

**REQUEST FOR PROPOSAL**

RFP Number: [INSERT RFP #]

**[INSERT RFP TITLE]**

**PROPOSALS MUST BE RECEIVED BEFORE:**

**[INSERT DUE DATE AND TIME]**

Proposal must be submitted online in TWU’s electronic bidding portal in Oracle’s Supplier Portal.

*Already have a Supplier Portal account? - Please log in and respond to the bid.*

*If you do not have a Supplier Portal account, please click on the link below to create an account:*

<https://ewal.fa.us8.oraclecloud.com/fscmUI/faces/PrcPosRegisterSupplier?prcBuId=300000007676260>

***Online bidding system closes at exactly 2:00 PM.  Please allow sufficient time to upload your documents.  Late submittals will not be accepted.***

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**SECTION 1**

**GENERAL INFORMATION**

**1.1 Introduction**

Texas Woman’s University (“TWU”) is seeking competitive responses to a Request for Proposal (“RFP”) for [INSERT RFP DESCRIPTION – provide details about what the RFP is for ]. This RFP provides sufficient information for interested parties (“Proposers”) to prepare and submit Proposals for consideration by TWU. Additional information may be made available by written request to the point of contact indicated provided on the RFP coversheet.

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

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

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

**1.2 Information about Texas Woman’s University**

Founded in 1901 as a college for women, the university has grown its mission of serving marginalized populations in higher education over the past 123 years and is recognized as one of the most ethnically diverse student bodies in the nation. In addition to its distinctive position as the nation’s only university system with a woman-focused mission, it is known for its contributions and leadership in the fields of education, nutrition, the arts, sciences, business, nursing, and health care professions. Students have described their experience on the picturesque, flagship Denton campus as “a private feel at a public cost.”

Texas Woman’s faculty and staff are passionate defenders of an experiential teaching and learning environment— “we learn to do by doing”—where they provide students with opportunities to engage in campus, workplace, and community activities that can help shape their sense of purpose, their appreciation for building quality personal and professional relationships, and their grit to stand up against life’s challenges.

Now that the state established the overarching system designation, the university is beginning to operationalize a plan to form independent universities for its three geographically dispersed campuses—health science centers in each of Houston and Dallas and its main campus in Denton, 40 miles north of Dallas on the northern edge of the DFW Metroplex. Each campus is located within some of the fastest growing municipalities in the nation. As a whole, the university has a $1.8 billion annual economic impact on the state.

**1.3** **Mission Statement**

Texas Woman’s University cultivates engaged leaders and global citizens by leveraging its historical strengths in health, liberal arts, and education and its standing as the nation’s largest public university primarily for women. Committed to transformational learning, discovery, and service in an inclusive environment that embraces diversity, Texas Woman’s inspires excellence and a pioneering spirit.

**1.4 Scope of Goods and/or Services**

TWU is seeking Proposals from one or more responsive and responsible Proposer(s) for [INSERT RFP DESCRIPTION – provide the scope of the RFP here].

**1.5 Term of Award – (discuss the term with the department)**

The term for an awarded Contract under this RFP is anticipated to begin on the date of the last signature, and to expire one (1) years from that date. Unless terminated earlier pursuant to the Contract terms, any Contract may be renewed for up to three (3), one (1) year Renewal terms upon mutual agreement of the parties, to be evidenced in writing sixty (60) days prior to the expiration date of the initial or then current renewal term.

Automatic renewals shall not be utilized unless approval is obtained from the Board of Regents outside of an original four year term. The contract will require a termination without cause provision of sixty (60) days or less.

**1.6 Schedule of Events**

TWU will make a good faith effort to follow the timeline below for evaluating, negotiating and issuing an award:

Date Bid Posted [INSERT MM/DD/YYYY]

Deadline for Submission of Written Questions…………… [INSERT MM/DD/YYYY AND HH:MM] CT

Deadline for Responses to Questions ………..[INSERT MM/DD/YYYY AND HH:MM] CT

Proposal Due Date ………. [INSERT MM/DD/YYYY AND HH:MM] CT

Evaluation of Proposals [INSERT MM/DD/YYYY]

Award Recommendation [INSERT MM/DD/YYYY]

\* All dates are tentative and subject to change

**1.7 TWU’s Right to Reject**

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

**1.8 Historically Underutilized Business (HUB) Firms**

TWU endeavors to promote full and equal opportunity for businesses to supply TWU with goods and/or services that are necessary to support TWU’s educational mission. In this regard, TWU commits to select Proposers in accordance with (i) TWU needs, (ii) TWU resources, (iii) HUB goals and guidelines established by the Texas legislature and Statewide Procurement Division (SPD), and (iv) TWU policies and procedures for contracting with HUBs, specifically URP I.13.a Historically Underutilized Businesses. Proposers shall allow TWU full access to documentation relating to its HUB program and any HUB Subcontracting plans. Failure to comply with any provision of the state or University’s HUB regulations may result in immediate cancellation of any Contract.

