

TEXAS EDUCATION AGENCY
William B. Travis Building
1701 North Congress Avenue
Austin, Texas 78701-1494

REQUEST FOR PROPOSALS (RFP)

RFP 701-19-002

21st CCLC Capacity Building, Training & Technical Assistance

Authorized by: [Public Law 114-95, Elementary and Secondary Education Act of 1965, as amended by Every Student Succeeds Act, Title IV, Part B \(20 U.S.C. 7171-7176\)](#)

PROPOSAL DELIVERY LOCATION: Contracts and Purchasing Division Texas Education Agency 1701 N. Congress Avenue Austin, TX 78701-1494 (512) 463-9041	REFER INQUIRIES TO: TEASolicitations@tea.texas.gov
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PROPOSALS MUST BE TIME AND DATE STAMPED BY THE TEA CONTRACTS AND PURCHASING DIVISION OFFICE BEFORE:

October 2, 2018 – 2:00 P.M., Central Time (CT)

Proposals received after the date and time stated in this solicitation will not be accepted.

Pursuant to the provisions of the [Texas Government Code §§2156.121 – 2156.127](#), sealed proposals will be accepted until the date and time established for receipt. After receipt, names, prices and other proposal details may only be divulged after the award of a contract, if a contract is awarded. The award notice will be posted to the Electronic State Business Daily (ESBD) at <http://www.txsmartbuy.com/sp>.

Pursuant to [Texas Government Code §§2151.004\(d\)](#) and [2155.131](#), the Office of the Comptroller of Public Accounts has delegated authority to the Texas Education Agency (TEA) to conduct this solicitation and to award a contract for the purposes stated herein.

All written requests for information will be communicated to all applicants through the Electronic State Business Daily (ESBD) portal. All proposals received are the property of the State of Texas. See **Section 2.2** for the deadline to submit questions to be posted ESBD portal.

All proposals must be delivered to TEA Contracts and Purchasing Division, as required by the instructions within this solicitation. All addenda to and interpretation of this solicitation shall be in writing. The state shall not be legally bound by an addenda or interpretation that is not in writing.

The proposer understands and agrees that no public disclosures or news releases pertaining to this solicitation, negotiations and subsequent award, or any results or findings based on information provided or obtained to fulfill requirements of this solicitation, shall be made without prior written approval of TEA.

NOTE: Failure to formalize the terms of the proposal by signing the Contract Terms and Conditions, Affirmations, Proposal Preferences and Execution of Offer will result in disqualification of the offer contained within the proposal. **Proposers must indicate in writing and offer alternative language to any Contract Terms and Conditions that are not feasible with the submission of the proposal to this solicitation.** If a proposal is signed and submitted without including specific exceptions to the Contract Terms and Conditions included in this solicitation, TEA will not negotiate the Contract Terms and Conditions.

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SECTION ONE: INTRODUCTION AND PURPOSE

1.1 PURPOSE

The Texas Education Agency (TEA) is requesting proposals from qualified organizations for projects to support the state office and all sub-grantees of the Texas 21st Century Community Learning Centers (21st CCLC), also known as Texas Afterschool Centers on Education (Texas ACE), with multiple components of capacity building. The overarching goal of capacity building is to increase the likelihood that local programs will fully implement and sustain high-quality programs over time. To accomplish this goal, activities occur within three task categories:

- 1) program-wide training and technical assistance support,
- 2) an annual convening of local program staff for learning and networking,
- 3) a program-specific website for the most up-to-date program resources.

Proposers may submit proposals for any of the discreet categories listed above. TEA intends to award one or more contracts to support this federally-funded initiative. If a proposer intends to submit proposals for multiple projects, then a single, separate and distinct proposal must be submitted for each project. TEA will not award contracts for training and technical assistance under this solicitation and program implementation monitoring under solicitation 701-19-003 to the same proposers or to proposers that have a subsidiary relationship with each other.

Eligible proposers are nonprofit organizations, institutions of higher education, education service centers, private companies, and individuals with extensive experience in providing capacity building for 21st CCLC programs. Current Texas 21st CCLC grantees are not eligible to apply.

All proposals in response to the solicitation must meet the following conditions to be considered. Failure to meet these conditions shall result in disqualification of proposal and the proposal shall receive no further consideration.

1. Proposals must provide a detailed explanation of plans to assign a reasonable number of qualified individuals to perform the administrative, support, and technological responsibilities of the tasks and the qualifications of staff who will perform these duties.
2. The proposal must include a detailed budget to reflect all financial expenditures. The contractor(s) will be responsible for setting and maintaining a budget for all approved activities.

1.2 BACKGROUND

The federal 21st CCLC program, authorized by the [Elementary and Secondary Education Act, Title IV, Part B, as amended by Every Student Succeeds Act of 2015](#), provides opportunities for communities to establish or expand activities in community learning centers that:

- provide opportunities for academic enrichment, including providing tutorial services to help students, particularly students who attend low-performing schools, to meet the challenging state academic standards;
- offer students a broad array of additional services, programs, and activities, such as youth development activities, service learning, nutrition and health education, drug and violence prevention programs, counseling programs, arts, music, physical fitness and wellness programs, technology education programs, financial literacy programs, environmental literacy programs, mathematics, science, career and technical programs, internship or apprenticeship programs, and other ties to an in-demand industry sector or occupation for high school students that are designed to reinforce and complement the regular academic program of participating students; and
- offer families of students served by community learning centers opportunities for active and meaningful engagement in their children's education, including opportunities for literacy and related educational development.

In addition to federal statutory requirements and fiscal guidelines, TEA's sub-granted programs, or "local programs", also operate under a set of guidelines unique to each cycle and published on the [TEA Grant Opportunities Page](#) at <http://burlson.tea.state.tx.us/GrantOpportunities/forms/GrantProgramSearch.aspx>. The guidelines contain federal statutory requirements and program requirements, some in the form of assurances, that establish common elements of high-quality across all local programs. High-quality programs are those that operate with full implementation and alignment with the statutory and program requirements set forth in federal statute, program guidelines, and generally accepted research-based elements of high quality. The most common

elements of high-quality programs are listed and defined in the table below, many of which are also contained within the program guidelines.

Quality Element	Evidence of Implementation
Safe Environment, Health and Nutrition	Offers a safe environment where youth have opportunities to practice healthy behaviors and have access to nutritious food
Staff and Volunteer Management	Has staff and volunteer management policies and practices that benefit youth and emphasize hiring and retaining qualified staff as part of their program implementation strategy
Programming and Activities	Provides a variety of activities that support the cognitive, social-emotional and physical development of all participants
Diversity and Inclusion in Programming	Allows all youth to thrive in the program with the recognition of differences in youth abilities, family structure, cultural background and economic resources
Family Engagement and Community Partnerships	Provides opportunities for meaningful participation by families and actively engages with other community organizations
Relationships and Interactions	Supports diverse interactions among youth and creates an environment to develop and maintain positive relationships and consistently promotes social interactions among youth, staff and the community
School Linkages	Engages in regular communication with the school day staff and leadership to share resources and work toward positive outcomes for youth
Program Sustainability, Evaluation and Awareness	Conducts regular evaluation and uses the data to continually improve, promote sustainability and increase awareness of the program

Capacity building supports the implementation and sustainability of the statutory requirements, program guidelines, and elements of high-quality programs to achieve the stated goals of the state’s program, which are: increase student performance on required state assessment, increase school day attendance, increase on-time advancement to the next grade level, decrease mandatory discipline referrals, increase high school graduation rates, and increase career competencies. Programs are considered to have achieved implementation when they are in full compliance with statutory requirements and program guidelines. Programs, or elements of programs, are sustaining when statutory and program requirements become regular practice and evidence shows they are encompassed into the operation of the campus/center.

The Texas 21st CCLC program currently consists of 83 sub-granted local programs that operate about 629 centers in geographically diverse locations across the state. The number and locations of grantees will vary each year based on available federal funding award cycles.

Activities under this project will support the commissioner’s priority to increase academic performance in reading and math and to support low-performing schools.

As used in this solicitation, the following capitalized terms shall have the meaning as specified below.

- **TEA**, Texas Education Agency
- **21st CCLC**, 21st Century Community Learning Centers
- **ACE**, Afterschool Centers on Education

1.3 CONTRACT TERM/OPTION TO EXTEND

The initial term of any contract resulting from this solicitation shall be from contract execution to August 31, 2020. At the agency’s discretion, TEA may renew any contract awarded pursuant to this solicitation for two (2) one (1) year renewal options under the same scope of work. All contracts are subject to appropriation of funds by the Texas Legislature for this project. If the contract is renewed, the first optional renewal period shall be from September 1, 2020 through August 31, 2021. The second optional renewal period shall be from September 1, 2021, through August 31, 2022.

1.4 BUDGET

One or more fixed-price contracts may be awarded as a result of this solicitation. Proposals must include a detailed **Task, Activity, Deliverable and Budget Plan** in accordance with the requirements of **Sections 3.4** (see **Attachments E**) of this solicitation and the **Schedule of Task Completion** in **Section 3.5** (Attachment **F**) for a sample format. Separate indirect cost rate calculations are not permitted for this procurement. Budget and payments must be developed based on deliverables and other indicators of performance.

Proposers must include a projected **Task, Activity, Deliverable and Budget Plan** for each year through August 2022. Each plan must clearly identify costs related to all proposed tasks, subtasks, and corresponding subtask deliverables for the initial contract period and all optional renewal periods. Proposer must also include, as a separate attachment, a detailed **Task, Activity, Deliverable and Budget Plan** for proposed services during all renewal periods.

Payment will be made upon satisfactory performance of services, receipt of specified deliverables and receipt of properly prepared invoices and supporting documentation. TEA will establish monthly invoicing procedures for the awarded fixed price contract aligned to completion and acceptance of the deliverables named in the **Task, Activity, Deliverable and Budget Plan**.

The maximum amount available for the scope in this solicitation is \$3,500,000 for the initial two (2) year term. Funding for the second year and any renewal periods is contingent on federal funding from the United States Congress.

The following is provided in compliance with the Federal Funding Accountability and Transparency Act (FFATA) and its subsequent amendments seek to increase transparency and improve access to Federal Government information. Specifically, §200.211, Public access to Federal award information.

- (a) Total funds anticipated for this project (including renewal options): \$ 7,000,000
- (b) Percentage which will be financed with federal funds: 100 %
- (c) Amount of federal funds: \$7,000,000
- (d) Percentage which will be financed from nonfederal sources: 0%
- (e) Amount of nonfederal funds: \$0.00

1.5 PROJECT DESCRIPTION

This project is designed to build the capacity of local Texas 21st CCLC grant programs to fully implement and sustain high-quality programs over time. The requirements and deliverables are specified in the following sections.

REQUIREMENTS:

The contractor will work with TEA to ensure timely and effective development, implementation, and dissemination of these key deliverables. Proposers should clearly detail how each of the deliverables will be met and provide examples of the various deliverables to strengthen their proposal. Because proposers may submit proposals for any of the discreet tasks under this section, the project description and requirements are addressed individually.

Task 1: Training and Technical Assistance

- A. Task description:** Produce robust and relevant training opportunities and deliver a differentiated efficient system for providing program-wide technical assistance and support.
- B. Task objectives:** Build knowledge, understanding, and systematic use of statutory and program requirements, best practices, program quality, sustainability, and other related or need-based topics in which grantees participate in differentiated levels of planned support based on grantee need and state program priorities.
- C. At a minimum, all proposals must include:**
 - 1. A plan to develop and implement an annual needs assessment and training schedule. The plan must include the following recurring state-required topics: TX21st database training, sustainability, logic model development and use, and best practices in center operations. The training needs of all required positions (i.e., project directors, family engagement specialists, and site coordinators) must be addressed.

2. Evidence of successful experience in providing content support for kindergarten through high school out-of-school time (OST) programs, engaging professional development to OST professionals, and follow-up support for professional development (successful experience based on outcomes, and not by participation or completion metrics).

Proposals must include examples of tools and resources that could be included and a plan for how materials, including in-person and webinar training materials, will be developed with and approved by TEA and made accessible to grantees. Materials and resources must be approvable for training delivery and meet all standards and guidelines for posting on a TEA website.

Proposals must demonstrate prior successful experience facilitating large-scale or statewide or nationally-available professional development trainings.

3. Evidence of successful experience in providing technical support for kindergarten through high school OST programs (successful experience based on outcomes, and not by participation or completion metrics). Proposals must include examples of tools and resources that could be included. Proposals must demonstrate prior successful experience facilitating large-scale or statewide or nationally-available technical assistance initiatives. Discreet activities include:
 - a. Plan and host a project director meeting in January 2019
 - b. Plan and host new grantee orientation sessions, if TEA awards new grants
 - c. Plan and host regional in-person training events
 - d. Plan and host webinars for local program staff
 - e. Provide in-person training at the state program's annual conference
4. A plan for implementing and maintaining a dynamic and structured needs-based technical assistance service-delivery model, wherein grantees receive a differentiated level of planned support. The contractor will provide direct access for each grantee to timely quality technical assistance, regardless of grantee service level. The nature and type of technical assistance required can vary throughout the contract term. The proposer must demonstrate the expertise and capacity to deploy support that meets the unique technical assistance needs of a variety of sub-grantees across the state.
5. A plan to design and produce printed Texas ACE-branded items, such as posters and wall calendars, that would reduce the overall cost of these items for the program. Items will be distributed to grantees for local use. The plan must also include the design and sharing of templates and materials that can be printed by grantees for local use, such as brochures and leaflets.
6. Demonstrated capacity to support the large-scale special initiatives that may require additional assistance to the field and supporting activities directly to the state office. Discreet activities include:
 - a. Support state office communications with grantees
 - b. Support TEA program staff in carrying out the program development, applicant support, and program review activities of the agency's competitive review process
 - c. Create new courses with TEA that support federal and state priorities and local program quality
 - d. Oversee the data entry and review process for federal data collection and reporting.
 - e. Oversee the convening of a sub-set of local program grantees to assist the state program in developing new initiatives and communicating with local programs
 - f. Respond to grantees' email questions submitted to the ACE Help Desk with 24-48 hours.
7. Qualifications of individuals who will be managing the project(s), be responsible for content development, deliver training, and providing technical assistance support. The description of qualifications for each individual responsible for content development must include the following:
 - a. Minimum of three years of demonstrated success in developing tasks as described in this solicitation
 - b. Expertise in managing out of school time programs, as measured by outcomes
 - c. Combined key personnel experience must demonstrate a thorough understanding of instructional design models and adult learning theory and application, as well as documented evidence of participation in the creation of a variety of appropriate adult education professional development activities
 - d. Combined key personnel experience must demonstrate expertise in the development/implementation of large-scale or statewide professional development training and/or instructional materials for OST professionals

- e. Combined key personnel experience must demonstrate expertise in the development/implementation of large-scale or statewide technical assistance support for OST professionals and expertise in supporting state-level program activities
- f. Combined key personnel experience must demonstrate expertise in the development and administration of online or blended learning courses for adults
- g. Skill in the use of appropriate technology needed to develop and administer online or blended learning courses
- h. Skill in composing, reviewing, and editing deliverables to adhere to specified styles and guidelines

Task 2: Texas ACE Conference

- A. Task Description:** Develop and coordinate all aspects of an annual convening of Texas 21st CCLC grantee staff for robust learning and networking opportunities.
- B. Task Objective:** To provide a venue for all Texas 21st CCLC grantees to participate in activities that build knowledge, understanding, and systematic use of key concepts, quality elements, and best practices in programs across the state.
- C. At a minimum, all proposals must include:**

- 1. A plan and schedule for a conference and networking event hosting approximately 400-600 OST professionals. The conference experience must be designed to increase the skills and professional achievement of OST professionals and build capacity among participants to implement high-quality programs across the state.

