

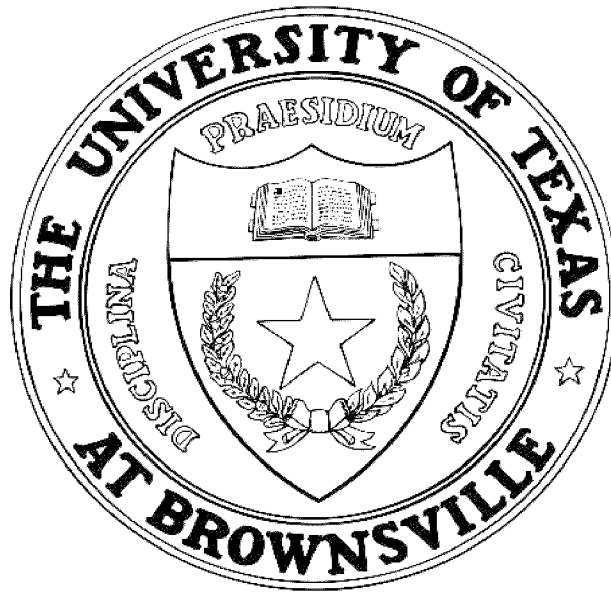
REQUEST FOR PROPOSALS

The UNIVERSITY of TEXAS at BROWNSVILLE and TEXAS SOUTHMOST COLLEGE

THEATRICAL EQUIPMENT

RFP No.: 747-032309-2009

**Submission Date:
April 14, 2009**



**80 Fort Brown
Brownsville, Texas 78520**

REQUEST FOR PROPOSALS
RFP No.: **747-032309-2009**
THEATRICAL EQUIPMENT

SECTION 1 – GENERAL INFORMATION AND REQUIREMENTS

1.1. GENERAL INFORMATION: The University of Texas at Brownsville and Texas Southmost College (“Owner”) is soliciting Proposals for selection of qualified companies/contractors to supply and install Theatrical Equipment for the new Arts Center facility.

1.1.1 The Owner may select the Proposal that offers the “best value” for the institution based on the published selection criteria and on its ranking evaluation. The Owner may first attempt to negotiate a contract with the selected offeror. The Owner may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the board is unable to reach a contract with the selected offeror, the Owner may formally end negotiations with that offeror and proceed to the next “best value” offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

1.2. PUBLIC INFORMATION: All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act (*Texas Government Code*, Chapter 552.001, *et seq.*) after the solicitation is completed.

1.2.1. The Owner strictly complies with all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of RFP information.

1.2.2. The work will be awarded under as a Lump-Sum contract to the Respondent offering the “best value” to the Owner.

1.3. CLARIFICATIONS AND INTERPRETATIONS: Any clarifications or interpretations of this RFP that materially affect or change its requirements will be issued by the Owner as an Addendum. It is the responsibility of all respondents to obtain this information in a timely manner. All such Addenda issued by the Owner before the proposals are due as part of the RFP, and respondents shall acknowledge receipt of each Addendum to the RFP and/or the Bid Documents in its Proposal.

1.3.1. No oral explanation in regard to the meaning of the Bidding Documents will be made and no oral instructions will be given before the award of the contract. Discrepancies, omissions or doubts as to the meaning of Drawings and Specifications shall be communicated in writing to the owner for interpretation. Any interpretation made will be in the form of an Addendum, which will be forwarded to all known plan holders and its receipt by the respondent shall be acknowledged on the Pricing and Delivery Proposal Form.

1.3.2 Respondents shall consider only those clarifications and interpretations to the Drawings and Specifications by Addenda three (3) calendar days prior to the submittal deadline. Interpretations or clarifications in any other form, including oral statements, will not be binding on the Owner and should not be relied on in preparing Proposals.

1.4 SUBMISSION OF PROPOSALS:

1.4.1. **PROPOSAL DEADLINE AND LOCATION:** The Owner will receive Proposals at the time and location described below.