**SECTION 2**

**PROPOSAL REQUIREMENTS AND PROCEDURES**

**2.1 Questions by Proposers**

Questions must be submitted in writing by the date indicated in the section entitled “Schedule of Events.” The questions, written TWU response, and addenda related to the RFP, if any, will be posted in Oracle and on the State of Texas Electronic State Business Daily (ESBD) website <http://www.txsmartbuy.com/sp>. Only those replies to inquiries which are made by formal written addenda shall be binding. Oral and other interpretations or clarification will be without legal effect. If TWU determines a question has been sufficiently answered in the RFP, the inquiring proposer will be referred to the relevant section of the RFP. ***Note: It is the responsibility of the Proposer to check the ESBD website for any and all addenda posted for this RFP.***

Questions must be emailed to the following Procurement personnel:

[INSERT CONTACT NAME]

TWUBids@twu.edu

Texas Woman’s University

Procurement and Contract Services

**2.2 Communications with TWU Personnel**

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

**2.3 Proposal Formatting and Presentation Requirements**

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

* Background of the proposer;
* Proposer’s responses to the section entitled “Questionnaire”;
* Schedule of costs and fees;
* Scope of work, including a program overview;
* Insurance and bonds (if requested);
* HUB subcontracting plan (***required*** for proposals valued at ≥ $100,000);
* W9; and
* Signed Affirmations and Conflict of Interest.

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

2.3.3 Preprinted material should be referenced in the proposal and included as labeled attachments, provided as a separate section of the proposal and clearly identified in the table of contents

2.3.4 All pages are to be typed on 8 ½ x 11-inch paper and numbered sequentially.

**2.4 Submittal Instructions for Proposals**

2.4.1 The Proposals must be signed by the responding company’s official authorized to commit such Proposals. ***Failure to sign the Execution of Offer will be basis for Proposal disqualification****.*

2.4.2 All proposals must be submitted/or received no later than the date and time indicated in the section entitled “Schedule of Events.

2.4.3 Proposers must verify that all components referenced in 2.3.1 have been attached and submitted.

**2.5 HUB Subcontracting Plan**

**TWU has determined that there are subcontracting opportunities. The Proposer must include a subcontracting plan for any Proposal anticipated to result in a Contract exceeding $100,000, even if the Proposer intends to self-perform.** Supporting documentation must be submitted with the subcontracting plan. Credit can be received for first and second tier (subcontractors of subcontractors).

For assistance with preparation of the subcontracting plan, email TWUbids@twu.edu.

A HUB Subcontracting Form ***must*** be completed and returned with any proposal to be considered responsive if TWU has determined there is a possibility of subcontracting.

HSP forms can be found at [https://comptroller.texas.gov/purchasing/vendor/hub/forms.php](https://twu.edu/media/documents/procurement/hub-subcontracting-plan.pdf). Additional information about the State of Texas HUB requirements is available on the Texas Comptroller’s website under the “Historically Underutilized Business (HUB) Program” link <https://comptroller.texas.gov/purchasing/vendor/hub/>

TWU is relying upon the Proposer’s expertise to fully identify subcontracting opportunities that best align with their organization and this procurement request. Proposers, who intend to subcontract, are responsible for identifying all areas that will be subcontracted. In accordance with 34 TAC §20.11, a subcontractor means a person who contracts with a prime contractor to work, to supply commodities, or contribute toward completing work for a governmental entity.

OR (only choose one)

TWU has determined that there are not subcontracting opportunities. No submittal is required.

TWU is relying upon the proposer’s expertise to fully identify subcontracting opportunities that best align with their organization and this procurement request. Proposers, who intend to subcontract, are responsible for identifying all areas that will be subcontracted. In accordance with 34 TAC §20.11, a subcontractor means a person who contracts with a prime contractor to work, to supply commodities, or contribute toward completing work for a governmental entity.

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

TWU reserves the rights to modify, rescind, or revoke this RFP in whole or in part at any time prior to the date on which the authorized representative of TWU executes a Contract with the selected Proposer.

**2.7 Signature and Certification of Proposer**

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

**2.8 Compliance with Applicable Laws, Regulations, Ordinances, Board of Regents Policies, TWU Policies and Procedures**

By submitting a Proposal, the Proposer agrees to and shall comply with all applicable local, state, and federal laws and regulations, as well as with all applicable policies and procedures of Texas Woman’s University.

**2.9 Compliance with RFP Requirements**

By submitting a Proposal and by signing the Affirmations and Conflict of Interest, the Proposer agrees to be bound by the requirements set forth in this RFP, TWU’s General Terms and Conditions contained in the RFP, all of which will be incorporated into and be made a part of any Contract awarded by TWU.

TWU, at its sole discretion, may disqualify a proposal from consideration if TWU determines a proposal is non-responsive and/or non-compliant in whole or in part with the requirements set forth in this RFP.

**2.10 Binding Effect of Proposal**

Unless otherwise agreed in writing signed by Chief Procurement Officer, each Proposer agrees to and shall be bound by the information and documentation provided with the proposal, including prices quoted for services. Proposals are to be valid for TWU’s acceptance for a minimum of 270 days from the submittal deadline date to allow time for evaluation, selection, Negotiations, and any unforeseen delays. Proposals, if accepted, shall remain valid for the duration of the Contract.

**2.11** **Right of Rejection**

A proposal consisting of only alternate Services (i.e., a proposal that offers Services different from those requested by this RFP and is not otherwise invited) may be considered non-responsive by TWU and is subject to rejection.

**2.12 Use and Disclosure of Information**

Proposers acknowledge that TWU is an agency of the State of Texas and is therefore required to comply with the [Texas Public Information Act](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.552.htm). If a proposal includes proprietary data, trade secrets, or information the Proposer wishes to except from public disclosure, then the Proposer must specifically label such data, secrets, or information as follows: "PRIVILEGED AND CONFIDENTIAL – PROPRIETARY INFORMATION." To the extent permitted by law, information labeled by the Proposer as proprietary will be used by TWU only for purposes related to or arising out of the (a) evaluation of proposals, (b) selection of a Proposer pursuant to the RFP process, and (c) negotiation and execution of a Contract, if any, with the Proposer selected.