The plan must address major project activities and planned completion dates including but not limited to meeting and coordination schedules, site selection, theme selection, conference registration, material printing, workshop/breakout presenter solicitation, keynote selection, and feedback data collection and reporting. Discreet activities will include:

- a. Secure sufficient pre-conference meeting space for a meeting of about 25 Texas ACE grantees in the same location as the Texas ACE conference and will ensure that the conference is held at a single location.
 - b. Manage all material development, printing, signage, and distribution related to the conference.
 - c. Manage conference-specific online registration and develop a plan for using technology for conference registration, communication, and workshop/event scheduling prior to and at the event, as appropriate.
 - d. Support the event with sufficient high quality audio/visual equipment, photography, and equipment operating staff.
 - e. Collect and maintain participant data with contact information, professional affiliations and other relevant data to be provided to TEA.
 - f. Collect and analyze participant feedback data to assess the quality and relevance of each workshop and the overall conference experience.
- 2. The proposer must provide evidence of successful experience in providing conference and event planning services. Successful experience must be based on outcomes and not by participation or completion metrics. Proposals must include examples of products and resources that could be included. Proposals must also demonstrate prior successful experience facilitating large-scale or statewide or national conferences or events.
 - 3. The proposer must provide qualifications of individuals who will be managing the project(s), and responsible for content development, training delivery, and technical assistance support. The description of qualifications for each individual responsible for content development must include the following:
 - a. Minimum of three years of demonstrated success in developing tasks as described in this solicitation
 - b. Expertise in managing conference and event planning for out of school time programs, as measured by outcomes
 - c. Combined key personnel experience must demonstrate a thorough understanding of adult learning theory and application, as well as documented evidence of participation in the creation of a variety of appropriate adult education professional development activities

- d. Combined key personnel experience must demonstrate expertise in the development/ implementation of large-scale or statewide conferences and training events for OST professionals
- e. Skill in the use of appropriate technology needed to maintain existing conference websites, online registration, and other technology applications

1.6 PROJECT DELIVERABLES

A. TEA will collaborate with the contractor to identify and refine the exact schedule and list of specific deliverables. The proposer must include deliverables for all phases of work, as deemed appropriate. The proposer may also propose alternatives to the deliverables listed above, with associated rationale, as a part of the submission. The proposer may also choose to address additional areas that, in its professional opinion, should be included. Proposer must address each of the key deliverables outlined above and adhere to the following stipulations:

1. The proposer must describe the methodology and timeline for providing each of the deliverables;
2. The proposer is expected to meet timelines established in the contract document;
3. All deliverables must be submitted in a format approved by TEA such as, but not limited to .pdf, .doc, .docx, excel, publisher, etc.
4. Interim deliverables must be provided on the submitted delivery schedule;
5. Any changes to the delivery date must have prior approval (in writing) by TEA; and
6. If the deliverable cannot be provided within the scheduled time frame, the contractor is required to contact the TEA project manager in writing with a reason for the delay and the proposed revised schedule. The request for a revised schedule must include the impact on related tasks and the overall project. The TEA project manager will confer with the Contracts and Purchasing Division to determine the acceptance and amendment process, if necessary.

B. Other required project **deliverables may include the following:**

1. Monthly progress reports detailing the subtasks accomplished during the prior month, including percentage of subtask completion, and subtask work planned for the next month, due by the 15th business day of each month;
2. Submission of project updates as requested by TEA including interim report draft excerpts and interim analysis;
3. Final, approved versions of all survey instruments or data collection instruments used for the project, if applicable;
4. Final, approved versions of all planned methodology to be used during the project. All to be submitted prior to analyzing data for any report;
5. Updated, detailed analysis plans linking analysis to objectives, including all strategies for coding data and creating variables from the data, all planned statistical analysis methodology, and all variables to be used in the analysis.;
6. All data created for the project including datasets used for analysis to be provided to TEA in a format designated by the agency;
7. Ongoing copies of analysis code and output as requested by TEA;
8. An electronic copy, both Word version and PDF, of all reports compliant with all state and federal regulations for web page accessibility (may be posted on TEA website); and
9. On-site presentation of findings, if requested, prior to the submission of published reports. The presentation should be held no later than two weeks prior to the final due date for the report to allow sufficient time afterwards for integration of TEA feedback into the report.

C. **Acceptance Criteria**

All services, deliverables, and reports will be delivered in alignment with the agreed-upon task activity table, schedules, and specific expectations set forth under this solicitation. Monthly update reports will be due no later than the 15th business day of the month and will consist of items such as a summary of major accomplishments and milestones. TEA will have 10 business days to review all reports submitted. After reports are reviewed, TEA will address any concerns with the contractor. Written approval from TEA constitutes acceptance.

TEA will specify the process by which the contractor will submit the specified evidence, as well requirements for formal approval and acceptance of deliverables. TEA will inform the contractor of deliverables that are not accepted. The contractor will be required to adjust the deliverables until the agreed-upon expectation is met.

1.7 COLLABORATION

A. TEA expects the contractor to collaborate closely with appropriate TEA staff for this project. This includes:

1. Ongoing, responsive communication about the project(s);
2. Participation in weekly, bi-weekly, or otherwise scheduled project meetings, as needed;
3. Continuous uninterrupted workflow of the project and project management, including during summer months;
4. Adherence to contractual project **Task, Activity, Deliverable and Budget Plan** or other schedules for deliverables, including proposed deadlines for draft work products;
5. Timely notification (within 48 hours) of project-related issues that affect reporting timelines, as determined by TEA;
6. Notification of any staffing changes or additions, especially changes to key staff members, to be approved in writing by TEA prior to the change;
7. High-quality drafts of all submitted work products, reports, evaluation plans, analysis plans, and instruments, etc.;
8. Timely response (within one week) to all requests for feedback on evaluation plans, methodology, analysis plans, instruments, data manipulation, analysis results, reports, etc., as determined by TEA;
9. Timely response (within 48 hours) regarding invoicing and related document requests;
10. Adherence to policies and procedures regarding use of confidential data and data collection procedures; and
11. Adherence to policies and procedures regarding fingerprinting and criminal background checks prior to conducting any school visits.

B. The TEA contract project manager and program staff will assume the following roles and responsibilities:

1. Provide contractor and any subcontractors information on changes in legislation, reporting needs, or any other activities that may affect the project(s);
2. Collaborate with contractor to address unforeseen developments, identify problems, and propose solutions;
3. Coordinate support and resources for the project, as needed;
4. Provide other needed data and documentation, such as program specific information;
5. Review and approve the contractor's evaluation and analysis plans, including all qualitative and quantitative methodologies and data analyses;
6. Review use of data, data sources, data manipulation, data processing business rules, and analytic results;
7. Monitor the contractor's progress, as outlined in the monthly progress reports submitted by the contractor to ensure compliance with contract terms;
8. Review and approve monthly invoices;
9. Provide and coordinate multiple rounds of feedback on all submitted reports;
10. Coordinate on-site presentations of findings prior to the submission of major deliverables; and
11. Monitor proper transmission and destruction of data.

1.8 CONTRACT MONITORING

TEA assesses potential risks posed to the agency by any procurement and by contractual obligations. The TEA Project Manager, with assistance from Contracts and Purchasing staff, will conduct ongoing monitoring of all contracts. All pricing provided in the proposal should include a specific deliverable or a set of deliverables that demonstrate successful completion of activities. For ongoing activities, like radio advertisements, TEA will pay for the share of exposure each month. All activities must have documentation to support their completion. TEA reserves the right to reject goods or services, which do not address the deliverables stated in the contract and do not meet TEA quality review.

Contract monitoring activities are conducted in a variety of ways, but must be objective and must address contract complexity, value, and risk. TEA has criteria for low-risk (Tier I) contract monitoring and medium- or high-risk (Tiers II and III) enhanced monitoring activities. These criteria are in **TABLE 1** below. As told in **Section 1.7**, TEA expects staff to monitor projects funded from this solicitation throughout the life of the contract and expects the contractor to be responsive to requests for documentation for purposes of monitoring within the response times stated above. A history of unresponsiveness to requests for supporting documentation will escalate the contractor's risk score and planned monitoring activities for this project. In addition, the contractor's risk score will be higher in future contractual engagements with TEA.

TEA Contract Monitoring and Enhanced Monitoring Criteria	
General Contract Monitoring	<p>Tier I contracts meet these criteria:</p> <ul style="list-style-type: none"> • Under \$1,000,000; • The successful proposer will not have access confidential information, TEA data systems, and will not be in contact with students; • The contract is awarded: <ul style="list-style-type: none"> ○ through a competitive procurement, as described in the State of Texas Procurement and Contract Management Guide, and was approved by the Texas Comptroller of Public Accounts, if the procurement was for \$100,000 or more; or ○ through the Department of Information Resources (DIR) using a cooperative contract; • The project is not a low-risk tolerance project; • Vendor performance reported in the Vendor Performance Tracking System (VPTS) is an A; and • A program or service similar to existing programs or services TEA provides.
Enhanced Contract Monitoring	<p>Tier II contracts meet one or more of these criteria:</p> <ul style="list-style-type: none"> • Over \$1,000,000, but less than \$10,000,000; • A proprietary or sole source contract under \$1,000,000; • A consulting service reportable to the Office of the Governor’s Department of Budget and Planning; • Contractor will receive an advanced payment; • Contractor will have access to confidential records, TEA data systems, or be in contact with students; • The project is a low-risk tolerance initiative; • Vendor performance reported in VPTS is lower than A, but at least B; • A new program or service, unlike a current agency initiative; or • The contractor has not had a major contract with a Texas state agency.
	<p>Tier III High-Risk</p> <p>Tier III contracts meeting one or more of these criteria:</p> <ul style="list-style-type: none"> • Over \$10,000,000; • A proprietary or sole source contract over \$1,000,000; • Vendor performance reported in VPTS is lower than B; or • TEA, in its sole discretion, has determined that a contract meeting one or more Tier II risk criteria should be subject to Tier III monitoring procedures.

1.9 ESCALATION PROCEDURE

TEA will make every effort to resolve disputes with project staff before escalating to executive-level management. If a dispute arises, TEA project staff will meet with the contractor to identify, discuss, and resolve the issue(s). If the dispute remains unresolved, the dispute resolution process will be escalated in the following manner.

- If the project staff cannot resolve the conflict within a reasonable time, the TEA Program Manager and Contractor’s Manager will meet to discuss the issue(s).
- If the TEA Program Manager and Contractor’s Manager cannot resolve the dispute, the TEA Executive Sponsor will meet with the Contractor’s Project Executive in a final attempt to resolve the dispute.

Throughout the dispute resolution process, the parties should make a good faith effort to work together towards a mutually beneficial resolution. Resolution may include corrective action plans, substitutions, liquidated damages, or other remedies, as appropriate. If the parties reach an impasse, either party may terminate the contract. If the contract is terminated, TEA agrees to pay the contractor for all accepted deliverables through the termination date. During the conflict resolution process, the contractor must continue to provide services relating to items not in dispute to the extent practicable.

SECTION TWO: GENERAL INSTRUCTIONS AND PROPOSAL REQUIREMENTS

2.1 PROPOSAL SUBMISSION DATE AND TIME

Proposers shall carefully read the information contained in the following criteria and submit a complete proposal to be considered. Proposals with conditional clauses, alterations, or irregularities are subject to rejection by TEA at its option.

PROPOSALS WILL NOT BE ACCEPTED AFTER THE TIME AND DATE PUBLISHED IN THIS SOLICITATION.

Proposals must be submitted in a sealed envelope (or box) with the proposer's name, TEA solicitation number, and closing date prominently visible on the envelope/package. If multiple envelopes/boxes are used, the proposer should indicate on the package "specific item # of total # of items."

Facsimile transmissions (FAX) of proposals will not be accepted under any circumstances. Proposers must sign the "Contract Terms and Conditions, Affirmations, Proposal Preferences and Execution of Offer" instrument (**Attachment B**). By signing, the proposer or the proposer's legally authorized agent affirms that the all statements within the proposal are true and correct. Discovery of any false statement in the proposal is a material breach and shall void the submitted proposal.

A. Receipt of Proposals

To be considered for award, proposals must be received in the Contracts and Purchasing Division before 2:00 P.M. CT on the closing date as specified in the solicitation, regardless of the method of submitting the proposal—United States Postal Service (USPS), United Parcel Service, Federal Express or other delivery service. TEA will rely solely on the time/date stamp of the Contracts and Purchasing Division as the record of timeliness of proposal submission.

NOTE: 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 proposal. TEA assumes no responsibility, under any circumstances, for receipt of a proposal after the deadline established in this solicitation.

