfaction will be determined by TEA's Project Administrator, in his sole discretion but in accordance with reasonable standards and upon advice of his superiors in TEA, if necessary. Unless otherwise stated, payment under this Contract will be made upon performance of services based upon submission of an expenditure report/invoice, properly prepared and certified, outlining expenditures by cost category. Include the contract number, purchase order number, and the Texas Comptroller of Public Accounts Texas Identification Number (TIN) on all invoices/expenditure reports. The cost categories provided in the expenditure report/invoice must coincide with the cost categories detailed in the approved budget. A list of tasks/activities performed during the invoice period must accompany the expenditure report/invoice. The final expenditure report/invoice is due within forty-five days after the end of the Contract. Payment on the final expenditure report is contingent upon receipt of all reports/products required by this Contract.
2. An encumbrance, accounts payable, and expenditure, as with all other contract accounting terms, will be as defined in the *Financial Accounting and Reporting Module of the TEA Financial Accountability System Resource Guide*. All goods must have been received and all services rendered by the ending date of this Contract in order for Contractor to include these costs as either expenditures or as accounts payable and, thereby, recover funds due. In no manner shall encumbrances be considered or reflected as accounts payable or as expenditures.

3. Contractor who is indebted or owes delinquent taxes to the state will have any payments under the contract applied toward the debt or delinquent taxes owed the state until the amount is paid in full, regardless of when the debt or delinquency was incurred. TEA shall determine whether a payment law prohibits the Comptroller from issuing a warrant or initiating an electronic funds transfer to a person before TEA enters into a written contract with that person.

 Contractor may verify their account status by accessing the Comptroller’s website at: <http://ecpa.cpa.state.tx.us/vendor/tpsearch1.html>. If the account status message is “on vendor hold*,*” the contractor is advised to contact the Comptroller’s Warrant Hold Section in the Division of Revenue Accounting at 1-800-531-5441 ext. 3-4561 for assistance in resolving the issue.

XX . Prohibition of text messaging and emailing while driving during official federal grant business: Federal grant recipients and their grant personnel are prohibited from texting messaging while driving a government owned vehicle or while driving their own privately owned vehicle during official grant business, or from using government supplied electronic equipment to text message or email while driving. Recipients must comply with these conditions under Executive Order 13513, “Federal Leadership On Reducing Text Messaging While Driving,” effective October 1, 2009.

The Texas Government Code and Family Code sites referenced in this document may be viewed at: <http://www.statutes.legis.state.tx.us/>

The Texas Administrative Code site referenced in this document may be viewed at: [http://info.sos.state.tx.us/pls/pub/readtac$ext.viewtac](http://info.sos.state.tx.us/pls/pub/readtac%24ext.viewtac)

Proposer has read, understands, and agrees to be bound to the terms and conditions stated in the RFO If a contract is awarded to Proposer pursuant to this RFO.

Contractor shall provide to Agency, Contractor's nine (9) digit Federal Employer's Identification Number (FEI#) or Social Security Number (SSN) if Contractor is an individual, or Contractor's fourteen (14) digit State of Texas Payee Identification Number (TIN). If Contractor is incorporated, Contractor shall also provide to Agency the corporation's charter number issued by the Texas Secretary of State's office. Information provided by the contractor will be verified by the Agency.

|  |  |
| --- | --- |
| Contractor’s FEI# |       |
| Contractor’s SSN |       |
| Contractor’s TIN |       |
| Contractor’s charter # |       |

The undersigned is an authorized official for the Proposer and certifies that the proposal submitted with this “Execution of Offer, Affirmation of Terms and Conditions, and Proposal Preferences” instrument is in full compliance with the provisions expressly stated above. I further certify that the proposal submitted with this instrument is allowed to claim any of the Chapter 2155 Texas Government Code preferences checked below:

The proposer, if selected as the contractor, will be required to purchase products and materials produced in this state when they are available at a price and time comparable to products and materials produced outside of Texas (TX Govt. Code § 2155.4441).