If the proposer marks the whole Proposal or substantive portions of the Proposal as confidential, TWU in its sole discretion may declare the proposal non-responsive.

By submitting a Proposal, Proposer hereby grants a limited license to reproduce the Proposal in order to comply with any legal requirement including but not limited to the Texas Public Information Act and legislative budget board requirements.

**2.13 Group Purchase Authority**

Texas law authorizes institutions of higher education (defined by §61.003, Education Code) to use the group purchasing procurement method (ref. §51.9335, Education Code). Other institutions of higher education and State of Texas agencies may also elect to enter into a contract with the successful Proposer under this RFP based upon any awarded Contract. The Proposer should also note that TWU may procure Goods or Services for itself or on behalf of any TWU System component institution. When submitting a Proposal in response to this RFP, the Proposer should consider proposing pricing and other commercial terms that take into account higher volumes and other expanded Best Value opportunities that could result from the eventual inclusion of TWU System, its other component institutions, and other institutions, governments, and State agencies in the Goods or Services requested in this RFP.

**2.14 Withdrawal or Modification**

No proposal may be changed, amended or modified after it has been submitted or filed in response to this solicitation, except for obvious errors in extension or as part of the negotiating process which are approved by the Chief Procurement Officer. However, a proposal may be withdrawn and resubmitted any time prior to the time set for receipt of proposals. No proposal may be withdrawn after the submittal deadline without approval by TWU, which shall be based on Proposer’s submittal in writing of a reason acceptable to TWU.

**2.15 Risk of Loss, Damage, Delay**

Proposer acknowledges and agrees to release and hold harmless TWU, its campus components, Board of Regents, officers, employees, agents and personnel, from and against any and all claims, liability, damages and costs, including court costs and attorneys' fees, arising out of or pursuant to submission or delivery of the proposal or failure to submit or deliver the proposal to Procurement and Contract Services at Texas Woman’s University, as designated in the submittal instruction sections of this RFP.

**2.16 Proposal Opening**

Proposals will be opened online after the deadline. For convenience, Proposers wanting a list of proposals submitted can email the TWU contact person listed in section 2.1 after the opening. All submitted proposals become the property of TWU after the RFP submittal deadline/opening date and will not be returned.

**SECTION 3**

**PROPOSAL CONTENTS/DETAILS**

**3.1 Objectives**

TWU is seeking proposals from responsive and responsible proposer(s) for [INSERT RFP DESCRIPTION] in accordance with the requirements/conditions set forth in the Sealed Proposal Request No. [INSERT RFP#].

A contract may be awarded to one or more Proposers to serve all Texas Woman’s University, including Denton, Dallas and Houston. If multiple Proposers are awarded a contract, each TWU department /location will independently select the Proposer and Services that provide best value for that department/location.

The Proposer(s) chosen by TWU shall agree to make all the required and optional Services agreed to in their proposal available to all TWU locations at the same pricing levels during the contract period. Initiation of any new service not anticipated by the RFP are to be added as an addendum to the Contract and pricing negotiated but set at no more than the then-current published rate. Although those services may only be used by one TWU location they will be made available to all locations.

The Contract is based on this RFP, the Proposal, and the Proposer’s technical specifications supporting it. Any of the TWU locations may elect to enter into a resulting relationship with a successful Proposer under this RFP. Each TWU locations will choose one of the Proposers selected through this RFP process to provide the chosen Services under the Contract. Additional Contracts with the TWU locations will not be required, executed or authorized. An Addendum will be executed by each TWU location for services. All terms and conditions of the Master Contract will apply.

* 1. **Project Details**

[INSERT PROJECT DETAILS]

* 1. **Mandatory Requirements/Conditions**
     1. [INSERT MANADATORY REQUIREMENTS]
  2. **Preferred Requirements/Conditions**

3.4.1 [INSERT PREFERED REQUIREMENTS]

**3.5 Delivery and Inspection**

3.5.1 All Products ordered by TWU are subject to inspection and approval by the ordering department. TWU reserves the right to reject and refuse acceptance of Product which is not in accordance with the ordering instructions, specifications or quality standards of same. Rejected Products shall be at the expense of the selected Proposer(s).

3.5.2 If for any reason TWU is not satisfied with a Product, Proposer(s) shall replace the Product with no additional charge or provide a credit.

**3.6 Invoicing and Payment**

3.6.1 Proposer(s) shall be required to submit invoices to Texas Woman’s University Payables department email [TWUPayables@twu.edu](mailto:TWUPayables@twu.edu).

3.6.2 All invoices will be paid net thirty (30) in compliance with Texas laws. All invoices must reference a valid TWU Purchase Order, or the invoice will be returned as non-compliant. No commitment for Products or Services is valid without a TWU purchase order.

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

**3.7 Compensation and Fees**

3.7.1 [INSERT DESCRIPTION OF COMPENSATION AND FEES]

Example:

Provide a compensation schedule in response to this RFP, include an estimated maximum amount including any incidental expenses. Proposer(s) should also provide an estimated fixed fee amount that will be charged for additional expenses (if any).

3.7.2 Any proposed discounts shall remain firm for the life of the contract.

**3.8 Alternate Proposals**

TWU will not consider alternate proposals outside this RFP for required services that expand or are different from these specifications.

However, the Proposer may take the opportunity to relate to TWU any new or different services (not presented in the prior sections) which it feels may be useful or of interest to TWU.