B. Proposal Delivery

TEA is open Monday through Friday, 8:00 A.M. to 5:00 P.M., excluding holidays. The mailing and physical address is:

Contracts and Purchasing Division
Texas Education Agency
William B. Travis Building
1701 North Congress Avenue
Austin, Texas 78701-1494

C. Number of Proposal Copies

Five paper copies of the proposal must be submitted, **one** with an original signature in blue ink and four copies, and one (1) USB electronic copy in Microsoft Office Word format. ALL documents and electronic media must be clearly marked with the solicitation number and proposer's name and must be received by the published deadline. Failure to meet this condition will result in disqualification of the proposal from further consideration. Photocopying is not available at TEA. Additions or replacements to the proposal will not be accepted after the closing date.

D. Intent to Submit Proposal

Proposers should notify TEA in writing of their intent to submit a proposal (**Attachment A**) as soon as possible via email at TEASolicitations@tea.texas.gov or by FAX (512) 475-1706. Failure to submit a Notice of Intent will not disqualify the proposer from consideration.

2.2 EXPECTED SEQUENCE OF EVENTS / CRITICAL DATES

TABLE 2: EXPECTED SEQUENCE OF EVENTS / CRITICAL DATES	
DATE	EVENT
September 8, 2018	Publication of solicitation in the Electronic State Business Daily (ESBD) at: http://www.txsmartbuy.com/sp
September 17, 2018	Last day to submit written questions about the solicitation to TEASolicitations@tea.texas.gov no later than 2:00 P.M. CT
September 19, 2018	Notice of Intent to Submit a proposal
September 19, 2018	Final publication of questions and answers in the ESBD at: http://www.txsmartbuy.com/sp
October 2, 2018	Proposal(s) due in TEA Contracts and Purchasing Division before 2:00 P.M. CT
October 2 - October 19, 2018	Evaluation process, oral presentations, and/or negotiations
October 2018	Selection and award
November 2018	Anticipated start date of contract and commencement of work
August 31, 2020	End date of initial contract period

NOTE: No work shall be completed by the contractor before a fully executed agreement is received. TEA will not pay for services invoiced before the dated that a fully executed agreement is finalized.

2.3 QUESTIONS RECEIVED PRIOR TO OPENING OF PROPOSALS

Any additional information, different from or in addition to, information provided in the solicitation will be provided only in response to written inquiries per the schedule in Section 2.2. All written inquiries and the written answers will be posted as an addendum to the solicitation on the ESBD at <http://www.txsmartbuy.com/sp>. Addendums will be added, as needed, while the solicitation is advertised. The proposer's failure to periodically check the ESBD will in no way release the contractor from "addenda or additional information" that may result in additional cost to meet the requirements of the solicitation. **NO PHONE INQUIRIES WILL BE ACCEPTED.**

Any amendment to this solicitation will be posted as an addendum on the ESBD. If proposers do not have internet access, copies may be obtained through the point of contact listed in this solicitation. Upon publication of this solicitation employees and representatives of TEA will not answer questions or otherwise discuss the contents of the solicitation with any potential proposer or their representatives outside of the process stated above. If a proposer fails to observe this restriction, that proposer's response to this solicitation will be disqualified. This restriction does not preclude discussions for conducting business unrelated to this solicitation.

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

2.4 STANDARD PROPOSAL REQUIREMENTS

- A. TEA reserves the right to reject any and all proposals and to negotiate portions thereof, including the proposed **Task, Activity, Deliverable and Budget Plan**, deliverables, and personnel.
- B. TEA reserves the right to select the proposal based on the best value to the State of Texas and the agency. The proposer shall furnish clarifying information the evaluation team if requested. Failure to provide requested material or information may disqualify the proposal.
- C. The contractor must collaborate with TEA staff to clarify the project design, design of the materials, project activities, and/or other work products, and modify these items, if necessary.

2.5 STATE NOT RESPONSIBLE FOR PREPARATION COSTS

TEA is not liable for any costs incurred in the preparation and submittal of a proposal.

2.6 DISCLOSURE OF PROPOSAL CONTENT

After contract award, proposals are subject to release under the [Texas Government Code, Chapter 552, Public Information Act](#). Proposers must indicate on the proposal cover if their submission contains proprietary information and identify the specific sections within the proposal that are proprietary.

Contractor is required to make any information created or exchanged with the State pursuant to this contract, and not otherwise exempt from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State. The contractor and TEA will agree on the specific format that will be used.

2.7 HISTORICALLY UNDERUTILIZED BUSINESS (HUB) SUBCONTRACTING PLAN

TEA encourages contracting and subcontracting opportunities for HUBs in all contracts. Accordingly, TEA has adopted a policy on utilization of HUBs. If TEA determines that subcontracting opportunities are probable, then a HUB Subcontracting Plan (HSP) is a required element of the proposal. Proposers who are certified as a HUB with the State of Texas are encouraged to submit a proposal for the services requested in this solicitation.

A. Statement of Probability

TEA has determined that subcontracting opportunities are probable in connection with this procurement. Therefore, ALL proposers must submit the HSP as a part of the response. Proposals that do not include an HSP will be rejected for non-compliance.

1. If the proposer is a HUB, a HSP is still required to identify the percentage of the work to be performed by subcontractors.
2. If the proposer (HUB or non-HUB) is not subcontracting any portion of the work, the Self Performance portion of the HSP must be completed and returned with the proposal response.

The proposer shall develop and administer the HSP as a part of the proposal in accordance with TEA Policy on Utilization of HUBs and state law. Proposer must make a good faith effort and solicit a minimum of three Texas-certified historically underutilized businesses from the State's Centralized Master Bidders List (CMBL)/HUB Directory for work that they cannot complete with their own staff and resources. Proposers must also notify minority or women trade organizations or development centers of subcontracting opportunities. Additional requirements are listed in the **Attachment C**.

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

B. HUB Subcontracting Goal

The HUB Subcontracting goal for this procurement is 26.0% minority, woman-owned and/or veteran, service disabled-owned business participation. In the event proposals have equal scores, the proposal with the highest percentage of HUB subcontracting will be awarded the contract.

Proposers are encouraged to collaborate with TEA to develop mentor-protégé opportunities. Under TAC 34 TAC §20.298, a proposer's participation in a Mentor-Protégé Program under TGC §2161.065, and the submission of a protégé as a subcontractor in the HUB subcontracting plan constitutes a good faith effort for the area to be subcontracted with the protégé.

The proposer awarded the contract will be responsible for maintaining business records documenting compliance with HUB Program requirements. The selected proposer must submit a Progress Assessment Report (PAR) monthly documenting all subcontractor payments made in the preceding month. Submission of the PAR is a condition for payment. The contractor shall also report all 2nd and 3rd Tier subcontracting in the monthly PAR. PAR's are due no later than the 10th day of the following month. The PAR is required to be submitted monthly, even if no activity occurred for the month. Reports shall be submitted electronically to the HUBOffice@tea.texas.gov.

C. How to Find Texas Certified HUBs for Subcontracting Opportunities

Use the Comptroller's Centralized Master Bidders List (CMBL) / HUB Directory (make sure to check both "HUBs on the CMBL" and "HUBs only" or use "All Vendors"). To view associated items by class, select the "Class Number" in the State of Texas NIGP Commodity Book located online at: https://cmbireg.cpa.state.tx.us/commodity_book/Numeric_index.cfm

1. Open <https://mycpa.cpa.state.tx.us/tpasscmbiresearch/index.jsp>
2. Search: ☉ HUBs on CMBL & HUBs only
3. Sample Selections: All Districts (Texas is divided into 25 geographical districts.)
 - a. [Class Code: 924, Educational and Training Services](#)
 - Item: 05, Advisory Services, Educational
 - Item: 16, Course Development Services, Instructional and Training
 - Item: 18, Educational Services, Alternative

- Item: 19, Educational Research Services
 - Item: 78, Teaching and Instruction Services
 - b. [Class Code: 915, Communications and Media Related Service](#)
Item: 23, Conference Coordinating and Planning Services
 - c. [Class Code: 918, Consulting Services](#)
Item: 38, Education and Training Consulting
 - d. [Class Code: 961, Miscellaneous Services](#)
Item: 02, Administrative Services, All Kinds
4. Click Submit Search

2.8 CONFLICT OF INTEREST

An entity 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, the response to this solicitation must disclose any existing or potential conflicts of interest or possible issues that might create appearances of impropriety relative to the submission of a proposal by the entity and its proposed subcontractors.

As part of this disclosure requirement, each proposal must include all past and present contractual, business, financial, or personal relationships between the proposer and TEA and between the proposer's planned subcontractors, if any, and TEA.

For purposes of this disclosure requirement, (i) "past" is defined as within the two (2) calendar years before submission of proposals in response to this solicitation; (ii) TEA is defined as the statewide elected official who heads the agency, as well as the agency's employees or recent former employees; and (iii) "recent former employees" are defined as those TEA employees who have terminated agency employment within the two (2) calendar years of the deadline for submission of proposals in response to this solicitation; (iv) "personal relationship" is defined as a current or past connection other than a clearly contractual, business, financial, or similar relationship and includes family relationships or other connections outside simply providing a response to this solicitation; and (v) For this purpose, "family relationship" means a relationship within the third degree of consanguinity or second degree of affinity (see Chapter 573 of the Texas Government Code) which defines these degrees of consanguinity and affinity.

Connections other than such family relationships fall within this definition and must be disclosed, if a reasonable person could expect the connection to diminish proposer's independence of judgment or effectiveness in the performance of its responsibilities to TEA or the State under the contract; **OR** if a reasonable person could expect the connection, within the overall context of proposer's submission of a proposal, possible selection for an award, or its performance of the contract, to create an issue for the agency's consideration relative to a potential appearance of impropriety or conflict of interest.

For each item, proposer must provide a detailed explanation as to why the entity does or does not believe such item poses a conflict of interest, potential conflict of interest, or appearance of impropriety relative to submission of a proposal, possible selection as contractor, or its performance of the contract.

Entities must certify that they comply with Texas Government Code, Title 6, Subtitle B, Section 669.003 relating to contracting with the executive head of a state agency. If Section 669.003 applies, the proposer will provide the following information for the bid to be evaluated: Name of Former Executive; Name of State Agency; Date of Separation from State Agency; Position with Bidder; and Date of Employment with Bidder. The proposer agrees that it is a continuing duty to supplement its response under this provision and that the duty to disclose of any conflicts of interest is an ongoing obligation throughout the term of the contract. Proposer shall submit updated information as soon as reasonably possible upon learning of any change to their affirmation.

2.9 CERTIFICATE OF INTERESTED PARTIES (FORM 1295)

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Texas Government Code: §2252.908 states that a state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties form to the state agency at the time it submits the signed contract. The law applies only to a state agency contract that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed; or (2) has a value of at least \$1 million. The disclosure requirement applies to contracts entered into on or after January 1, 2016.

Form 1295 must be submitted electronically through the Texas Ethics Commission's website at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. A business entity must complete Form 1295 and

print the completed form that includes a unique certification number. An authorized agent of the business entity must sign the printed form. The completed Form 1295 that includes the certification number must be provided the government body or state agency with which the business entity contracting.

The government entity or state agency must notify the Texas Ethics Commission, using the commission's filing application, of the receipt of the filed Form 1295 no later than the 30th day after the date the contract binds all parties to the contract. The commission will post the completed Form 1295 to its website within seven business days after receiving notice from the government entity.

SECTION THREE: PROPOSAL FORMAT AND CONTENT

3.1 PROPOSAL FORMAT AND CONTENT

Proposals must be written entirely on 8 ½" X 11" white paper and must be limited to thirty (30) pages not including appendices and attachments. Proposals should be stapled in the top left corner or, if bound, may be bound in a 3-ring binder. Proposals must be submitted in a manner which does not carry any benefit, keepsake, or value for members of the evaluation team.

A. Proposal Cover Page

Proposals must include the proposal Cover Page (**Attachment D**), which clearly states the name of the firm or organization and the name, position, and telephone number of the proposer's Project Administrator who may be contacted regarding the proposal.

B. Response Checklist

TABLE 3 below should assist proposers in ensuring that all information is included in their response.

Proposers must refer to the appropriate section of the solicitation for detailed information on the following:

TABLE 3: RESPONSE CHECKLIST		
<input type="checkbox"/>	Proposal Cover Page	Attachment D
<input type="checkbox"/>	Understanding of the Project and Methodology	Section 3.2
<input type="checkbox"/>	Management Plan	Section 3.3
<input type="checkbox"/>	Task, Activity, Deliverable and Budget Plan	Section 3.4, Attachment E
<input type="checkbox"/>	Schedule of Task Completion	Section 3.5, Attachment F
<input type="checkbox"/>	Signed Execution of Offer: Affirmation of Terms and Conditions, and Proposal Preferences	Attachment B
<input type="checkbox"/>	HUB Subcontracting Plan (HSP)	Attachment C

3.2 UNDERSTANDING OF THE PROJECT AND METHODOLOGY

The proposal must communicate an understanding of current research and practice relevant to this project and task(s), describe organizational experience in the areas of the project and task(s), provide a clear description of the tasks to be performed, and identify potential problems in the conduct of the project and methods to identify and solve such problems. The proposal must communicate an understanding of federally-funded education programs and requirements, especially supplemental programs that occur outside of regular school hours.

The proposer must describe clearly, specifically, and as completely as possible, the methodology for carrying out the objectives and requirements of the project, as described in this solicitation. If applicable, the proposer must also describe the training program, staff development, and curriculum design.

The proposal must describe the project design, project activities, materials, and other products, services, and reports to be generated during the contract period and show how they advance the purposes and specifications described in the solicitation. Technical evidence relating to the proposer's ability to perform the proposed services must be appended to the proposal. The overall quality of these components and of the proposal itself will be considered.

Failure to provide this information will result in disqualification of the proposal from consideration.

3.3 MANAGEMENT PLAN

The entity must provide satisfactory evidence of its ability to manage and coordinate the types of activities described in this solicitation and to produce the specified product or service on time. Proposers must include the following information as evidence of organizational capability:

- A. The entity's organization chart and description of its management structure
- B. Indications of the ability to perform the tasks described in **Sections 1.5 and 1.6**
- C. Evidence of successful past performance for similar projects
- D. Three current references that include the name of the agency or entities, the nature of the project, description of the activities performed by the entity, and the name and phone number of a contact person from each employing agency/entity. Names given as references will not affect the scoring. In addition, no employees of TEA can be listed in the proposal as a reference. They may be listed in a memo transmitting the proposal, but not in the proposal. If the proposer plans to use external consultants or subcontractors, an organizational chart and resumes of the consultants and/or subcontractors must be included.
- E. Name of the proposer's Project Manager who will direct the overall project throughout the duration of the contract, as well as those of staff members who will coordinate major activities during each phase of the contract, and the time allocations that the personnel described will devote to fulfillment of the contract. Resumes of all project staff members shall be submitted as an appendix. If the resumes include references, the references will not be considered in the review.