Check below if claiming a preference included in Chapter 2155 of the Texas Government Code and in Rule 1 TAC 113.8

|  |  |  |
| --- | --- | --- |
| [ ]  | § 2155.441 | Products of persons with mental or physical disabilities |
| [ ]  | § 2155.442 | Energy efficient products |
| [ ]  | § 2155.443 | Rubberized asphalt paving material |
| [ ]  | § 2155.444 | Texas produced supplies, materials, or equipment; or USA supplies, materials, or equipment over foreign products |
| [ ]  | Rule 1 TAC  | Services offered by a Texas bidder |
| [ ]  | § 2155.444 | Texas agriculture products |
| [ ]  | § 2155.445 | Recycled, remanufactured, or environmentally sensitive products made of recycled materials |
| [ ]  | § 2155.446 | Paper containing recycled fibers |
| [ ]  | § 2155.447 | Recycled motor oil and lubricants |
| [ ]  | § 2155.449 | Products produced in facilities on rehabilitated property as certified by section 361.609 of the Texas Health and Safety Code |
| [ ]  | § 2155.449 | Products and services from economically depressed or blighted areas |
| [ ]  | § 2155.449 | Products and services from Historically Underutilized Business or small business pursuant to the goals and objectives stated in chapter 2161 of the Texas Government Code |
| [ ]  | HB 3560 | Goods produced or offered by service-disabled veterans. |
| [ ]  | HB 3560 | Preference to manufacture that has recycle program for computer equipment. |
| [ ]  | HB 3560  | Preference to contractors providing foods of higher nutritional value. |

In compliance with this RFO, and subject to all the conditions herein, the undersigned offers and agrees to furnish any or all commodities or services at the prices quoted in the proposal or bid. By signing this proposal, the proposer signifies that if a Texas address is shown as the address of the proposer, the proposer qualifies as a Texas Resident Bidder as defined in Rule 1 TAC.

|  |  |
| --- | --- |
| **PROPOSER/COMPANY NAME:** |  |
| **STREET ADDRESS:** |  |
| **CITY/STATE/ZIP:** |  |
| **TELEPHONE NO.:** |  |
| **FACSIMILE NO.:** |  |
| **EMAIL ADDRESS:** |  |
| **NAME OF PROPOSER’S AUTHORIZED AGENT:** |  |
| **TITLE OF PROPOSER’S AUTHORIZED AGENT:** |  |
| **SIGNATURE OF AUTHORIZED AGENT:** |  |

Texas Education Agency

Historically Underutilized Business

Subcontracting Plan (HSP)

In accordance with Texas Government Code § 2161.252, Texas Education Agency (TEA) has determined that subcontracting opportunities are probable under this contract. Therefore, respondents including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit a State of Texas HUB Subcontracting Plan (HSP) with their solicitation response.



NOTE: Responses that do not include a completed HSP shall be rejected pursuant to TGC §2161.252 (b)

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the State of Texas Disparity Study. The HUB goals defined in 1 TAC §111.13, are: **11.9% - for Heavy Construction other than building contracts, 26.1% - for all Building Construction, including general contractors and operative builders contracts, 57.2% - for all Special Trade Construction contracts, 20% - for Professional Services contracts, 33% - for all Other Service contracts and 12.6% - for Commodities contracts.**

|  |
| --- |
| SECTION 1 – RESPONDENT AND SOLICITATION INFORMATION |
| a. | Offeror (Company) Name: |       |  | State of Texas VID #: |       |
|  | Point of Contact: |       |  | Phone #: |       |
| b. | Is your Company a State of Texas certified HUB? | [ ]  - Yes | [ ]  - No |
| c. | Solicitation #: |       |
|  |  |  |
| SECTION 2 – SUBCONTRACTING OPPORTUNITIES  |

TEA has identified probable subcontracting opportunities by NIGP Class and Item codes in the table below. However, TEA acknowledges there may be additional subcontracting opportunities. After having divided the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, the respondent must identify what portion(s) of work, including goods or services, will be subcontracted.

Note: In accordance with 1 TAC §20.12, a “Subcontractor” means a person who contracts with a vendor to work, to supply commodities, or contribute toward completing work for a governmental entity.