**SECTION 4**

**EVALUATION AND AWARD PROCESS**

**4.1 Evaluation Process**

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

Under section 51.9335 of the Texas Education Code in determining what is the Best Value, TWU may consider:

1. The purchase price;
2. The reputation of the Proposer and of the Proposer’s Goods or Services;
3. The quality of the Proposer’s goods or services;
4. The extent to which the goods or services meet TWU’s need;
5. The Proposer’s past relationship with TWU;
6. The impact on the ability of TWU to comply with laws and rules relating to Historically Underutilized Businesses and to the Procurement of Goods and Services from persons with disabilities;
7. The total long-term cost to TWU of acquiring the Proposer’s goods or services;
8. Any other relevant factor that a private business entity would consider in selecting a vendor; and
9. The use of material in construction or repair to real property that is not proprietary to a single vendor unless TWU provides written justification in the request for bids for use of the unique material specified.

**4.2 Proposer’s Acceptance of Evaluation Methodology**

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

**4.3 Evaluation Criteria and Weights**

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

The evaluation will be based on the following system: [COMPLETE BELOW TABLE]

|  |  |
| --- | --- |
| **Criteria** | **Points** |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
| Total | 100 |

**4.4 Consideration of Additional Information**

Consideration may also be given to any additional written information and comments that may serve to clarify the proposal information to TWU. TWU expects clear and concise answers to all questions.

**4.5 Oral Presentations/Interviews**

Upon completion of the initial review and evaluation of the proposals submitted, selected Proposers may be invited to participate in oral presentations. Oral presentations/interviews are an option of the evaluation team and may or may not be conducted; therefore, proposals should be complete when submitted by the deadline indicated in the section entitled “Schedule of Events.”

**4.6 Award Process**

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

**4.7 Best and Final Offer**

When deemed appropriate by the Evaluation Team, after the submission of proposals but before the final selection of the successful proposal, TWU may request Proposers to provide a best and final offer.  TWU is not bound to accept the best-priced proposal if that proposal is not the most advantageous to TWU as determined by the evaluation team.

**4.8 Award of Contract**

TWU reserves the right to award a Contract, award multiple Contracts to more than one Proposer, to reject any and all Proposals, or terminate the RFP process.

**4.9 Contract Documents**

The Contract entered into by the parties shall consist of the RFP, the Proposal, and a written Contract (if applicable). When an expenditure is required, the Purchase Order terms and conditions will also apply. All of which shall be referred to collectively as the Contract documents. Under no circumstances, will TWU be bound by the laws of another state or country.

**4.10 Proposer/Vendor Protest**

Any actual or prospective Proposer or vendor who is aggrieved in connection with the solicitation, evaluation or award of a Contract may formally protest to the Chief Procurement Officer.

**4.11** **Not Exclusive**

Contractor acknowledges and agrees that the Contract with TWU is non-exclusive and TWU has the right to engage with other contractors for similar or identical scopes of work, and to purchase similar or identical Services from other contractors. Any term or provision in the Contractor Terms indicating the Contract is exclusive is expressly rejected and is null and void.

**SECTION 5**

**PROPOSER’S QUESTIONNAIRE**

The Proposer recognizes that in selecting a supplier, TWU will rely in part on the answers provided in response to this section. Accordingly, Proposer certifies that to the best of its knowledge, all responses are true, correct and complete. TWU reserves the right to contact references or contact names listed below and shall be free from any liability to Proposer for conducting such inquiry.

**5.1** Provide a summary of the Proposer’s overall capabilities, recent and related experience, and expertise. Provide information on the Proposer’s experience related to the scope of work outlined in this RFP, as well as its current work load, facilities, resources and experience that clearly demonstrate its ability to successfully complete the work required within the constraints stated.

**5.2** Provide a brief resume for each of the proposed key personnel, focusing on relevant experience, and list the assigned function of each key person as it relates to this RFP. Provide information related to previous projects. Also include a statement describing the Proposer’s commitment of the individuals proposed to perform the requested services.

**5.3** Provide the name and email address of a point-of-contact for the submitted proposal response. This point-of-contact will not be recognized as, or accepted in lieu of, the “Proposer Signature” requirements in Section 7 of this document.

**5.4** Provide a copy of your company’s audited financial statements **if requested** for the past two years.

**5.5** Provide a brief description of projects completed or commodities sold within the past five years. The projects or commodities should be similar to the scope of work or desired goods described in this RFP. Include, as applicable, project description and location or commodities sold, description of services or commodities provided, budget performance and schedule performance, key personnel involved, client name, contact name and phone number. Particular weight will be given to similar projects in higher education.

**5.6** Provide three professional references (key contact names, titles, and telephone numbers) that have direct knowledge of your ability to provide the type of goods and/or services outlined in this RFP. Particular weight will be given to references provided in higher education.

**5.7** Provide a list of any professional organizations the Proposer is a member of or actively involved with.

**5.8** Provide any details of all pending litigation or claims filed against your company in the past ten years that would negatively impact your company’s performance under a Contract with TWU.

**5.9** Provide a completed and signed W9 for your company.

**5.10** Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please explain the impact both in organizational and directional terms.

**5.11** Is your company currently in default on any loan Contract or financing Contract with any bank, financial institution, or other entity? If yes, specify date(s), details, circumstances, and prospects for resolution.