Proposers must also identify the next level of authority within the organization to escalate issues throughout the term of the contract. The information will be required during the contract kick-off meeting.

Failure to provide this information will result in disqualification of the proposal and the proposal shall receive no further consideration.

3.4 TASK, ACTIVITY, DELIVERABLE AND BUDGET PLAN

The proposer must plan for a project starting date of no earlier than November 1, 2018. The proposer must submit a detailed **Task, Activity, Deliverable and Budget Plan (Attachment E)** with the tasks and activities which are to be undertaken, as well as a budget detailing costs necessary to accomplish the project objectives and activities to the degree possible at onset of the project. Proposed due dates for each major task must be included, as well as the name(s) of person(s) responsible for each task. Proposer should also include, as a separate attachment, a detailed **Task, Activity, Deliverable and Budget Plan** for proposed services during all optional renewal periods.

Activities and deliverables must be designed to provide sufficient evidence of satisfactory delivery of services and products. Time frames must be logical and appropriate to complete all activities within the contract period. Objects of expenditure used in the budget summary may vary depending on the project. Costs must be justified in terms of activities and objects of expenditure and must be reasonable (i.e., consistent with current market price) and necessary to accomplish the objectives of the project.

The budget must provide evidence that financial resources are adequately and appropriately allocated among cost categories in a cost-effective and prudent business manner to accomplish project objectives and activities. Services to be purchased from other agencies, subcontractors, including any amounts subcontracted to HUBs, consultants, and others must be specified.

Failure to meet this condition will result in disqualification of the proposal from further consideration.

3.5 SCHEDULE OF TASK COMPLETION

The proposer must submit a sequential and detailed **Schedule of Task Completion (Attachment F)**, specifying the anticipated schedule for completing each task, activity and deliverable listed in the Task, Activity, and Deliverable Budget Plan to the degree possible at onset of the project. Timelines showing start and end dates for each major task must be included, as well as the name(s) of person(s) responsible for each task.

Failure to meet this condition will result in disqualification of the proposal from further consideration.

3.6 PROPOSERS' FINANCIAL RESPONSIBILITY

All private sector companies, individuals, or non-profit organizations will be required to submit indicators of financial stability before an award. For example:

- Private companies will be asked to submit their most recent audited financial statement or a certified public accountant-compiled financial report;

- Non-profits will be asked to submit an audited financial statement, a certified public accountant-compiled financial report, or similar document; and
- Individuals will be asked to submit those documents that depict their financial stability, such as an audited proprietorship financial statement, statement from a certified public accountant or banker, or a statement from contractors or suppliers.

Non-profit organizations will also be required to submit proof of non-profit status. A proposer may show that it is a non-profit 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 non-profit 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 proposer's articles of incorporation or similar document, if it clearly establishes the non-profit status of the proposer; or
- Any item described above, if it applies to a state or national parent organization, together with a statement by the parent organization that the applicant is a local nonprofit affiliate.

Failure to meet this condition, if requested, will result in a non-award. TEA may commence negotiations with another proposer.

SECTION FOUR: REVIEW OF PROPOSALS

4.1 REVIEW OF PROPOSALS

Review of proposals will begin as soon as practical after the proposal deadline. Proposers with the highest scoring proposals may be asked to send a representative to Austin, Texas, at a time and place to be arranged by TEA and the entity, for oral presentation of proposals. Oral presentations may also be conducted by conference call. If oral presentations are required, proposals will be scored again following oral presentations. The evaluation team shall consist of TEA staff knowledgeable in the content area and may also include external reviewers with subject matter expertise. The recommendations of the evaluation team will be presented to senior executive agency staff that will:

1. Approve the recommendation in whole or in part;
2. Disapprove the recommendation; or
3. Defer action on the recommendation for further evaluation.
4. By law, the Agency may not disclose any information until a contract is executed by both parties. Upon contract award, TEA will post the contract award notice to ESBD at: <http://www.txsmartbuy.com/sp>. Additional copies of proposals not selected for funding will be destroyed, according to Agency approved records retention policy.

4.2 SELECTION CRITERIA

TEA intends to award one contract based on the ability of a proposer to complete all requirements contained in this solicitation. A proposer who is 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 an award. TEA will base its selection on best value considerations and the criteria listed below.

Agencies report contractor performance to the Comptroller of Public Accounts via the Vendor Performance Tracking System (VPTS) to assist all state agencies in determining best value for future awards. In accordance with [Texas Government Code, §2155.074 and §2155.075](#), contractor performance shall be used as a factor in future contract awards.

A. The following criteria and points will be applied in evaluating proposals and selecting a contractor:

CATEGORIES	POINTS
A. Technical Component <ol style="list-style-type: none"> 1. Evidence that the proposed services are responsive to requirements (10) 2. Adequacy and appropriateness of project design (10) 3. Clear description of details for carrying out project (10) 	30

B. Management Component <ol style="list-style-type: none"> 1. Evidence of proposer's ability to manage similar projects (10) 2. Personnel qualifications, including appropriate background working in the field of academic enrichment and out-of-school time programs and a combination of programmatic, academic, management, and technical skill sets and experience (10) 	20
C. Task and Activity Plan <ol style="list-style-type: none"> 1. Logical, credible, specific and clear description of details for carrying out the project (10) 2. Evidence of appropriate time allotted for each task, activity and deliverable (10) 3. Responses for each deliverable are clearly detailed and include sufficient information to provide evidence that high-quality work can be delivered in a timely manner (10) 4. Samples of tools/materials used are provided and of sufficient detail (10) 	40
D. Cost-Effectiveness and Appropriateness of Financial Resources Dedicated to Project <ol style="list-style-type: none"> 1. Costs appropriately aligned with major program objectives (15) 2. Costs associated with specific activities, tasks and deliverables are reasonable and appropriate (15) 	30
Total Points	120

B. Preference(s)

The Agency shall give preference, among proposals that are otherwise comparable, to a proposal submitted by a Texas Resident Bidder (TX based company) and / or a HUB. In the event of a tie, the proposer with the highest percentage of HUB subcontracting will be awarded the contract.

SECTION FIVE: CONTRACTUAL REQUIREMENTS

5.1 RESPONDENT'S PROPOSAL

TEA will incorporate the selected proposal into the contract.

5.2 PROJECT REVIEW REQUIREMENT

TEA reserves the right to review any materials, and/or products developed or adapted by the contractor. Upon completion of the contract period, all documents will be returned to TEA or destroyed accordingly. All works and materials created at any time during the contract period belong to TEA. The TEA Project Manager will establish procedures for communicating phase out and transition of deliverable(s).

5.3 INVOICING AND PAYMENT

All payments are made in accordance with [Texas Government Code §2251.001 et seq.](#) Payments for Goods and Services. Unless otherwise indicated by TEA, payment is only by reimbursement upon satisfactory performance of services.

Payment is contingent upon submission of properly prepared and certified invoices. The information provided on each detailed status report must coincide with the tasks outlined in the approved budget, as negotiated by TEA. The TEA Project Manager will review and approve invoices based upon project progress, task completion, deliverables received, inspected, tested and approved and satisfactory performance of services as outlined in the progress report.

Invoices must note the period of time payment is for, contract number, purchase order number, and the Texas comptroller of Public Accounts Payee Identification Number (TIN), the services (tasks and deliverables) completed during the period and applicable supporting details and documentation. More information about the invoicing process will be shared during the contract development period.

Per guidelines set forth by the Texas Comptroller of Public Accounts' payment scheduling policy, agencies to pay invoices as close to the due date as possible in order to maximize fiscal benefits to the state. Payments are due from TEA 30-days from receipt of a correct and complete invoice.

5.4 CRIMINAL HISTORY REVIEW

All entities awarded a contract who have, or will potentially have, direct contact with a public school student(s), access to confidential data, or access to TEA data systems, shall submit to a national criminal history record information review (this includes fingerprinting) before the commencement of the contract. The award of a contract or grant is contingent upon meeting the agency's eligibility standards. All individuals affiliated with the contractor

that may perform services under a contract must complete a criminal history review before the beginning of the assignment. If said individuals have not completed this requirement, the individual is not eligible for assignment.

The awarded proposer must provide assurances to TEA that all employees and subcontractors comply with the criminal history review requirement for every individual who has continuing duties under the contract who has, will have, or potentially may have direct contact with students on school property or at another location where students are regularly present.

The contractor is responsible for the following:

- A.** Contacting the Department of Public Safety to set up a secure site account to monitor progress;
- B.** Collecting personal information for all applicable employees, subcontractors, or sub-grantees;
- C.** Communicating instructions to those individuals as to how fingerprints must be submitted, including information indicating that the individual is responsible for all associated fees;
- D.** Reviewing each individual's criminal history and ensuring that all employees, subcontractor(s), or sub-grantee(s) are eligible for employment under the contract;
- E.** Maintaining any applicable and necessary files related to criminal history background checks for audit purposes; and
- F.** Providing assurance to the TEA project manager that all applicable grant and subcontract employees have met the fingerprinting requirement; that they are eligible to be on campus; and that criminal histories are available to the TEA or a campus administrator upon request.

Once all applicable individuals are fingerprinted, and the contractor or grantee has confirmed their eligibility for employment under the contract or grant, the contractor or grantee notifies the TEA Project Manager. The Project Manager sends the list of names to the TEA Educator Investigations Division, which verifies that each individual has been fingerprinted. The Educator Investigations Division does not review the criminal history of these individuals or confirm their eligibility for employment under the contract or the grant.

NOTICE OF INTENT TO SUBMIT A PROPOSAL

RFP # 701-19-002

21st CCLC Capacity Building, Training & Technical Assistance

The undersigned organization hereby files a notice of intent to submit a proposal:

Name of Organization:	
Mailing Address:	
Contact Person:	
E-Mail:	
Phone Number:	
FAX:	

- Filing of this notice is not mandatory; however, it will assist TEA in anticipating the volume of proposals to better expedite the review process and finalize the contract award(s).
- The information from the Notice of Intent may also be provided to HUB Vendors (if requested) to help establish subcontracting relationships for this solicitation as well as future solicitations with the agency.
- Filing this notice in no way binds the organization to submit a proposal for this solicitation.
- Proposers who do not file this notice are still eligible to submit a proposal.

PLEASE SUBMIT THIS NOTICE BY E-MAIL OR FAX AS SOON AS POSSIBLE TO:

TEASolicitations@tea.texas.gov
 Texas Education Agency
 Contracts and Purchasing Division
 FAX (512) 475-1706

CONTRACT TERMS, CONDITIONS AND AFFIRMATIONS, RESPONSE PREFERENCES AND EXECUTION OF OFFER

- A. Defined Terms:** As used in this Attachment B, the following capitalized terms have the meanings specified below.
1. *Comptroller* means the Texas Comptroller of Public Accounts.
 2. *Contract* means the document entered into between TEA and Contractor, including all attachments (for the avoidance of doubt, including, but not limited to the General Provisions and the Special Provisions), appendices, exhibits, schedules, amendments and extensions of or to the Contract.
 3. *Contract Project* means the purpose intended to be achieved through the Contract.
 4. *Contractor* means the party to this Contract who is providing the contracted goods or services to TEA.
 5. *EIR* means electronic information resources.
 6. *FERPA* means the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99).
 7. *General Provisions* mean the provisions contained in this Attachment B – Contract Terms, Conditions and Affirmations, Response Preferences and Execution of Offer.
 8. *HSP* means a HUB subcontracting plan.
 9. *HUB* means an entity certified by the Comptroller as a Historically Underutilized Business as defined in [Texas Government Code Section 2161.001](#).
 10. *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.
 11. *Major Contract* means any contract that has a value of at least \$1 million. See [Texas Government Code Section 2262.001\(4\)](#).
 12. *Project Manager* means the respective person(s) representing TEA or Contractor, as indicated by the Contract, for the purposes of administering the Contract Project.
 13. *Response* is what a Respondent submits in response to the following specific competitive solicitations: a request for proposals (RFP); a request for qualifications (RFQ); or an invitation for bids (IFB).
 14. *Respondent*, identifies a person or entity who responds to the following specific competitive solicitations; a RFP; a RFQ, and an IFB. Respondent infers pre-solicitation award status and Contractor infers post-award status, but otherwise refer to the same person or entity.
 15. *Special Provisions* means any provisions contained in Attachment to the Contract labeled “Special Provisions.”
 16. *State* means the State of Texas.
 17. *TEA* means the Texas Education Agency.
 18. *TEA Confidential Information* means information that is confidential under the provisions of the FERPA, the Texas Public Information Act, or other applicable state or federal laws. Examples of TEA Confidential Information include: (a) personally identifiable student information; (b) social security numbers; (c) driver’s license numbers; (d) criminal background checks; (e) e-mail address of a member of the public, unless the individual waives his or her right to e-mail confidentiality by affirmatively consenting to disclose the e-mail address or the individual seeks to contract or has a contract with TEA; (e) certain personnel information concerning a TEA employee including home address, home telephone number, emergency contact information, and family member information (if the employee elects in writing to keep this information confidential), personal medical information, and information reflecting personal financial decisions such as the employee’s choice of insurance carrier or choice to contribute money to a 401(k); (f) biometric identifiers such as fingerprints; (g) information about security vulnerabilities in TEA systems; and (h) SAS data sets.
 19. *WCAG* means web content accessibility guidelines.
 20. *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, metadata, source code, concepts, systems, methodologies, information, images, illustrations, designs, graphics, drawings, educational materials, assessment forms, testing materials, logos, trademarks, patentable materials, etc. “Works” does not include any pre-existing materials of Contractor, or any licensed third-party materials provided by Contractor.
- B. Excess Obligations Prohibited:** This Contract is subject to termination or cancellation, without penalty to TEA, either in whole or in part, subject to the availability of State funds. TEA is a State agency whose authority and appropriations are subject to actions of the Texas Legislature. If TEA becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds that would render either TEA’s or Contractor’s delivery or performance under the Contract impossible or unnecessary, the Contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this provision, TEA will not be liable to Contractor for any damages, that arise out of or are related to such termination or cancellation, and TEA will not be required to give prior notice of such termination or cancellation.
- C. Indemnification:** For the avoidance of doubt, the TEA shall not indemnify Contractor or any other entity under the Contract.