Check the appropriate box regarding the subcontracting opportunity(s):

[ ]  – Yes, I will be subcontracting portion(s) of the contract. (If Yes, in the spaces provided below, list any additional portions of work, not identified by TEA, that you will be subcontracting\*, and go to SECTION 3)

[ ]  – No, I will not be subcontracting any portion of the contract, and will be fulfilling the entire contract with my own resources. (If No, complete SECTION 9 and 10)

|  |  |
| --- | --- |
| Line Item # - Subcontracting Opportunity Description | Line Item # - Subcontracting Opportunity Description |
| (1)-       | (6)-       |
| (2)-       | (7)-       |
| (3)-       | (8)-       |
| (4)-       | (9)-       |
| (5)-       | (10)-       |

\*To list additional subcontracting opportunities, a continuation page is available at <http://www.tea.state.tx.us/tea/hub/index.html>

|  |  |
| --- | --- |
|  Enter your company’s name:       | Solicitation #:       |

IMPORTANT: You must complete a copy of this page for each portion of the contract that you will be subcontracting. You may photocopy this page or download copies at <http://www.tea.state.tx.us/tea/hub/index.html>.

|  |
| --- |
| SECTION 3 – RESPONDENT SUBCONTRACTING OPPORTUNITIES |

Enter the line item number and description for the portion of work listed in SECTION 2, which you will be subcontracting.

|  |  |
| --- | --- |
| Line Item #     | Description:       |
|  |  |
| SECTION 4 – MENTOR–PROTÉGÉ PROGRAM |

If respondent is participating as a Mentor in a State of Texas Mentor-Protégé Program, submitting their Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the portion of work (subcontracting opportunity) listed in SECTION 3, constitutes a Good Faith Effort towards that specific portion of work.

Will you be subcontracting the portion of work listed in SECTION 3 to your Protégé?

[ ] - Yes, (If Yes, complete SECTION 8 and 10) [ ] - No/Not Applicable (If No or Not Applicable, go to SECTION 5)

|  |
| --- |
| SECTION 5 – PROFESSIONAL SERVICES CONTRACTS ONLY |

This section applies to Professional Services Contracts only. Skip to SECTION 6.

Not Applicable to this RFO or Contract.

|  |
| --- |
| SECTION 6 – NOTIFICATION OF SUBCONTRACTING OPPORTUNITY |

Complying with a, b and c of this section constitutes a Good Faith Effort towards the portion of work listed in SECTION 3.

After performing the requirements of this section, complete SECTION 7, 8 and 10.

1. Provide written notification of the subcontracting opportunity listed in SECTION 3 to three (3) or more HUBs. Use the State of Texas’ Centralized Master Bidders List (CMBL) and the HUB Directory, found at <http://www.window.state.tx.us/procurement/cmbl/cmblhub.html> and its HUB Directory to identify available HUBs.1
2. Offerors may also provide written notification of the subcontracting opportunity listed in SECTION 3 to a minority or women trade organization or development center to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. A list of trade organizations and development centers may be accessed at <http://www.window.state.tx.us/procurement/prog/hub/>.1
3. Written notifications should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications and identify a contact person. Unless TEA has specified a different time period, you must allow the HUBs no less than five (5) working days from their receipt of notice to respond prior to the submission of your response to TEA.

|  |
| --- |
| SECTION 7 – HUB FIRMS CONTACTED FOR SUBCONTRACTING OPPORTUNITY |

List three (3) State of Texas certified HUBs you notified regarding the portion of work (subcontracting opportunity) listed in SECTION 3. Specify the payee ID number, date you provided notice and if you received a response.1

|  |  |  |  |
| --- | --- | --- | --- |
| Company Name | TIN # | Notice Date | Response Received? |
|       |       |       | [ ] - Yes [ ] - No |
|       |       |       | [ ] - Yes [ ] - No |
|       |       |       | [ ] - Yes [ ] - No |

|  |
| --- |
| SECTION 8 – SUBCONTRACTOR SELECTION |

List the subcontractor(s) you selected to perform the portion of work (subcontracting opportunity) listed in SECTION 3. Also, specify the percentage of work be subcontracted, the approximate dollar value of the work to be subcontracted and indicate if the company is a Texas certified HUB.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Company Name | TIN # | Expected % of Contract | Approximate Dollar Amt. | Texas Certified HUB |
|       |       |       |       | [ ] - Yes [ ] - No\* |
|       |       |       |       | [ ] - Yes [ ] - No\* |
|  |  |  |  |  |
|  Enter your company’s name: |       | Solicitation #:      |
|  |  |  |
| SECTION 8 (CON’T) – SUBCONTRACTOR SELECTION |