**SECTION 6**

**GENERAL TERMS AND CONDITIONS**

**These General Terms and Conditions or ones that are substantially similar will be contained in any resulting Contract or purchase orders arising out of this RFP. If the Proposer takes exception to any of the following General Terms and Conditions set forth, the Proposer must submit a list of the exceptions as part of its proposal. The Proposer’s exceptions will be reviewed by TWU and may result in disqualification of the Proposer’s proposal as non-responsive to this RFP. If Proposer’s exceptions do not result in disqualification of Proposer’s proposal, then TWU may consider Proposer’s exceptions when TWU evaluates the Proposer’s proposal. In addition, and to the extent they do not conflict with these terms in any resulting contract, TWU purchase order terms and conditions will apply to all purchases of goods and services by TWU** [**https://www.twu.edu/procurement/terms-and-conditions/**](https://www.twu.edu/procurement/terms-and-conditions/)

**6.1 Publicity**

Proposer agrees that it shall not publicize a Contract or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of TWU’s name or protected marks in connection with any sales promotion or publicity event without the prior express written approval of TWU.

**6.2 Independent Contractor Status**

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

**6.3 Subcontractors**

Subcontractors providing goods or services under the Contract shall meet the same requirements and level of experience required of the Proposer. No subcontractor under the Contract shall relieve the Proposer of the responsibility for ensuring the requested goods or services are provided. Proposers planning to subcontract all or a portion of the work to be performed shall identify the proposed subcontractors in their submitted proposals. If selected by TWU, vendor will not delegate any of its duties or responsibilities under this RFP or the Contract to any subcontractor, except as expressly provided in the Contract.

**6.4 Insurance Requirements**

6.4.1 Insurance

Contractor agrees to maintain, at Contractor’s sole expense, and provide proof of insurance meeting TWU’s Third Party Insurance Standards ([www.twu.edu/media/documents/risk-management/TWU-Third-Party-Insurance-Standards.pdf](http://www.twu.edu/media/documents/risk-management/TWU-Third-Party-Insurance-Standards.pdf)). By requiring such minimum insurance, the University shall not be deemed or construed to have assessed the risk that may be applicable to the Contractor. Therefore, the Contractor shall assess its own risks and, if it deems appropriate, maintain higher limits and/or broader coverages. The Contractor is not relieved of any liability or obligations assumed or pursuant to the contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

The Contractor’s failure to comply with the requirements of this section shall be considered a breach of this Agreement.

Proof of Insurance Coverage will be forwarded to Texas Woman’s University Procurement and Contract Services. Please email to [TWUContracts@twu.edu](mailto:TWUContracts@twu.edu).

6.4.2 Certificates of Coverage

At least thirty (30) days prior to the effective date of the Contract and at least thirty (30) days prior to the commencement of any renewal term of the Contract, the vendor shall furnish Procurement and Contract Services with certificates of insurance in a form acceptable to TWU’s Risk Manager, certifying that the vendor carries the required insurance policies and coverage. The certificates shall be sent to Procurement and Contract Services, at the address or email listed in section 2.1.

6.4.3 Notification of Cancellation

The vendor will endeavor to notify TWU’s Office of Procurement and Contract Services 30 days before any material change or cancellation of any insurance policy. In the event the vendor receives notice of modification or cancellation of any of the policies required under the Contract, then prior to the effective date of modification or cancellation of the policy, the vendor shall obtain a policy of insurance affording the required coverage from an insurance carrier acceptable to TWU’s Risk Manager. If the vendor fails to obtain such an insurance policy, TWU may immediately terminate the Contract without further notice to the vendor.

**6.5 Acceptance of Products and Services**

All products furnished and all services performed under the Contract shall be to the satisfaction of TWU and in accordance with the specifications, terms and conditions of this Contract. TWU reserves the right to inspect the products furnished or the services performed and to determine the quality, acceptability and fitness of such products or services.

**6.6 Infringement of Patents and Copyrights**

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

**6.7 Taxes**

6.7.1 TWU, as an agency of the State of Texas, qualifies for exemption from state and local sales and use taxes pursuant to the provisions of the Texas Limited Sales, Excise, and Use Tax Act. The vendor may claim exemption from payment of applicable state taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts.

6.7.2 The vendor shall collect and pay all taxes imposed upon the sale of items included in the Contract, as required by federal, state or local law. The vendor shall be responsible for and pay all social security, unemployment insurance, old age retirement and other federal and state taxes that are measured by the wages, salaries, or other remuneration paid to persons employed by the vendor.

**6.8 Technology Access**

The vendor expressly acknowledges that state funds may not be expended in connection with the purchase of electronic and information resources (EIR) unless that EIR meets certain statutory requirements relating to accessibility as required by Texas Administrative Code (TAC) 206 and 213.  Accordingly the vendor represents and warrants to TWU that the EIR provided to TWU complies with the accessibility requirements as outlined in 1 TAC 206 and 213 by providing (1) a completed Voluntary Product Accessibility Template (VPAT) attesting to the EIR’s accessible features and capabilities or (2) providing a similarly formatted document as the VPAT attesting to the EIR’s accessible features and capabilities.

**6.9 Federal Funding**

6.9.1 This Contract may be funded wholly or partially with federal funds. The Proposer shall comply with all applicable provisions of federal law.

TWU utilizes <https://www.whitehouse.gov/omb/information-for-agencies/circulars/> and <http://www.gsa.gov> for all federal guidelines.

**6.10 Time of Performance**

Time is of the essence in the rendering of services and delivery of products under a Contract. Contractor agrees to perform all obligations and render services on the schedules set forth in this proposal or as agreed upon in a written Contract. TWU will have no obligation to accept late performance by the Contractor.