General

CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE TEA, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM AND AGAINST ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RELATING TO ANY ACTS OR OMISSIONS OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. CONTRACTOR AND THE TEA AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

Intellectual Property

CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND THE TEA, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM AND AGAINST ANY AND ALL LIABILITY, ACTIONS, CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, ARISING OUT OF OR RELATING TO: (1) THE PERFORMANCE OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) THE TEA'S AND/OR CONTRACTOR'S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO THE TEA BY CONTRACTOR OR OTHERWISE TO WHICH THE TEA HAS ACCESS AS A RESULT OF CONTRACTOR'S PERFORMANCE UNDER THE CONTRACT. CONTRACTOR AND THE TEA AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. IN ADDITION, CONTRACTOR WILL REIMBURSE THE TEA AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF THE TEA DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF CONTRACTOR OR IF THE TEA IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, THE TEA WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR WILL PAY ALL REASONABLE COSTS OF THE TEA'S COUNSEL.

Taxes/Workers' Compensation/Unemployment Insurance – Including Indemnity

CONTRACTOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, CONTRACTOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF CONTRACTOR'S AND CONTRACTOR 'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. CONTRACTOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. TEA AND/OR THE STATE SHALL NOT BE LIABLE TO CONTRACTOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.

CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS TEA, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, ARISING OUT OF OR RELATING TO PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER IN ITS PERFORMANCE UNDER THIS CONTRACT. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND TEA AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

For local educational agencies (LEAs), regional education service centers (ESCs), public 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.

- D. Signature Authority and Binding Effect:** By submitting the Response, Respondent represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any Contract that may result from the submission of this Response. The Contract shall be binding upon and shall inure to the benefit of the TEA and Contractor and to their respective permitted successors, and assigns

- E. Limitation on Authority:** Contractor shall have no authority to act for or on behalf of TEA or the State of Texas except as expressly provided for in the Contract; no other authority, power or use is granted or implied. Contractor may not incur any debt, obligation, expenses, or liability of any kind on behalf of TEA or the State of Texas.
- F. Final Expression, and Superseding Document:** 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.
- G. Amendments:** All amendments to this Contract are subject to Paragraph B of these General Provisions, will be executed on the AMENDMENT TO TEA STANDARD CONTRACT form, and will follow TEA's internal contracting process. All amendments will be initiated by TEA Purchasing and Contracts staff. An amendment to this Contract will become effective on the date of signature of TEA or the effective date shown on the amendment document whichever is later. All amendments must be signed by both parties.

If the solicitation documents and contract documents for a TEA contract submitted to the Comptrollers' Contract Advisory Team (CAT) (contracts with a value of at least \$5 million pursuant to Texas Government Code Section 2262.101(1)) substantially changes, agencies are required to resubmit their solicitation documents(s) for CAT review. Changes in the major contract solicitation are considered substantial when: 1) the solicitation change caused the estimated value for the original term of the contract, not including renewal periods, to increase by 20% or more; 2) or there are significant revisions, deletions and/or additions to the specifications, statement of work (SOW), set(s) of deliverables, performance measures, payment methodology, etc.

1. Written amendments are required for the following Contract changes:
 - a. Any revision which would result in the need for additional funding;
 - b. Revisions or additions to the scope of work, deliverables, or objectives of the Contract (regardless of whether there is an associated budget revision requiring prior approval). Increases of 20% or more for major contracts must be approved by the Comptroller;
 - c. A request to extend the period of the Contract;
 - d. Any reduction of funds or reduction in the scope of work;
 - e. Whenever a line item within a class/object code is added;
 - f. An increase in the quantity of capital outlay item(s) requested; and
 - g. An increase or decrease in the number of positions charged to Contract.

- H. Assignment of Contract and Subcontracting:** Contractor may not assign, sell, transfer, substitute or delegate its rights or obligations under the Contract without the express written consent of TEA. Any attempted assignment after Contract award without TEA approval is void and without effect and will constitute a material breach of Contract. Contractor may not subcontract any or all of the work and/or obligations due under the Contract without prior written approval of TEA. Subcontracts, if any, entered into by the Contractor shall be in writing and be subject to the requirements of the Contract. Should Contractor subcontract any of the services required in the Contract, Contractor expressly understands and acknowledges that in entering into such subcontract(s), TEA is in no manner liable to any subcontractor(s) of Contractor. In no event shall this provision relieve Contractor of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the Contract.
- I. No Third-Party Beneficiaries:** This Contract is made solely and specifically among and for the benefit of the parties named herein and their respective permitted successors and assigns. No other person shall have any right, interest, or claims under this Contract or be entitled to any benefits pursuant to or on account of the Contract as a third-party beneficiary or otherwise.
- J. Personnel Assignments, Transfers, HUB Subcontracting and Substitutions:** TEA reserves the right to request changes in personnel assigned to the project. The TEA Project Manager must pre-approve any changes in key personnel throughout the contract term. Any changes to the HSP must be approved by TEA HUB Coordinator before staffing changes are initiated. Substitutions are not permitted without written approval of TEA Project Manager. Contractor will be responsible for maintaining business records documenting compliance with HUB Program requirements. Contractor shall submit a Progress Assessment Report (PAR) monthly documenting all subcontractor payments made in the preceding month. Submission of the PAR is a condition for payment. Contractor shall also report all 2nd and 3rd Tier subcontracting in the monthly PAR. PAR's are due no later than the 10th day of the following month. The PAR is required to be submitted monthly, even if no reportable activity occurred for the month. Reports shall be submitted electronically to the HUBOffice@tea.texas.gov. In addition to the PAR, Contractor shall also create and maintain a monitoring report to document that it is diligently monitoring and enforcing subcontractor compliance with the Contract. When requested by TEA, Contractor shall furnish TEA with satisfactory proof of its compliance with this provision.
- K. Interpretation:** The terms, conditions, and assurances, which are stated in the competitive solicitation, in response to which Contractor submitted a Response, are incorporated herein by reference. Contractor's Response that was furnished to TEA in response to the competitive solicitation is incorporated herein by reference. 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 making part of this Contract, this Contract and its General Provisions, Appendices and Special Provisions shall take precedence over all other documents which are a part of this Contract. Any alterations, additions, or deletions to the terms of this Contract which are required by changes in federal or state law or regulations are automatically incorporated into this Contract without written amendment hereto and shall become effective on the date designated by such law or by regulation.

- L. 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.
- M. Records Retention and the Right to Audit:** 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 in accordance with applicable State of Texas requirements. 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 7 years from the date of completion of the Contract Project, the date of the receipt by TEA of Contractor's final claim for payment or the date of the receipt by TEA of Contractor's final expenditure report in connection with this Contract, whichever is latest. If an audit, claim, or litigation matter has been announced, the records shall be retained until such audit, claim, or litigation matter has been completed.

Pursuant to [Section 2262.154](#) of the Texas Government Code, the state auditor may conduct an audit or investigation of Contractor or any other entity or person receiving funds from the state directly under this Contract or indirectly through a subcontract under this Contract. The acceptance of funds by Contractor or any other entity or person directly under this Contract or indirectly through a subcontract under this Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, Contractor or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Contract and the requirement to cooperate is included in any subcontract it awards.

Contractor further agrees that acceptance of funds under this Contract acts as acceptance for TEA to conduct an audit or investigation in connection with those funds. Contractor, subcontractors, and any entities receiving funds through this Contract shall cooperate fully with TEA in the conduct of the audit or investigation, including making available at reasonable times and upon reasonable notice, and for a reasonable period, work papers, reports, books, records, supporting documents and any other records kept current by them pertaining to the Contract.

- N. Intellectual Property Ownership:** Contractor agrees that all Works are, upon creation, works made for hire and the sole property of TEA. Contractor and its officers, directors, employees, agents, representatives and subcontractors shall have no rights therein. 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, but not limited to, the Intellectual Property Rights, in the Works, all works based upon, derived from or incorporating the Works, all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, all causes of action, either in law or in equity for past, present, or future infringement based on the Intellectual Property Rights, and all rights corresponding to the foregoing. Contractor agrees to execute all papers and to perform such other property rights, as TEA may deem necessary to secure for TEA or its designee the rights herein assigned, 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.

In the event that Contractor has any rights in and to the Works that cannot be assigned to TEA, Contractor hereby grants to TEA an exclusive, worldwide, royalty-free, irrevocable, and perpetual license to directly and indirectly reproduce, distribute, modify, publicly perform and publicly display the Works, prepare derivative works to the Works, and to make, have made, use, sell and offer for sale any products developed by practicing such license rights, and to otherwise use such license rights, with the right to sublicense such rights through multiple levels of sublicenses.

Contractor represents and 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 in 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 representations and 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 (a) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such preexisting rights and any derivative works thereof and (b) 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 Contractor's 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 also 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 also apply to an 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's Office of Legal Services.

For Colleges and Universities: The foregoing Intellectual Property Ownership provisions also 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's Office of Deputy Commissioner for Finance.

- O. Social Security Numbers (SSNs) Withheld:** TEA will not provide SSNs to any Contractor under this Contract unless specifically stated as part of the Contract Project requirements. TEA, its Contractors and their subcontractors, will not require or request school districts to provide SSNs under this Contract. Contractor agrees that in executing tasks on behalf of 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 in accordance with the terms in Section Q on Confidential Information, FERPA, and Information Security Requirements hereof.
- P. Nondisclosure and Press Releases:** Respondent shall not use TEA's name, logo, or other likeness in any press release, marketing material, or other announcement without TEA's prior written approval. TEA does not endorse any vendor, commodity, or service. Respondent is not authorized to make or participate in any media releases or public announcements pertaining to this procurement, the Response or the services to which they relate without TEA's prior written consent, and then only in accordance with explicit written instructions from TEA. All information gathered, produced, derived, obtained, analyzed, controlled or accessed by Contractor in connection with this Contract shall be and remain confidential and shall not be released or disclosed by Contractor without the prior written consent of TEA, which consent must specifically identify the information, data, or materials requested and the audience for the release of information.
- Q. Confidential Information, FERPA, and Information Security Requirements:**

Access to TEA Confidential Information

Contractor represents and warrants that it will take all necessary and appropriate action within its abilities to safeguard TEA Confidential Information and to protect it from unauthorized disclosure. If Contractor discloses any TEA Confidential Information to a subcontractor or agent, Contractor will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Contractor. Whenever communications with Contractor necessitate the release of TEA Confidential Information, additional TEA confidentiality forms will need to be signed by each individual who requires access to or may be exposed to that information. Contractor shall access TEA's systems or TEA Confidential Information only for the purposes for which it is authorized. TEA expects all partners, consultants, and Contractors to abide by TEA information security policies. TEA reserves the right to review Contractor's security policy to ensure that any data that is on Contractor's servers is secure. Contractor shall cooperate fully by making resources, personnel, and systems access available to TEA and TEA's authorized representative(s).

Contractor shall ensure that any TEA Confidential Information in the custody of Contractor is properly sanitized or destroyed when the information is no longer required to be retained by TEA or Contractor in accordance with this contract. Electronic media used for storing any TEA Confidential Information must be sanitized by clearing, purging or destroying in accordance with such standards established by the National Institute of Standards and Technology and the Center for Internet Security. These standards are also required if Contractor is collecting, maintaining, or analyzing data gathered, collected, or provided under this Contract. Contractor must maintain a record documenting the removal and completion of all sanitization procedures with the following information:

1. Date and time of sanitization/destruction;
2. Description of the item(s) and serial number(s) if applicable;
3. Inventory number(s); and
4. Procedures and tools used for sanitization/destruction.

No later than 60 days from Contract expiration or termination or as otherwise specified in this Contract, Contractor must complete the sanitization and destruction of the data and provide to TEA documentation that the sanitization has been completed. An authorized agent of the company must certify the completion of the destruction of data and sanitization.

Contractor must be compliant with rules pertaining to information technology security standards found at 1 Texas Administrative Code, Chapter 202 ([https://texreg.sos.state.tx.us/public/readtac\\$ext.ViewTAC?tac_view=4&ti=1&pt=10&ch=202](https://texreg.sos.state.tx.us/public/readtac$ext.ViewTAC?tac_view=4&ti=1&pt=10&ch=202)).

If Contractor is providing a Cloud-hosted deliverable, Contractor must complete paperwork documenting compliance with the Cloud Security Alliance's (CSA) Cloud Controls Matrix (CCM) found at <https://cloudsecurityalliance.org/group/cloud-controls-matrix>.

FERPA

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 60 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 TEA. [The National Institute of Standards and Technology \(NIST\)](#) provides in-depth guidance and best practices for the implementation of effective methods of data destruction in their [Guidelines for Media Sanitation](#).

Information Security Requirements

Access to Internal TEA Network and Systems

As a condition of gaining remote access to any internal TEA network and systems, Contractor must comply with TEA's policies and procedures. TEA's remote access request procedures will require Contractor to submit TEA Applicable Access Request forms for TEA's review and approval. Remote access technologies provided by Contractor must be approved by TEA's Information Security Officer. TEA, in its sole discretion, may deny network or system access to any individual that does not complete the required forms. Contractor must secure its own connected systems in a manner consistent with TEA's requirements. The off-site downloading, transfer, and/or storage of sensitive and protected data is strictly prohibited unless such acts are specifically allowed in the Contract's scope of work.

TEA is required to comply with Texas Government Code, Sec. 2054.516, requiring all state agency websites or mobile applications that process sensitive personal information or confidential information be subjected to vulnerability and penetration testing, and to address any vulnerability identified. Websites shall be accessible through a secure connection (HTTPS-only, with HTTP Strict Transport Security (HSTS)), utilizing Transport Layer Security (TLS) version 1.2 or higher. TEA reserves the right to scan websites for vulnerabilities and to audit the security measures in effect on Contractor's connected systems without prior warning, and request remediation of identified issues in a timely manner not to exceed three months. TEA also reserves the right to immediately terminate network and system connections not meeting such requirements.