\*If the subcontractor(s) you selected is a non HUB, provide written justification of your selection process below:

|  |
| --- |
|       |
|       |
|  |
| SECTION 9 – SELF PERFORMANCE JUSTIFICATION |

(If you responded “No” to SECTION 2, you must complete SECTION 9 and 10)

Provide justification, in the space provided below, on how you intend to complete the entire contract using your own employees, materials, supplies and equipment. Attach any supporting documentation.

|  |
| --- |
|       |
|       |
|       |
|       |
|       |
|  |
| SECTION 10 – AFFIRMATION  |

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

The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report (PAR) to the TEA HUB Coordinator, verifying their compliance with the HSP, including the use/expenditures they have made to subcontractors.

(The PAR is available at <http://www.tea.state.tx.us/tea/hub/index.html> )

The respondent must seek written approval from the TEA HUB Coordinator prior to making any modifications to their HSP. If the HSP is modified without TEA’s prior approval, respondent may be subject to debarment pursuant to TGC § 2161.253(d).

The respondent must provide any requested documents regarding staff and other resources.

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Signature |  | Printed Name |
|  |  |  |
| Title |  | Date |

COVER PAGE FOR PROJECT PROPOSAL

Submitted to the

Texas Education Agency

RFO No. 701-11-030

|  |  |
| --- | --- |
| TITLE OF PROPOSED PROJECT:  | Texas Student Data System (TSDS) State-sponsored Student Information System (SSIS) |
| RESPONDENT ORGANIZATION:  | (Name and address of organization submitting proposal. Include zip code.) |
| IDENTIFICATION NUMBER: | (Show respondent organization's Federal Employer's Identification Number or Texas Payee Identification Number.) |
| OFFER DEVELOPED BY:  | (Name, position, email, and telephone number of person responsible for development of proposal) |
| PROJECT ADMINISTRATOR:  | (Name, position, email, and telephone number of person to be in charge of proposed project) |
| OFFER TRANSMITTED BY: | (Name, position, email, and telephone number of official committing the respondent organization to the proposed project) |
| CONTRACTING OFFICER:  | (Name, position, email, and telephone number of official with authority to negotiate contracts for respondent organization) |
| DURATION OF PROJECT:  | (Beginning and ending dates of proposed project) |
| TOTAL BUDGET FOR PROPOSED PROJECT: | (Total of expenditures listed in budget section) |
| CONTAINS PROPRIETARY INFO: [ ]  | (Check this box if the proposal being submitted contains proprietary information.) |
| ACCEPTANCE OF: [ ]  | We hereby accept by the submission of the proposal the Execution of Offer, Terms and Conditions of the General Provisions. |
| DATE SUBMITTED:  | (Date proposal is submitted to TEA) |

Attachment E

PRICING PROPOSAL

Offerors may submit the Pricing Proposal (Attachment E) in an Excel or Word Format

List all assumptions used to compile the prices given for the project.

Attachment F

SSIS FUNCTIONAL REQUIREMENTS

See Bid Package #2

Attachment G

SSIS NON-FUNCTIONAL REQUIREMENTS

See Bid Package #3

Attachment H

GLOSSARY

See Bid Package #4

Attachment I

TEA STANDARD CONTRACT TEMPLATE

See Bid Package #5

ATTACHEMENT J

TEA MASTER SERVICES AGREEMENT TEMPLATE

See Bid Package #6

Attachment K

TEA LEA SERVICES AGREEMENT TEMPLATE

See Bid Package #7

Attachment L

OP 10-03 – CONFIDENTIAL ENTERPRISE INFORMATION

See Bid Package #8