**6.11 Default**

In the event that the vendor fails to carry out or comply with any of the terms and conditions of the Contract, TWU may notify the vendor of such failure or default in writing and demand that the failure or default be remedied within ten (10) days; and in the event that the vendor fails to remedy such failure or default within the ten (10) day period, TWU shall have the right to cancel the Contract upon thirty (30) days written notice.

The cancellation of the Contract, under any circumstances whatsoever, shall not effect or relieve vendor from any obligation or liability that may have been incurred or will be incurred pursuant to the Contract and such cancellation by TWU shall not limit any other right or remedy available to TWU at law or in equity.

**6.12 Termination**

6.12.1 Upon award, the Contract may be terminated, without penalty, by TWU or the vendor with or without cause by giving at least thirty (30) days written notice of such termination.

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

6.12.3 The Contract may be terminated by either the vendor or by TWU upon thirty (30) days written notice to the other, if the other party fails to perform or comply with any of the material terms, covenants, Contracts or conditions hereof, and such failure is not cured during such thirty (30) day period.

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

6.12.5 In no event shall such termination by TWU as provided for under this section give rise to any liability on the part of TWU including, but not limited to, claims of vendor for compensation for anticipated profits, unabsorbed overhead, or interest on borrowing. TWU’s sole obligation hereunder is to pay vendor for products or services received prior to the date of termination.

**6.13 Contractual Requirements**

6.13.1 Contract administration will be by TWU Procurement and Contract Services. No modification or amendment to any awarded Contract shall become valid unless agreed to by TWU in writing and signed by both parties. All correspondence regarding modifications or amendments to an awarded Contract must be forwarded to the TWU Procurement and Contract Services Department for prior review and approval. Only the Chief Procurement Officer or his/her designee will be authorized to process changes or amendments. All amendments must be signed by the same person who signed the original Contract or a person with institutional approval authority.

6.13.2 Proposer(s) shall reference the applicable TWU contract number on all quotes and invoices.

6.13.3 Proposer(s) shall accept a purchase order. Purchase orders will be submitted by fax or email depending on the Proposer(s) preference. No work shall commence at any time unless a valid purchase order has been received by the Proposer. TWU is not liable to pay any order that is not submitted on a TWU purchase order.

6.13.4 All changes must be supported by a written Purchase Order Change Notice prepared and processed by TWU Procurement and Contract Services. Other TWU personnel do not have the authority to issue changes, oral or written, to the resulting purchase order.

**6.14 Retention of Documents**

The vendor will maintain records generated pursuant to the Contract for the full term of the Contract plus a period of at least seven (7) years after expiration or termination of the Contract.

**6.15 Right to Audit**

6.15.1 The vendor understands that acceptance of funds under any Contract awarded from this RFP acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. The vendor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. The vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the vendor and the requirement to cooperate is included in any subcontract awards.

6.15.2 TWU shall have the right, at its sole cost, to either use its own employees or engage an independent third party to audit the financial records of a vendor pertaining to any awarded Contract for the preceding forty eight (48) month period.  Such audit shall be completed by TWU or its representatives at the vendor’s office, on reasonable advance notice, and on dates and times mutually agreed to by the parties.  In the event such audit reveals any underpayment to or overpayment by TWU, the vendor shall promptly pay the amount to TWU.  If such audit reveals any overpayment to or underpayment by TWU, TWU shall promptly pay the amount.

**6.16 Confidentiality**

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

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

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

**6.17 Severability**

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

**6.18 Non-Waiver of Defaults**

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

**6.19 Assignment**

Neither this Contract, nor any rights or obligations of monies due hereunder are assignable or transferable (as security for advances or otherwise) unless agreed to in writing by TWU. Vendor shall not subcontract any portion of services encompassed by the Contract without TWU’s prior written approval. TWU shall not be required to recognize any assignment or subcontract made without its prior written approval, and any such assignment by vendor shall be wholly void and ineffective for all purposes unless made in conformity with this section.

**6.20 Texas Public Information Act**

All information, documentation and other material submitted by vendor under this proposal is subject to public disclosure under the Texas Public Information Act (the “Act”) (Texas Government Code, Chapter 552).  Vendor is hereby notified that TWU strictly adheres to this statute and the interpretations thereof rendered by the Courts and Texas Attorney General.

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

In submitting this bid for Contract with TWU, the Vendor understands that any contract awarded must comply with applicable sections of Subchapter J, Chapter 552 of the Texas Government Code (the “Texas Public Information Act” or “TPIA”), including Section 552.371. Such Contract will contain the following required verbiage outlining Vendor responsibilities:

Vendor must:

1. preserve all contracting information related to the Contract as provided by the records retention requirements applicable to TWU for the duration of the Contract;
2. promptly provide to TWU any contracting information related to the Contract that is in the custody or possession of the Vendor on request of TWU; and
3. on completion of the Contract, either:
4. provide at no cost to TWU all contracting information related to the Contract that is in the custody or possession of the Vendor; or
5. preserve the contracting information related to the Contract as provided by the records retention requirements applicable to TWU.

As required by the TPIA, Vendor hereby acknowledges the following applies to the Contract between TWU and Vendor on this bid:

“The requirements of Subchapter J, Chapter 552, Government Code, may apply to this bid and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.”

Further, in addition to the possible termination of the Contract, Vendor acknowledges that failure to comply with the requirements of the TPIA may negatively affect Vendor’s eligibility to bid on future contracts with TWU.