If Contractor is providing TEA software goods or services and/or data processing goods or services, Contractor agrees to provide secure configuration guidelines that fully describe all security relevant configuration options and their implications for the overall security of the software. The guideline shall include a full description of dependencies on the supporting platform, including operating system, web server, and application server, and how they should be configured for security.

Disclosure of Security Breach

Contractor shall provide notice to TEA's Project Manager and TEA's Information Security Officer as soon as possible following Contractor's discovery or reasonable belief that there has been unauthorized use, exposure, access, disclosure, compromise, modification, or loss of sensitive data or TEA Confidential Information or any breach or denial of service attack (each such event, a "Security Incident"). Within 24 hours of the discovery or reasonable belief of a Security Incident, Contractor shall provide a written report to TEA's Information Security Officer detailing the circumstances of the incident which includes at a minimum:

1. Description of the nature of the Security Incident;
2. The type of TEA information involved;
3. Who may have obtained the information;
4. What steps Contractor has taken or will take to investigate the Security Incident;
5. What steps Contractor has taken or will take to mitigate any negative effect of the Security Incident; and
6. A point of contact for additional information.

Each day thereafter until the investigation is complete, Contractor shall provide TEA's Information Security Officer with a written report regarding the status of the investigation and the following additional information as it becomes available:

1. Who is known or suspected to have gained unauthorized access to TEA information;
2. Whether there is any knowledge if TEA information has been abused or compromised;
3. What additional steps Contractor has taken or will take to investigate the Security Incident;
4. What steps Contractor has taken or will take to mitigate any negative effect of the Security Incident; and
5. What corrective action Contractor has taken or will take to prevent future similar unauthorized use or disclosure.

Further, Contractor will notify TEA within 12 hours of any new report of any security vulnerability that affects their platforms directly or indirectly, that is published in sources including but not limited to the CVE and US-CERT (each such event, a "Security Vulnerability").

Furthermore, Contractor will provide a roadmap for final resolution of such Security Incident or Security Vulnerability within one week of the date of such Security Incident or Security Vulnerability and complete remediation of such Security Incident or Security Vulnerability must be completed at Contractor's expense.

Contractor shall confer with TEA's Chief Information Security Officer regarding the proper course of the investigation and risk mitigation. TEA reserves the right to conduct an independent investigation of any Security Incident, and should TEA choose to do so, Contractor shall cooperate fully by making resources, personnel, and systems access available to TEA and TEA's authorized representative(s). Subject to review and approval of TEA's Information Security Officer, Contractor, at its own cost, shall provide notice that satisfies the requirements of applicable law to individuals whose personal, confidential, or privileged data were compromised or likely compromised as a result of the Security Incident. If TEA, in its sole discretion, elects to send its own separate notice, then all costs associated with preparing and providing notice shall be reimbursed to TEA by Contractor. If

Contractor does not reimburse such costs within 30 days of TEA's written request, then TEA shall have the right to collect such costs.

- R. Electronic and Information Resources Accessibility Standards:** State agencies shall procure products which comply with the State of Texas Accessibility requirements for Electronic Information Resources specified in [1 TAC Chapter 213](#) when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.

Regulations updating the accessibility requirements for entities covered by Section 508 of the Rehabilitation Act of 1973 have been adopted in FY 2015. Therefore, all current and potential contractors are hereby notified of the changes. The current technical requirements for accessibility contained within this regulation form the basis for our TAC rules on EIR accessibility.

This refresh of 508 uses the [WCAG 2.0 AA Accessibility Guidelines](#) (also ISO/IEC standard 40500) as the new technical standard that federal agencies are required to meet when procuring products and services. The Texas Department of Information Resources is modifying the TAC rules to align with it.

Given this change, all Texas agencies and institutions of higher education must begin using or specifying WCAG 2.0 AA guidelines for the design of new websites or web applications. The rationale is twofold:

1. It is technically difficult and expensive to bring these websites/applications to WCAG 2.0 AA later.
2. WCAG 2.0 AA is a superior, more flexible standard and is in use all over the world. If a website is compliant with WCAG 2.0 AA, it will, by default comply with our current TAC rules on EIR Accessibility.

Web development Contractors should already be familiar with designing to this standard, and their ability to meet these standards should be a strong consideration in the selection process.

The free online resources listed below are available to assist developers and content producers in transitioning to these guidelines.

[WCAG 2.0 AA at a glance](#)
[IBM Developer Guidelines Web Checklist](#)
[Webaim.org Accessibility Checklist](#)

All websites must follow Federal 508 accessibility requirements and WCAG 2.0 AA standards and be tested for accessibility before acceptance by TEA. For sites developed outside of TEA, the Contractor must contract with a third party with expertise and a proven track record in accessibility testing. This company must evaluate the site and produce a report that verifies the site is compliant to WCAG 2.0 AA.

The awarded Contractor must employ real users with disabilities for manual testing. Contractor must provide a report that will include the results of auto-testing, screen-by-screen assessments, pass/fail status for each of the identified compliance standards to be met and recommendations for how to repair the screens/pages that do not meet the standards. Remediation recommendations shall be provided to the code level. The report should include documentation of the experience of real users with disabilities and may recommend techniques for improving the usable accessibility of the application. Contractor shall validate, by title, if all accessibility requirements have been met.

- S. 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.
- T. 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 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.
- U. Use of State Property:** Contractor is prohibited from using State Property for any purpose other than performing services authorized under the Contract. State Property includes, but is not limited to, TEA's office space, identification badges, TEA information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads, external hard drives, data storage devices, any TEA-issued software, and the TEA Virtual Private Network (VPN client)), and any other resources of TEA. Contractor will not remove State Property from the continental United States. In addition, Contractor may not use any computing device to access TEA's network or e-mail while outside of the continental United States. Contractor will not perform any maintenance services on State Property unless the Contract expressly authorizes such services. During the time that State Property is in the possession of Contractor, Contractor will be responsible for all charges attributable to Contractor's use of State Property that exceeds the contract scope. Contractor will fully reimburse such charges to TEA within ten (10) calendar days of Contractor's receipt of TEA's notice of amount due. Use of State Property for a purpose not authorized by Contract will constitute

breach of contract and may result in termination of the Contract and the pursuit of other remedies available to TEA under Contract, at law, or in equity.

- V. Governing Law and Venue:** Subject to and without waiving any of TEA's rights, including sovereign immunity, this Contract is governed by and construed in accordance with the laws of the State of Texas, without regard to the conflicts of law provisions thereof. The venue of any suit arising under the Contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless a specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the TEA.
- W. No Waiver:** Nothing in this Contract shall be construed as a waiver of TEA's or the State of Texas's sovereign immunity. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to TEA or the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to TEA or the State of Texas under the Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. TEA does not waive any privileges, rights, defenses, or immunities available to TEA by entering into the Contract or by its conduct prior to or subsequent to entering into the Contract.
- X. Applicable Law and Conforming Amendments:** Contractor must comply with all laws, regulations, requirements and guidelines applicable to a Contractor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. Any alterations, additions, or deletions to the terms of this contract which are required by changes in federal or state law or regulations are automatically incorporated into this contract without written amendment hereto and shall become effective on the date designated by such law or by regulation.
- Y. Federal Rules, Laws, and Regulations that apply to all Federal Programs:** Contractor represents and warrants its compliance with all federal laws, rules, and regulations, pertaining to the Contract Project, including, but not limited to:
1. 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;
 2. 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;
 3. Title IX of the Education Amendments 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;
 4. 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;
 5. 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;
 6. The Immigration and Nationality Act (8 U.S.C. § 1101 et seq.) and all subsequent immigration laws and amendments;
 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.

Contractor represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).

The Code of Federal Regulations (CFR) annual edition is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government produced by the Office of the Federal Register (OFR) and the Government Publishing Office. Website: http://www.ecfr.gov/cgi-bin/text-idx?SID=6214841a79953f26c5c230d72d6b70a1&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

- Z. Equal Employment Opportunity:** Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.
- AA. E-Verify Program:** Respondent certifies that for contracts for services, Respondent shall utilize the U.S. Department of Homeland Security's E-Verify system during the term of the Contract to determine the eligibility of:
1. All persons employed by Respondent to perform duties within Texas; and
 2. All persons, including subcontractors, assigned by Respondent to perform work pursuant to the contract within the United States of America.
- BB. 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. Contractor represents and warrants that it has acquired all applicable licenses, certifications, permits and any other documentation to perform this Contract. 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 TEA, Contractor shall furnish TEA with satisfactory proof of its compliance with this provision.

- CC. Legal and Regulatory Actions:** Respondent represents and warrants that it is not aware of and has received no notice of any court or governmental agency actions, proceedings or investigations, etc., pending or threatened against Respondent or any of the individuals or entities included in the Response within the five (5) calendar years immediately preceding the submission of the Response that would or could impair Respondent's performance under the Contract, relate to the solicited or similar goods or services, or otherwise be relevant to TEA's consideration of the Response. If Respondent is unable to make the preceding representation and warranty, then Respondent instead represents and warrants that it has included as a detailed attachment in its Response including a complete disclosure of any such court or governmental agency actions, proceedings or investigations, etc. that would or could impair Respondent's performance under the Contract, relate to the solicited or similar goods or services, or otherwise be relevant to TEA's consideration of the Response. In addition, Respondent represents and warrants that it shall notify TEA in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update TEA shall constitute breach of contract and may result in immediate termination of the contract.
- DD. 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 to so comply. Pursuant to 34 TAC §201.281-298 and Texas Government Code, Chapter 2161, Contractor shall maintain business records documenting compliance with the HSP and shall submit a compliance report to TEA monthly, in the format required by TEA. The compliance report submission is required as a condition for payment. If Contractor subcontracts any part of the Contract in a manner that is not consistent with its HSP, the Contractor must submit a revised HSP before subcontracting any of the work under the Contract. If Contractor subcontracts any of the work without prior authorization and without complying with this section, Contractor is deemed to have breached the Contract and is subject to any remedial actions provided by Government Code, Chapter 2161, and other applicable state law.
- EE. No Exclusivity:** The Contract is not exclusive to the Contractor. TEA may obtain products and related services from other sources during the term of the Contract. TEA makes no express or implied warranties whatsoever that any particular quantity or dollar amount of products and related services will be procured through the Contract.
- FF. Antitrust:** By signing this Contract, Contractor represents and warrants that, in accordance with [Texas Government Code Section 2155.005](#) neither Contractor nor any firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such firm, corporation or institution has, (1) violated any provision of the [Texas Free Enterprise and Antitrust Act of 1983](#), [Texas Business and Commerce Code Chapter 15](#), or the federal antitrust laws; or (2) communicated directly or indirectly the Response to any competitor or any other person engaged in the same line of business as Contractor.
- GG. Unfair Business Practices:** Respondent represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit. Respondent represents and warrants that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code or allegations of any unfair business practices in an administrative hearing or court suit.
- HH. Child Support Obligation Affirmation:** Under Section 231.006 of the Texas Family Code, Contractor certifies that Contractor is not ineligible to receive the 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. 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.
- II. Public Information:** Respondent understands that the TEA will comply with the Texas Public Information Act (Chapter 552 of the Texas Government Code) as interpreted by judicial rulings and opinions of the Attorney General of the State of Texas. Information, documentation, and other material in connection with this solicitation, this Response or any resulting Contract may be subject to public disclosure pursuant to the Texas Public Information Act. In accordance with Section 2252.907 of the Texas Government Code, Respondent is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

TEA Project Manager will provide the specific format by which Contractor is required to make the information accessible by the public.

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 TEA under this Contract constituting a record under the Act is received by TEA, the information must qualify for an exception provided by the Act in order to be withheld from public disclosure. Contractor authorizes 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 TEA does not have a good faith belief that information may be subject to an exception to

disclosure, TEA is not obligating itself by this Contract to submit the information to the Attorney General. It shall be the responsibility of 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. Contractor waives any claim against and releases from liability 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 Contractor and determined by the Attorney General or a court of law to be subject to disclosure under the Act.

- JJ. Lobbying Prohibition:** Contractor represents and warrants that TEA's payments to Contractor and Contractor's receipt of appropriated or other funds under the Contract are not prohibited by Sections 556.005 or 556.0055 of the Texas Government Code.
- KK. 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.
- LL. Liability for and Payment of Taxes:** Purchases made for the State of Texas use are exempt from the State Sales Tax and Federal Excise Tax. TEA will furnish Tax Exemption Certificates upon request. 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.
- MM. Conformance:** Contractor represents and warrants that all goods and services furnished will conform in all respects to the terms of this Contract, including any drawings, specifications or standards incorporated herein, and will be free from any defects in materials, workmanship, or design. In addition, Contractor warrants that goods and services are suitable for and will perform in accordance with the purposes for which they are intended.
- NN. Buy Texas Affirmation:** In accordance with [Texas Government Code, Section 2155.4441](#), Contractor agrees that during the performance of a contract for services, Contractor shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state. This provision does not apply if Contractor receives any federal funds under this Contract.
- OO. Discounts:** Notwithstanding any other provision to the contrary, all the benefits, pricing and any hourly rates granted by Contractor to the TEA herein are at least as favorable as the benefits, pricing and hourly rates granted by Contractor to any previous client of Contractor for services and/or products similar to those provided hereunder. If Contractor enters into any subsequent agreement with any other client during the term of this Contract which provides for benefits, pricing and/or hourly rates that are more favorable than those contained in this Contract, Contractor shall notify the TEA promptly of the existence of such more favorable benefits, pricing and/or hourly rates and the TEA shall have the right to receive the more favorable contractual terms immediately. If requested in writing by the TEA, Contractor hereby agrees to amend this contract to contain the more favorable benefits, pricing and/or hourly rates.
- PP. Payment:** Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment. Payment for goods or services purchased with state-appropriated funds will be issued by electronic Direct Deposit from the State Treasury. Direct Deposit is the preferred method of payment. Additional information and a Direct Deposit Authorization application may be found at: <https://fm.x.cpa.state.tx.us/fm/payment/index.php>. Invoices must be submitted to TEAAccountsPayable@tea.texas.gov and TEA Project Manager. Any payment owed by TEA must be transmitted electronically to Contractor no later than 30 days after the latest of:
1. Date on which TEA received the goods;
 2. Date the performance of the service under the Contract is completed; or
 3. Date on which TEA received the complete and correct invoice for goods or services.