**Tuesday, April 14, 2009
11:00 a.m. (central time)**

Attention to:

Mr. Jerry Escobedo
Senior Buyer
RFP 747-032309-2009
The University of Texas at Brownsville and Texas Southmost College
Purchasing Office
80 Fort Brown
Brownsville, Texas 78520

Please refer to Exhibit I for campus map

1.4.2. Submit 5 identical copies of the Base Proposal.
Submit 5 identical copies of the Alternate Proposals.

1.4.3. Base Proposals, Alternates, Qualifications or HUB Subcontracting Plans materials must be enclosed in a sealed envelope (box or container) addressed to the Point-of-Contact identified in Section 1.4.1; the package must clearly identify the submittal deadline, the RFP Number, and the name and return address of the Respondent.

1.4.4. Base Proposals, Alternates, Qualifications or HUB Subcontracting Plans that are received late will be returned to the respondent unopened. The Point-of-Contact identified in Section 1.4.1 will identify the official time clock at the Proposal submittal location identified above.

1.4.5. The Owner will not acknowledge or receive Base Proposals, Alternates, Qualifications or HUB Subcontracting Plans that are delivered by telephone, facsimile (fax), or electronic mail (e-mail).

1.4.6. Properly submitted Base Proposals, Alternates, Qualifications or HUB Subcontracting Plans will not be returned to the respondents.

1.4.7. Properly submitted Proposals will be opened publicly and the names of the respondents will be read aloud.

1.5. POINT-OF-CONTACT: The Owner designates the following person, as its representative and Point-of-Contact for the RFP 747-032309-2009 and regarding any technical Drawings and Specifications. Respondents shall restrict all contact with the Owner and direct all questions regarding this RFP, including questions regarding terms and conditions, to the Point-of-Contact person.

Ms. Patricia G. Sanchez
UTB/TSC
Office for Planning and Construction
1301 E. Madison St.
Brownsville, Texas 78520
Phone: 956-882-4311
Fax: 956-882-4316
e-mail: patricia.sanchez@utb.edu

1.6. EVALUATION OF PROPOSALS: The evaluation of the Proposals shall be based on the requirements described in this RFP. Approximately forty five percent (45%) of the evaluation will be based on the Respondent's Pricing Proposal; the remaining evaluation will be based on the Respondent's qualifications. All properly submitted Proposals will be reviewed, evaluated, and ranked by the Owner.

1.7. OWNER'S RESERVATION OF RIGHTS: The Owner may evaluate the Proposals based on the anticipated completion of all or any portion of the Project. The Owner reserves the right to divide the Project into multiple parts, to reject any and all Proposals and re-solicit for new Proposals, or to reject any and all Proposals and temporarily or permanently abandon the Project. Owner makes no representations, written or oral, that it will enter into any form of agreement with any respondent to this RFP for any project and no such representation is intended or should be construed by the issuance of this RFP.

1.8. ACCEPTANCE OF EVALUATION METHODOLOGY: By submitting its Proposals in response to this RFP, the Respondent accepts the evaluation process and acknowledges and accepts that determination of the "best value" Respondent will require subjective judgments by the Owner.

1.8.1 The Owner reserves the right to consider any Proposal "non-responsive" if the Base Proposal Cost is determined to be unreasonable or irresponsible in relation to the other submitted Proposals and/or the Owner's estimate of the construction cost.

1.9. NO REIMBURSEMENT FOR COSTS: Respondent acknowledges and accepts that any costs incurred from the respondent's participation in this RFP process shall be at the sole risk and responsibility of the respondent. Respondents submit Proposals at their own risk and expense.