The definition of “contracting information” above is provided in Section 552.003(7) of the Government Code.

**6.21 Registration of Sex Offenders**

All sex offenders required to register with local law enforcement authorities under Chapter 62.151 of the Texas Code Of Criminal Procedure who intend to work on any campus of TWU for a consecutive period exceeding fourteen (14) days or for an aggregate period exceeding thirty (30) days in a calendar year are required to register with the TWU Department of Public Safety (DPS) within 7 days of beginning work on any campus of TWU. In addition, such sex offenders are required to notify DPS within seven (7) days of terminating work on any campus. Therefore, if employees and/or agents of vendors and subcontractors will be performing work on any TWU campus, it is the vendor’s responsibility to comply with this requirement. For additional information, please contact DPS at Hubbard Hall Lower Level, 301 Administration Drive, Denton, TX 76201 940-898-2911, or <https://www.twu.edu/dps/>

**6.22 Indemnification**

The vendor agrees to and shall indemnify and hold harmless TWU, its Board of Regents, officers, agents, employees, and personnel, against any and all liability, claims, suits, losses, costs and legal fees caused by, arising out of, or resulting from any negligent act or omission of the vendor in the performance and/or failure to perform within the Contract including the negligent acts or omission of any subcontractor or any direct or indirect employees of the vendor or subcontractors. The indemnification obligations set forth in the Contract shall survive termination or expiration of the Contract.

**6.23 Governing Law**

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

**6.24 Dispute Resolution**

The dispute resolution process provided for in the Texas Government Code, Chapter 2260 shall be used, as further described herein, by TWU and the contracting party in an attempt to resolve any unresolved claim for breach of contract arising under the Contract and made by the contracting party.

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

### 6.25 Warranties

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

### Disclosure of Interested Parties

As applicable and pursuant to Texas Government Code § 2252.908, the Contractor must complete [Form 1295](https://www.ethics.state.tx.us/filinginfo/1295/) for certification and filing with the Texas Ethics Commission no later than thirty (30) days after the effective date of the Contract. The form is found at <https://www.ethics.state.tx.us/>. TWU requires the Form 1295 to be completed and submitted by the Contractor prior to the contract signing.

**SECTION 7**

**EXECUTION OF OFFER AND AFFIRMATIONS**

Signing this proposal with a false statement is a material breach of Contract and shall void the submitted proposal or any resulting Contracts, and the Proposer may be removed from all proposal lists. By signature hereon affixed, the Proposer hereby certifies that:

7.1 The Proposer is not currently delinquent in the payment of any debt or taxes owed the State of Texas.

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

7.3 Proposer certifies as follows: “Pursuant to Section 231.006, Family Code, re: child support, the Proposer certifies that the individual or business entity named in this proposal is not ineligible to receive the specified payment and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.”

Furthermore, any Proposer subject to Section 231.006, Family Code, must include names and social security numbers of each person with at least 25% ownership of the business entity submitting the proposal. This information must be provided prior to award. Enter the name and social security numbers for each person below. Proposers that have pre-registered this information on the Texas Comptroller of Public Accounts Centralized Master Bidders' List will be deemed to have satisfied this requirement.

|  |  |
| --- | --- |
| Name: | SS# |
| Name: | SS#: |
| Name: | SS#: |

7.4 The Proposer 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 proposal.

7.5 The Proposer has not received compensation for participation in the preparation of the specifications for this RFP.

7.6 Neither the Proposer nor the firm, corporation, partnership or institution represented by the Proposer, or anyone acting for such firm, corporation or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., Texas Business and Commerce Code, or the Federal Antitrust Laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.

7.7 The Proposer certifies that the vendor and/or principals are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency, and have not within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government contract or subcontract; violation of federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a government entity with commission of any of these offenses.

7.8 Under Section 2155.006(b) of the Texas Government Code, a state university may not accept a proposal or award a Contract, including a Contract for which purchasing authority is delegated to a state university, that includes a proposed financial participation by a person who, during the five-year period preceding the date of the proposal or award, has been: (i) convicted of violating a federal law in connection with a Contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005; or (ii) assessed a penalty in a federal civil or administrative enforcement action in connection with a Contract awarded by the federal government for relief, recovery or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

7.9 Proposer agrees to comply with Government Code 2155.4441, pertaining to service Contract use of products produced in the State of Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

* 1. To the extent this RFP relates to a project as defined Tex. Gov’t Code §2252.201(5) (a project to construct, remodel, or alter a building, structure, or infrastructure; to supply material for such a project; or to finance, refinance, or provide funds for such a project), and no exemption in Tex. Gov’t Code §2252.203 applies, any iron or steel product produced through a manufacturing process and used in the project that is the subject of this RFP must be produced in the United States as defined in Tex. Gov’t Code §2252.201(4).
  2. Pursuant to Texas Gov’t Code Section 2270.001, Proposer affirmatively states that it does not boycott Israel. Additionally, Proposer shall not engage in a boycott of Israel during the term of any award or Contract.

7.12 Proposer certifies that they are in compliance with section 669.003 of the Government Code, relating to contracting with executive head of a State agency. If section 669.003 applies, Proposer will complete the following information in order for the proposal to be evaluated:

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

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

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

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

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

### Any resulting Contract is not prohibited under Texas Government Code §2261.252(b) and Proposer agrees that if Proposer’s certification is or becomes untrue, the Contract is void, and the Proposer will not seek and waives its right to seek any legal or equitable remedy for past or future performance under the Contract, including damages, whether under breach of contract, unjust enrichment, or any other legal theory; specific performance; and injunctive relief.