Payment for service(s) described in this Contract is contingent upon satisfactory completion of the deliverables or services.

The TEA project manager may also utilize a Deliverables and Services Review and Acceptance Process written procedures. When the formal procedures are to be utilized, the TEA project manager will provide to the selected Contractor a copy of the Handbook. TEA will review each deliverable, including test items, submitted by Contractor for quality and alignment to the deliverable definition agreed to under the "Deliverables and Services Definition Process". TEA will have 15 working days to approve a deliverable or request revisions to the deliverable. TEA must review and approve any deliverable before it may be invoiced by Contractor. If TEA finds a submitted deliverable to be substandard or not in compliance with the deliverable definition agreed to under the "Deliverables and Services Definition Process" provided by the Project Manager, located in the Service Level Agreement or the Contract Monitoring Tool. Contractor will have 10 working days to provide a Corrective Action Plan and address the quality or other compliance requirement and resubmit the deliverable. TEA reserves the right to reject and withhold payment for deliverables found to be substandard or not in compliance with the deliverable definition agreed to under the "Deliverables and Services Definition Process", including test items developed under the Contract.

Contractor is strongly encouraged to collaborate with TEA on draft versions of any deliverables or services and request review(s) of such draft versions before submitting a final version. Additional costs incurred by Contractor that result from repeated

submissions and revising of substandard deliverables will be borne solely by Contractor and not charged against the Contract or to TEA. This does not preclude an arrangement that allows Contractor to bill against a deliverable as progress is made toward completing that deliverable, so long as documentation of such progress in a form and nature satisfactory to TEA is provided and is approved by TEA. It is up to Contractor to request incremental billing based on progress towards a deliverable, and such a request must be approved by TEA prior to submission of any invoice by Contractor.

Retainage: TEA may withhold 5% or less of each payment as retainage for certain projects. Retainage fees must be stated in the competitive solicitation and documented in the Contract. The fees may not be arbitrarily imposed after execution of the Contract. The release of retainage shall be requested in the final invoice.

Unless otherwise stated, payment under this Contract will be made upon delivery of goods and performance of services based upon submission of an invoice, properly prepared and certified, outlining expenditures by deliverable. Include the Contract number, purchase order number, and the Comptroller Texas Identification Number (TIN) on all invoices. The Deliverables / Tasks and Activities in the invoice must coincide with the Deliverables / Tasks and Activities detailed in the approved budget. A list of tasks/activities performed during the invoice period must accompany the invoice. The final invoice is due within 45 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. All costs must be reasonable, allowable and allocable to the project.

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 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.

Respondent acknowledges and agrees that, to the extent Respondent owes any debt including, but not limited to, delinquent taxes, delinquent student loans, and child support owed to the State of Texas, any payments or other amounts Respondent is otherwise owed under the Contract may be applied toward any debt Respondent owes the State of Texas until the debt is paid in full, regardless of when the debt or delinquency was incurred. These provisions are effective at any time Respondent owes any such debt or delinquency. 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. 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 its account status by accessing the Comptroller's website at https://fm.xcpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=indebted&page=persons_indebted

- QQ. 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.
- RR. 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.
- SS. Contractor Performance and Past Performance:** TEA is required to submit Contractor Performance reports under Texas Government Code, [§2155.089](#), and 34 Texas Administrative Code (TAC), [§20.509](#) and [§20.115](#). The Comptroller's Vendor Performance Tracking System (VPTS) provides the state procurement community with a comprehensive tool for evaluating vendor performance to reduce risk in the contract awarding process. Historic reports submitted prior to February 10th, 2017 will be displayed as "Legacy Satisfactory" or "Legacy Unsatisfactory."

TEA may conduct reference checks with other entities regarding past performance of Respondent or its subcontractors. In addition to evaluating performance through the VPTS, TEA may examine other sources of contractor performance, including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Such sources of contractor performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government. Further, TEA may initiate such examinations of contractor performance based upon media reports. Any such investigations shall be at the sole discretion of TEA, and any negative findings, as determined by TEA, may result in a non-award to Respondent. The VPTS is located on Comptroller's website at: <http://www.txsmartbuy.com/vpts>.

- TT. Time Delays, Suspension, and Sanctions for Failure to Perform:**
Time is of the Essence.
Contractor's timely performance is essential to this contract.

Suspension

If this Contract is suspended by TEA prior to its expiration date, the reasonable monetary value of services properly performed by Contractor pursuant to this contract prior to suspension shall be determined by TEA and paid to Contractor as soon as

reasonably possible. TEA shall not be required to pay any standby hourly rates during a suspension of Work, if TEA suspends performance of the Work because the Work is defective, or Contractor fails to supply sufficiently skilled workers or suitable materials or equipment, or fails to provide required insurance coverage, or fails to furnish or perform the Work in such a way that the completed Work will conform to this Contract.

Sanctions

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.

- UU. Abandonment or Default:** If Contractor defaults on the Contract, TEA reserves the right to cancel the Contract without notice and either re-solicit or re-award the Contract to the next best responsive and responsible Respondent. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by TEA based on the seriousness of the default.
- VV. 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.
- WW. Protests:** Any actual or prospective Respondent or Contractor who is aggrieved in connection with the solicitation, evaluation, or award of this Contract by TEA may submit a formal protest to the Director of TEA's Purchasing and Contracts Division. This protest procedure shall be the exclusive method by which anyone may make a challenge to any aspect of TEA's contracting process. TEA will not be required to consider the merits of any protest unless the written protest is submitted within 10 working days after such aggrieved person knows, or reasonably should have known, of the occurrence of the action which is protested. The protest document must meet with all requirements in applicable law and TEA's rules ([19 TAC Section 30.2002](#)).

If the protest procedure results in a final determination by TEA that a violation of law has occurred in its contracting process in a case in which a contract has been awarded, then TEA 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 TEA.

- XX. 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.
1. **Termination for Convenience:** TEA may terminate this Contract at any time, in whole or in part, without cost or penalty, by providing 15 calendar days' advance written notice to Contractor. In the event of such a termination, Contractor must, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TEA shall be liable for payments limited only to the portion of work TEA authorized in writing and which Contractor has completed, delivered to TEA, and which has been accepted by TEA. All such work shall have been completed, in accordance with contract requirements, prior to the effective date of termination. TEA shall have no other liability, including no liability for any costs associated with the termination.
 2. **Termination for Cause/Default:** If 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 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 Contractor in writing prior to the exercise of such remedy.

Following any termination for cause/default, Contractor shall remain liable for all covenants and indemnities under the Contract and 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.
 3. **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.
 4. **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 Works and associated documentation and materials obtained from Contractor under the Contract.

5. **Survival of Terms:** Expiration or termination of the Contract for any reason does not release Contractor from any liability or obligation set forth in the Contract that is expressly stated to survive any such expiration or termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, warranty, transition, records, audit, ownership of intellectual property or other property rights, dispute resolution, rights and remedies upon termination, invoice and fees verification.
6. **Contract Transition:** In the event a subsequent competitive solicitation is awarded to a new contractor, Contractor shall hand-over to the new contractor all "Works" including but not limited to the following: data, materials, database access, intellectual property, source code, training materials, access to websites, asset transfer, and maintenance of service commitments. The purpose of transition planning is to ensure a seamless and continuous service when changing from one contract to another. Contractor will begin shipping, transmitting or providing access to all appropriate materials and data to the new contractor within 10 days of announcement of award at the new contractor's expense for data processing and production, packing and shipping. Contractor will be responsible for providing the services identified in the Contract until all records have been completely transferred to the new contractor. Contractor is responsible for performing due diligence to ensure that all the transition activities are identified and completed during the Contract transition.

The Outgoing Contractor shall submit to TEA requested reports and data. TEA will not release the final invoice until all materials are returned to TEA or their designee. TEA Project Manager shall approve the transition plan prior to its implementation. The transition plan must minimize the impacts on continuity of operations and maintain communication with TEA Project Manager and the new contractor.

7. **Return of Works:** Subject to paragraph 6 above, upon the request of TEA, but in any event upon termination or expiration of this Contract or a statement of work, Contractor shall surrender to TEA all Works pertaining to the Contract Project, any and all documentation or other products or results of the services, and all other documents or materials (and copies of same) furnished by TEA to Contractor, including all materials embodying the Contract Project, regardless of form or whether complete or incomplete. Failure to timely deliver such Work and any and all documentation or other products and results of the services will be considered a material breach of this Contract.

Following confirmation by TEA that the copies of such materials are acceptable and the completion of any Contract Project activities for which such materials are required, Contractor will sanitize or destroy all other copies of such material in Contractor's possession and cease using such materials and any information contained therein for any purpose. An authorized officer of Contractor must certify that ALL records have either been properly cleared, purged, destroyed or returned to TEA in order to close out the Contract.

YY. Insurance: Contractor represents and warrants that it will, within five business days of being requested by TEA, provide TEA with current certificates of insurance or other proof acceptable to TEA of the following insurance coverage:

Minimum Required Amounts of Insurance Coverage	
Type of Insurance	Each Occurrence/Aggregate
<i>Workers Compensation</i>	Statutory Limits
<i>Employers Liability</i> Bodily Injury by Accident Bodily Injury by Disease Bodily Injury by Disease	\$1,000,000 each Accident \$1,000,000 each Employee \$1,000,000 Policy Limit
<i>Commercial General Liability</i> (Occurrence based)	Bodily Injury and Property Damage \$1,000,000 each Occurrence Limit \$2,000,000 Aggregate Limit \$5,000 Medical Expenses each person \$2,000,000 Products/Completed Operations Aggregate Limit \$1,000,000 Personal Injury and Advertising Liability \$50,000 Damage to Premises Rented
<i>Automobile Liability</i> All Owned, Hired and Non-Owned Vehicles	\$500,000 Combined Single Limit (for each accident)
<i>Umbrella/Excess Liability</i>	\$1,000,000 per Occurrence

All required insurance coverage must (1) be in a form satisfactory to TEA, (2) be written on a primary and non-contributory basis with any other insurance coverages Contractor currently has in place, (3) include a Waiver of Subrogation Clause and (4) issue from a company or companies that: (a) have both a Financial Strength Rating of "A" or better from A.M. Best Company, Inc.; (b) have a Financial Size Category Class of "VII" or better from A.M. Best Company, Inc., and (c) are authorized to do business under the laws of the State of Texas; and.

All certificates of insurance for required coverage other than workers compensation and professional liability must name the State of Texas and its Officers, Directors, and Employees as additional insureds.

Contractor shall:

1. provide written documentation to TEA Purchasing and Contracts by email at TEAContracts@tea.texas.gov and by U.S. First Class Mail at least 30 calendar days prior to any cancellation, non-renewal, or material change of a required policy;
2. ensure all insurance policies and certificates of insurance for required coverage are written to include all products, services, and locations related to Contractor's performance under the Contract; and
3. deliver to TEA by e-mail at TEAContracts@tea.texas.gov and by U.S. First Class Mail all renewal policies at least ten calendar days prior to any expiration of a required policy. All renewal policies and corresponding certificates of insurance must meet all terms set forth in the Contract.

Contractor represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least 30 days' prior written notice to TEA, that it will maintain the above insurance coverage during the term of this contract, and that it will provide TEA with an executed copy of the policies immediately upon request.

ZZ. Force Majeure: Neither Contractor nor TEA shall be liable to the other for any delay in, or failure of performance, of any requirement included in this Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three business days of the existence of such force majeure, or otherwise waive this right as a defense.

AAA. Drug Free Workplace Policy: Contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and Contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

BBB. TEA No Smoking Policy: TEA has a policy of being a smoke-free agency. The policy reflects our commitment to providing a healthy environment for all our employees and visitors. This policy prohibits smoking within any state building or on the grounds. Contractor, by acceptance of this contract, agrees to abide by this policy when on the property of TEA.

CCC. Performance Measurement: Contractor shall use OMB-approved standard information collections when providing financial and performance information. Contractor must be able to relate financial data to performance accomplishments of the project. Contractor must also provide cost information to demonstrate cost effective practices (e.g. through unit cost data). Contract performance should be measured in a way that will help to improve program outcomes, share lessons learned, and spread adoption of promising practices. Contractor must have effective control over, and accountability for, all funds, property, and other assets. The Contractor must adequately safeguard all assets and assure that they are used solely for authorized purposes.

DDD. Boycott Israel: Contractor represents and warrants that, pursuant to Section [2270.002 of the Texas Government Code](#), Contractor does not boycott Israel and will not boycott Israel during the term of the Contract

EEE. Disaster Recovery Plan: In accordance with 13 TAC Section 6.94(a)(9), Contractor must provide to TEA the descriptions of its business continuity and disaster recovery plan.

FFF. Computer Equipment Recycling Program: If this Contract is for the purchase or lease of computer equipment, then Contractor certifies that it is in Compliance [with Subchapter Y, Chapter 361 of the Texas Health and Safety Code](#) related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in [30 TAC Chapter 328](#).

GGG. Television Equipment Recycling program: If Respondent is submitting a Response for the purchase or lease of covered television equipment, then Respondent certifies that it is compliant with Subchapter Z, Chapter 361 of the Texas Health and Safety Code related to the Television Equipment Recycling Program.

HHH. Secure Erasure of Hard Disk Capability: All equipment provided to TEA by Respondent that is equipped with hard disk drives (i.e., computers, telephones, printers, fax machines, scanners, multifunction devices, etc.) shall have the capability to securely erase data written to the hard drive prior to final disposition of such equipment, either at the end of the equipment's useful life or the end of the related services agreement for such equipment, in accordance with 1 TAC § Chapter 202.

III. Electrical Items: All electrical items purchased under this Contract must meet all applicable OSHA standards and regulations and bear the appropriate listing from Underwriters Laboratory (UL), Factory Mutual Resource Corporation (FMRC), or National Electrical Manufacturers Association (NEMA).

JJJ. Independent Contractor: Contractor acknowledges and agrees that it is furnishing products and services in the capacity of an independent contractor and that Contractor, Contractor's employees, representatives, agents, subcontractors, suppliers, and third-party service providers are not employees of the TEA or the State of Texas. Contractor shall have no claim against the TEA for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind. The contract shall not create any joint venture, partnership, agency, or employment relationship between Contractor and the TEA.