1.10. PRE-SUBMITTAL CONFERENCE: A pre-submittal conference will be held at the time and location described below.

Wednesday, April 1, 2009
2:00 p.m. (central time)
Cueto Conference Room
1301 E. Madison St.
Brownsville, Texas 78520

1.10.1. A guided tour of the sites will be included as a part of the conference agenda. We **highly encourage** potential respondents to attend this conference since it may be the only opportunity to view the Project site(s) before the submittal of Proposals. Attendance at the pre-submittal conference is **optional**.

1.11. ELIGIBLE RESPONDENTS: Only individual firms or lawfully formed business organizations may apply (This does not preclude a respondent from using consultants.) The Owner will contract only with the individual firm or formal organization that submits a Proposal.

1.12. HISTORICALLY UNDERUTILIZED BUSINESSES SUBMITTAL REQUIREMENTS: It is the policy of The University of Texas System, and each of its component institutions, to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUB) in all contracts. Accordingly, The University of Texas at Brownsville and Texas Southmost College has adopted Exhibit B, Policy on Utilization of Historically Underutilized Businesses. The Policy applies to all contracts with an expected value of \$100,000 or more. If the institution determines that subcontracting opportunities are probable, then a HUB Subcontracting Plan is a required element of the Proposals. Failure to submit a required HUB Subcontracting Plan will result in rejection of the Proposals.

1.13. STATEMENT OF PROBABILITY

The University of Texas at Brownsville and Texas Southmost College, has determined that subcontracting opportunities are not probable in connection with this procurement solicitation. However, a HUB Subcontracting Plan (HSP) is required as a part of the Respondent's response. The Respondent shall develop and administer a HSP as a part of the Respondent's response in accordance with the UT System OFPC Policy on Utilization of Historically Underutilized Businesses (HUB), Exhibit B.

1.13. Refer to Exhibit B, Policy on Utilization, Historically Underutilized Business (attached) and the Summary of Requirements for a detailed list of attachments required with the Qualifications.

1.13.2. The "Statement of Probability" determines the probability for subcontracting opportunities. This determination will clarify which attachments, detailed in Figure 1, will be required to be completed and returned.

1.13.3. Submit one original and one copy of the HUB Subcontracting Plan **in a separate attachment apart from the submittal of qualifications.**

1.14. CERTAIN PROPOSALS AND CONTRACTS PROHIBITED: Under Section 2155.004, Texas Government Code, a state agency may not accept a proposal or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the proposal or contract is based. All vendors must certify their eligibility by acknowledging the following statement, "Under Section 2155.004, Government Code, the vendor certifies that the individual or business entity named in this bid 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." If a state agency determines that an individual or business entity holding a state contract was ineligible to have the contract accepted or awarded as described above, the state agency may immediately terminate the contract without further obligation to the vendor. This section does not create a cause of action to contest a proposal or award of a state contract.

1.15. SALES AND USE TAXES: Section 151.311, Tax Code, as amended effective October 1, 1993, permits the purchase free of state sales and use taxes of tangible personal property to be incorporated into realty in the performance of a contract for an improvement to realty for certain exempt entities that include The University of Texas System. The section further permits the purchase tax-free of tangible personal property (other than machinery or equipment and its accessories and repair and replacement parts) for use in the performance of such a contract if the property is "necessary and essential for the performance of the contract" and "completely consumed at the job site." In addition, the section permits the purchase tax-free of a tangible service for use in the performance of such a contract if the service is performed at the job site and if "the contract expressly requires the specific service to be provided or purchased by the person performing the contract" or "the service is integral to the performance of the contract."

1.16. CERTIFICATION OF FRANCHISE TAX STATUS: Respondents are advised that the successful respondent will be required to submit certification of franchise tax status as required by State Law (H.B. 175, Acts 70th Leg. R.S., 1987, Ch. 283, p. 3242). The Respondent further agrees that each subcontractor and supplier under contract will also provide a certification of franchise tax status.