7.14 Conflict of Interest

7.14.1 The vendor certifies that (i) no relationship, whether by blood, marriage, business association, capital funding Contract or by any other such kinship or connection to the second degree of consanguinity exists between any owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint ventures of any Proposer that is a joint venture or the members or managers of any Proposer that is a limited liability company, on one hand, and an employee of any component of TWU, on the other hand, other than the relationships which have been previously disclosed to TWU in writing and (ii) Proposer has not been an employee of TWU within the immediate twelve (12) months prior to the submittal deadline. All disclosures by Proposer in connection with this affirmation will be subject to administrative review and approval before TWU enters into a Contract with Proposer. Any violation of this conflict of interest policy shall result in immediate cancellation of any resulting Contract in addition to a potential debarment of the vendor from doing business with the State of Texas.

7.14.2 No officer or employee of Proposer is in any dual employment positions with TWU that would result in a conflict of interest in relation to his/her position at TWU. If such circumstance arises, the employee shall remove himself/herself from the Procurement process and disclose the relationship to his/her direct supervisor and to the Chief Procurement Officer. A TWU department may not hire a vendor if a current TWU employee of such department is also employed by such vendor; a current employee of such department has a direct or indirect ownership interest in such vendor; and/or the hiring of such vendor would result in the furtherance of any private interest or gain for a current employee of such department. If the owner of any such vendor who provides services to TWU is a TWU employee, compliant payment to any vendor classified as a sole proprietorship or an individual shall be made through the Payroll Services department.

7.14.3 Proposer will make all disclosures required under [Texas Government Code § 2252.908](http://www.statutes.legis.state.tx.us/Docs/GV/htm/GV.2252.htm) upon award of a Contract that has a value of at least $1 million.

* 1. **Conflict of Interest Affirmation:**

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

* The Proposer represents and warrants that its provision of Goods or Services or other performance under the Contract will not constitute an actual or potential Conflict of Interest and represent and warrant that it will not reasonably create even the appearance of impropriety.
* Disclose any current or former employees who are current or former employees of the Institution.

Former Employee Name TWU Department

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

Actual or Proposed Personnel Related Party

* The Proposer represents and warrants that it has not given and will not give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant or employee or representative of TWU in connection with the Solicitation or any resulting Contract.
* Neither the Proposer nor the Proposer’s principals (including, but not limited to, an owner, proprietor, sole or majority shareholder, director, president, or managing partner) are debarred, suspended, or otherwise excluded from doing business with TWU. TWU may also verify that an entity or principals are not debarred, suspended or otherwise excluded to confirm that no Contracts are awarded, extended or renewed.

**Proposer Information and Signature**

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

By signing the proposal, the vendor certifies that if a Texas address is shown as the address of the vendor, the vendor qualifies as a Texas Resident Bidder, as defined in 34 TAC sec. 20.38.

Payee Identification Number (PIN):

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

Proposer/Company:

Name (Typed/Printed): \_\_\_\_\_\_

Title:

Street:

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

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

Fax No.:

E-mail:

**Signature (INK):**

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

(\_\_) Supplies, materials, equipment, or services produced in TX/ offered by TX bidders

(\_\_) Agricultural products produced or grown in TX

(\_\_) Agricultural products and services offered by TX bidders

(\_\_) USA produced supplies, materials, or equipment

(\_\_) Products of persons with mental or physical disabilities

(\_\_) Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel

(\_\_) Energy efficient products

(\_\_) Rubberized asphalt paving material

(\_\_) Recycled motor oil and lubricants

(\_\_) Products produced at facilities located on formerly contaminated property

(\_\_) Products and services from economically depressed or blighted areas

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

**APPENDIX A:** **DEFINITIONS**

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

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

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

**Award**: The act of accepting a bid, proposal or offer; thereby resulting in a Contract or Purchase order between TWU and the Proposer.

**Best Value:** Factors to be considered in determining best overall value for TWU in accordance with [Texas Education Code §51.9335 (b).](http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.51.htm)

**Best and Final Offer (BAFO)**: The result of final negotiations with responsive Proposers during the RFP process.

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

**Conflict of Interest:** A Conflict of Interest refers to a situation in which an employee’s financial, professional, or other personal considerations may directly or indirectly affect, or have the appearance of affecting, the TWU’s employee’s judgment in exercising any duty or responsibility, including the conduct or reporting of research, owed to TWU.

**Contract:** A legally binding written agreement executed between TWU and a third party in which the parties agree to perform in accordance with the obligations therein. Contracts include, but are not limited to: letter agreements, co-operative agreements, memorandums of understanding (MOU), Interagency Contracts, Interlocal Contracts, easements, licenses, leases, and Purchase Orders.

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

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

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

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

**Contract Management:** The complete contract process from planning through Contract close-out.

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

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

**Goods:** Includes salable or usable items such as supplies, materials, merchandise, consumables, commodities, solutions, manufactured items, or equipment. Goods do not include Services or real property. For this RFP, Products is used interchangeably with the term “Goods”.

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

**Originating Department:** The TWU department from which a Solicitation or Procurement request originates and is responsible for the Contract Administration.

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

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

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

**Purchase Order**: A signed written acceptance of an offer from a vendor. A purchase order may serve as the legal and binding Contract between parties.

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

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

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

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

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

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

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

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

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

**State:** The State of Texas.

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

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

**Vendor**: A supplier of goods and/or services that is awarded and contracts with TWU.

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