- KKK. Excluded Parties:** Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.
- LLL. Felony Criminal Convictions:** Contractor represents and warrants that Contractor has not and Contractor's employees, agents or representatives, including any subcontractors and employees, agents or representative of such subcontractors 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.
- MMM. Criminal Background Checks:** If during the term of this Contract, Contractor and/or Contractor's staff, or subcontractor and/or subcontractor's staff have either (1) access to Texas public school campuses, or (2) access to TEA Confidential Information or TEA data systems, all Contractor and/or Contractor's staff and/or subcontractor and/or subcontractor's staff must submit to a national criminal history record information review (including fingerprinting) and meet all eligibility standards and criteria as set by TEA before serving in assignments on behalf of TEA. This requirement applies to all individuals who currently serve or will serve in TEA assignments that have the possibility of direct contact with students. 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, Contractor's staff, subcontractor or subcontractor's staff is not eligible for assignment, this Contract will be terminated effective immediately or the date of notice of non-eligibility, whichever is earliest.
1. Contractor, Contractor's staff, subcontractor or subcontractor's staff will not meet eligibility standards and be permanently disqualified from serving on TEA assignments if an initial review of criminal history records indicates:
 - a. Felony conviction or deferred adjudication;
 - b. Offense on conviction of which the defendant is required to register as a sex offender;
 - c. Conviction or deferred adjudication of a Class A Misdemeanor; or
 - d. Offense under the laws of another state or federal law that is equivalent to an offense specified above, or their criminal record indicates an unresolved Felony or Class A misdemeanor.
 2. Educator Certification Required: If the individual is a certified educator, the educator's certificate(s) must currently be valid and in good standing. If the certificate(s) is/are not in good standing (inactive, invalid, revoked, suspended or surrendered) the individual is not eligible for TEA appointments, assignments, contract, or grant awards or to provide services to school entities on behalf of TEA.
- NNN. Disclosure of Prior State Employment:** In accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, Respondent certifies that it does not employ an individual who has been employed by TEA or another state agency at any time during the two years preceding the submission of the Response or, in the alternative, Respondent has disclosed in its Response the following: (i) the nature of the previous employment with TEA or the other state agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination.
- OOO. No Conflicts of Interest:** Pursuant to Texas Government Code §2261.252, TEA may not enter into a contract for the purchase of goods or services with a private Contractor if members of TEA or certain positions within TEA including the Executive Director, the General Counsel or the Procurement Director or their covered family members have a financial interest in the Contractor. Any contract found to violate Texas Government Code §2261.252 is void. Contractor represents and warrants that the provision of goods and services or other performance under the Contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
- PPP. 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 Contractor's Response is based and will not allow any person who prepared the respective specifications or solicitation to participate financially in any contract award.
- QQQ. Suspension and Debarment:** Respondent certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration.
- RRR. Financial Participation Prohibited:** Pursuant to Texas Government Code, Title 10, Subtitle D, Section 2155.004, the Respondent certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated, and payment withheld if this certification is inaccurate.
- SSS. Foreign Terrorist Organizations:** Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.
- TTT. Former TEA Employees:** In accordance with Section 2252.901 of the Texas Government Code, Contractor represents and warrants that none of its employees including, but not limited to, those authorized to provide services under the Contract, were former employees of the TEA during the twelve (12) month period immediately prior to the date of execution of the Contract. In the case of professional services contracts as described by Chapter 2254 of the Texas Government Code, Respondent represents and warrants that if a former employee of the TEA was employed by Respondent within one year of the employee's leaving the TEA, then such employee will not perform services on projects with Respondent that the employee worked on while employed by the TEA.

UUU. Restricted Employment of Certain State Personnel: Pursuant to Section 572.069 of the Texas Government Code, Respondent certifies that it has not employed and will not employ a former state officer or employee who participated in a procurement or contract negotiations for TEA involving Respondent within two (2) years after the date that the contract is signed, or the procurement is terminated or withdrawn. This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.

VVV. Dealings with Public Servants: Pursuant to Section 2155.003 of the Texas Government Code, Respondent represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted Response.

WWW. Prior Disaster Relief Contract Violation: Sections 2155.006 and 2261.053 of the Texas Government Code, prohibit state agencies from accepting a Response or awarding a Contract that includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Government Code, Respondent certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified contract and acknowledges that this Contract may be terminated, and payment withheld if this certification is inaccurate.

XXX. Executive Head of State Agency Affirmation: Under Section 669.003 of the Texas Government Code, Respondent certifies that it does not employ, or has disclosed its employment of, any former executive head of the TEA. Respondent must provide the following information in the Response.

Name of Former Executive: _____

Name of State Agency: _____

Date of Separation from State Agency: _____

Position with Respondent: _____ Date of Employment with Respondent: _____

YYY. Point of Contact and Escalation: All notices, reports and correspondence required by this Contract shall be in writing and delivered to individuals listed below or their successors in office. Within 30 days of execution of this Contract, the respective Parties will designate the next level of personnel within each organization to address conflicts or ambiguity that cannot be resolved at the Project Manager level.

<u>TEA</u>	<u>Contractor</u>

Respondent will provide its nine-digit Federal Employer's Identification Number (FEIN) to TEA. If Respondent does not have a FEIN, Respondent shall next provide Respondent's 14-digit State of Texas Payee Identification Number (TIN). If Respondent neither has a FEIN or a TIN, Respondent shall provide a Social Security Number (SSN) if Respondent is an individual. If Respondent is incorporated, Respondent shall also provide to TEA the corporation's charter number issued by the Texas Secretary of State's office. Information provided by Respondent will be verified by TEA and kept confidential to the fullest extent allowed by law.

Contractor's FEIN	
Contractor's SSN	
Contractor's TIN	
Contractor's charter #	

Respondent has read, understands, and agrees to be bound to the terms and conditions stated in the solicitation if a contract is awarded to Respondent pursuant to this solicitation. By signature hereon, the Respondent represents and warrants that:

All statements and information prepared and submitted in the response to this document are current, complete, true and accurate. Submitting a document with a false statement or material misrepresentations made during the performance of a Contract is a material breach of contract and may void the submitted Response and any resulting Contract.

The undersigned is an authorized official for the Respondent and certifies that the Response submitted with this "Contract Terms, Conditions and Affirmations, Response Preferences and Execution of Offer" instrument is in full compliance with the provisions expressly

stated above. I further certify that the Response submitted with this instrument is allowed to claim any of the Chapter 2155 Texas Government Code preferences checked below.

RESPONDENT/CONTRACTOR:

BY: _____
Name:
Title:

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://texreg.sos.state.tx.us/public/readtac\\$ext.viewtac](http://texreg.sos.state.tx.us/public/readtac$ext.viewtac)

RESPONSE PREFERENCES

The Respondent 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 ([Texas Government Code § 2155.4441](#)).

Check below if claiming a preference included in [Texas Government Code Chapter 2155](#)

<input type="checkbox"/>	§ 2155.441	Products of persons with mental or physical disabilities
<input type="checkbox"/>	§ 2155.442	Energy efficient products
<input type="checkbox"/>	§ 2155.443	Rubberized asphalt paving
<input type="checkbox"/>	§ 2155.444	Texas and United States products and Texas services
<input type="checkbox"/>	§ 2155.4441	Preference under service contracts.
<input type="checkbox"/>	§ 2155.445	Recycled, remanufactured, or environmentally sensitive products
<input type="checkbox"/>	§ 2155.446	Use of Paper containing recycled fibers
<input type="checkbox"/>	§ 2155.447	Recycled oil
<input type="checkbox"/>	§ 2155.449	Products and services from economically depressed or blighted areas
<input type="checkbox"/>	§ 2155.450	Products of facilities on formerly contaminated property
<input type="checkbox"/>	§ 2155.451	Vendors that meet or exceed air quality standards.
<input type="checkbox"/>	§ 2155.452	Contractors providing foods of higher nutritional value.

EXECUTION OF OFFER

In compliance with this solicitation, 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 Response.

Respondent certifies that if a Texas address is shown as the address of the Respondent on this Response, Respondent qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.

RESPONDENT/COMPANY NAME:
STREET ADDRESS:
CITY/STATE/ZIP:
TELEPHONE #:
FACSIMILE #:
EMAIL ADDRESS:
NAME OF RESPONDENT'S AUTHORIZED AGENT:
TITLE OF RESPONDENT'S AUTHORIZED AGENT:
SIGNATURE OF AUTHORIZED AGENT:

ATTACHMENT "B" MUST BE SIGNED AND RETURNED WITH YOUR RESPONSE

Respondent acknowledges that under state law and TEA policy, they may not disclose any information during the solicitation process (upon opening the Response and during negotiations). The solicitation process must remain confidential and is exempt from open records until such time that a contract is awarded. Failure to abide to this requirement will result in disqualification.

**Historically Underutilized Business
Subcontracting Plan (HSP)**
[Separate document package.](#)

Definition of a Historically Underutilized Business (HUB)

- At least 51% owned by an Asian Pacific American, Black American, Hispanic American, Native American, American woman, and/or Service Disabled Veteran, as defined by 38 United States Code (U.S.C.), Section 101(2) who have a service-connected disability as defined by 38 U.S.C. Section 101(16) and have a disability rating of 20 percent or more as determined by the Department of Veterans Affairs or the Department of Defense.
- A for-profit entity that has not exceeded the size standards prescribed by 34 TAC §20.294, and has 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.

*Note: Veterans are not required to be United States citizens; however, they must reside in Texas.

**Note: Sole proprietorships must be 100 percent owned and controlled by an individual meeting the Criteria above. In addition, each entity within a joint venture is required to be HUB certified.

The statewide HUB Program facilitates the use of HUBs in state procurement and provides information on the state's procurement process to minority, woman-owned and service disabled veteran owned businesses.

In accordance with 34 TAC §20.284, each state agency shall make a good faith effort to utilize HUBs in contracts for construction, services (including professional and consulting services) and commodities purchases.

Proposers seeking certification as a HUB are required to submit a completed HUB certification application and supporting documentation to the statewide HUB Program.

Questions regarding the TEA HUB Program or the HUB Subcontracting Plan may be directed to the TEA HUB Office: HUBOffice@tea.texas.gov.

FORMAT FOR PROPOSAL COVER PAGE

PROJECT PROPOSAL
Submitted to the
Texas Education Agency
Contracts and Purchasing Division
RFP # 701-19-002

TITLE OF PROPOSED PROJECT:	21st CCLC Capacity Building, Training & Technical Assistance
RESPONDENT ORGANIZATION:	Name and address of organization submitting proposal (include zip code)
RESPONDENT ORGANIZATION IDENTIFICATION NUMBER:	Proposer organization Federal Employer's Identification Number or Texas Identification Number (TINS)
PROPOSAL 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 oversee proposed project
PROPOSAL TRANSMITTED BY:	Name, position, email, and telephone number of official committing the proposer organization to the proposed project
CONTRACTING OFFICER:	Name, position, email, and telephone number of official with authority to negotiate contracts for proposer organization
DURATION OF PROJECT:	Beginning and ending dates of proposed project
TOTAL BUDGET FOR PROPOSED PROJECT:	Total of projected costs for initial contract period
CONTAINS PROPRIETARY INFORMATION:	<input type="checkbox"/> Check box if proposal contains proprietary information (Mark pages containing proprietary information)
ACCEPTANCE OF TERMS AND CONDITIONS:	<input type="checkbox"/> We hereby accept, by the submission of the proposal, the Contract Terms and Conditions, Affirmations, Proposal Preferences and Execution of Offer
DATE SUBMITTED:	Date proposal is <i>submitted</i> to TEA

ATTACHMENT E

FORMAT FOR TASK, ACTIVITY, DELIVERABLE AND BUDGET PLAN
(11/01/2018 - 8/31/2019)

* The information in this template is for **EXAMPLE ONLY**. Proposers may edit and adjust the template as needed to accurately communicate the information in the proposed plan. Proposers must provide applicable information reflective of the requirements in this solicitation and their proposal. A separate proposed Task, Activity, Deliverable and Budget plan must be provided for each fiscal year of the contract and each optional renewal period.

Task/Activity Item	Deliverable	Deliverable Type	Deliverable Acceptance Criteria:	Timeline	Cost
TASK 1: PLANNING AND PROJECT MANAGEMENT (Brown, Smith, Chavez, Johnson)				11/7/19-8/31/20	\$
1.1 Phase 1 Kick-off Meeting Agenda and Presentation	Meeting Agenda and Kick-off Deck, list of project objectives, delivery schedule, timelines, project expectations, draft project plan.	Word Document/ PPT	Texas Education Agency (TEA) Project Manager (PM) acceptance of the deliverables; meeting attendance.	11/7/19	\$
1.2 Project Coordination Meetings	Coordination Meeting Agenda and Minutes detailed workplan	Word Document	TEA PM acceptance of the meeting agenda, meeting notes, approved detailed workplan.		\$
1.3 Monthly Progress Reports	Monthly Report	Word Document	TEA PM acceptance of monthly progress report.	Monthly	\$
					\$
TASK 2: [Task Description] (Brown)				12/1/19 – 7/31/20	\$
2.1 Kick-off and Draft Project Plan				12/7/19	\$
2.2					
TOTAL BUDGET					\$

FORMAT FOR SCHEDULE OF TASK COMPLETION

(11/01/2018 - 8/31/2019)

* The information in this template is for **EXAMPLE ONLY**. Proposers may edit and adjust the template as needed to accurately communicate the information in the proposed plan. Proposers must provide applicable information reflective of the requirements in this solicitation and their proposal. A separate proposed Schedule of Task Completion must be provided for each fiscal year of the contract and each optional renewal period.

Task/Subtask/Subtask Items	Contract Base Period	Team Member Responsible
	Contract Year 1 (Contract Award Date - Aug 31, 2019)	
TASK 1: TRAINING AND TECHNICAL ASSISTANCE		
Subtask 1.1: Example – Project Kickoff and Initial Project Planning		
1.1.A: Description		
1.1.B: Description		
Subtask 1.2: Description		
1.2.A: Description		
1.2.B: Description		
TASK 2: TEXAS ACE CONFERENCE		
Subtask 2.1: Description		
2.1.A: Description		
2.1.B: Description		
Subtask 1.2: Description		
2.2.A: Description		
2.2.B: Description		