1.17. REQUIRED NOTICES OF WORKERS' COMPENSATION INSURANCE COVERAGE: The Texas Workers' Compensation Commission has adopted a new rule, 28 TAC, sec. 110.110, relating to REPORTING REQUIREMENTS FOR BUILDING OR CONSTRUCTION PROJECTS FOR GOVERNMENTAL ENTITIES. The rule applies to all building or construction contracts advertised for bid on or after September 1, 1994. The rule implements sec. 406.096, Texas Labor Code, which requires workers' compensation insurance coverage for all persons providing services on a building or construction project for a governmental entity. The requirements of the rule are set forth in the Uniform General and Supplementary General Conditions for The University of Texas System Building Construction Contracts.

1.18. PREVAILING MINIMUM WAGE RATE DETERMINATION: Respondents are advised that the Texas Prevailing Wage Law will be administered in accordance with the policies and procedures set forth in the U. T. System document, entitled "Prevailing Wage Guidelines." A copy is attached to the Special Conditions. The penalty for violation of prevailing wage rates has been increased from \$10.00 per underpaid worker per day or portion thereof to \$60.00.

1.19. DELINQUENCY IN PAYING CHILD SUPPORT: Under Section 231.006, Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

1.20. PAYMENT AND PERFORMANCE BONDS

1.20.1 Each proposal shall include a cashier's check or certified check, or acceptable bidder's bond payable to the University of Texas at Brownsville in the amount of not less than 5% of the largest total of the bid submitted. This must accompany each bid as guarantee that, if awarded the contract, the bidder will promptly enter into contract and execute bond in the form provided by the Architect and the Owner.

1.20.2 Statutory bond for performance of the Contract and for payments of labor and materials will be required in an amount equal to 100% of the accepted bid, if the bid exceeds \$100,000. If the bidder fails to execute the contract and provide satisfactory performance bonds, payment bonds and insurance certificates within ten (10) days of the day on which bidder is notified that said proposal was accepted, the bid security shall be forfeited to UTB.

1.21. SUBMITTAL CHECKLIST

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

1.21.1 Signed and Completed Pricing and Delivery Proposal Form (ref. Exhibit A).

1.21.2 Signed and completed originals of the HUB Subcontracting Plan or other applicable documents (ref. **Section 1.12** of this RFP and Exhibit B).

1.21.3 Signed and Completed Execution of Offer (ref. Exhibit C).

1.21.4 Responses to Proposer's General Questionnaire (ref. Exhibit F).

1.21.5 Signed and Completed Addenda Checklist (ref. Exhibit G).

1.21.6 Responses to questions and requests for information in the Specifications and Additional Questions (ref. Section 3 of this RFP)

1.21.7 Submit bidding requirements as applicable.

SECTION 2 – EXECUTIVE SUMMARY

2.1. HISTORICAL BACKGROUND:

2.1.1. THE UNIVERSITY OF TEXAS AT BROWNSVILLE AND TEXAS SOUTHMOST COLLEGE (“University”) is a comprehensive public university located in the Lower Rio Grande Valley of Texas, one of the fastest-growing regions in the nation.

2.1.2. UT Brownsville has been a member of The University of Texas System since 1991. In a unique partnership with Texas Southmost College, The University offers a wide range of courses, which include certificates of completion, associate and baccalaureate degrees, graduate classes, continuing education and workforce training. The University currently serves more than 12,000 students, and enrollment has been on the grow for the past several years. Using conservative growth rates of 3% per year, the enrollment is projected to grow to approximately 20,000 students on the main campus by 2010.

2.1.3. Located in **Brownsville, Texas**, just 20 miles from South Padre Island and one block from the US-Mexico border, The University offers students a wonderful cultural experience in a semi-tropical environment.

2.1.4. And while the campus is growing, it is keeping its unique historical charm. UTB/TSC is located on the grounds of Fort Brown, which served as an outpost for the US Army for almost 100 years prior to its closing after WWII. The institution’s administration is housed in the former hospital, morgue, and officers’ quarters, to name a few prominent buildings. Care is being taken with new construction to capture historic elements.

2.1.5. The campus will soon be experiencing a great amount of new construction as a result of a \$68 million bond package college district voters approved on November 2004.

2.2. PROJECT PLANNING SCHEDULE:

The following anticipated dates are for planning purposes only (if there is a conflict between the dates below and the Proposal Form, the duration shown on the Proposal Form shall govern). The contractual dates required by the Owner of the “best value” respondent will be identified in the executed agreement.

- | | |
|---|----------------|
| ▪ Owner conducts Pre-Submittal Conference | April 1, 2009 |
| ▪ Questions and Answers Deadline | April 8, 2009 |
| ▪ Owner receives Request for Proposals | April 14, 2009 |
| ▪ Estimated Award Date | TBA |

SECTION 3 – REQUIREMENTS FOR “REQUEST FOR PROPOSALS”

Respondents shall carefully read the information contained in the following criteria and submit a complete statement of Proposals to all questions in Section 3 formatted as directed in Section 4. Incomplete Proposals will be considered non-responsive and subject to rejection.

3.1. CRITERIA ONE: VENDOR’S QUALIFICATIONS (0-15)

3.1.1. Provide resumes of the Respondent’s team that will be directly involved in the Project, including their experience with similar projects and the number of years with the firm.

3.2. CRITERIA TWO: RESPONDENT’S PAST PERFORMANCE ON REPRESENTATIVE PROJECTS (0-20)

3.2.1. Identify and describe the past experience for providing the services that are MOST RELATED TO THIS PROJECT within the last three (3) years. List the projects in order of priority, with the most relevant project listed first. Provide the following information for each project listed:

- Project name, location, contract delivery method, and description
- References (for each project listed above, identify the following):
- The Owner's representative who served as the day-to-day liaison including telephone number
- Length of business relationship with the Owner.

References shall be considered relevant based on specific project participation and experience with the respondent. The Owner may contact references during any part of this process. The Owner reserves the right to contact any other references at any time during the RFP process.

3.3. CRITERIA THREE: RESPONDENT'S WARRANTY AND SERVICE SUPPORT PROGRAM FOR THIS PROJECT (0-20)

3.3.1 Describe your warranty service support philosophy and warranty service implementation plan for this Project.

3.3.2 Describe how you will measure the quality of service provided to the Owner for this Project.

3.4. CRITERIA FOUR: RESPONDENT'S PRICING PROPOSAL FORM (0-45)

3.4.1 Complete the "Respondent's Pricing Proposal Form" included as Exhibit A

SECTION 4 – FORMAT OF PROPOSALS

4.1. GENERAL REQUIRMENTS

4.1. Proposals shall be prepared SIMPLY AND ECONOMICALLY, providing a straightforward, CONCISE description of the respondent's ability to meet the requirements of this RFP. Emphasis shall be on the QUALITY, completeness, clarity of content, responsiveness to the requirements, and an understanding of Owner's needs.

4.1.2. Proposals shall be a MAXIMUM OF FIFTY (50) PRINTED PAGES. The cover, table of contents, divider sheets, HUB Subcontracting Plan (Section 1.12), Pricing and Delivery Proposal, and Execution of Offer do not count as printed pages.

4.1.3. Respondents shall carefully read the information contained in this RFP and submit a complete response to all requirements and questions as directed. Incomplete Proposals will be considered non-responsive and subject to rejection.

4.1.4. Proposals and any other information submitted by respondents in response to this RFP shall become the property of the Owner.

4.1.5. Proposals that are qualified with conditional clauses, alterations, items not called for in the RFP documents, or irregularities of any kind are subject to rejection by the Owner, at its option.

4.1.6. The Owner makes no representations of any kind that an award will be made as a result of this RFP. The Owner reserves the right to accept or reject any or all Proposals, waive any formalities or minor

technical inconsistencies, or delete any item/requirements from this RFP when deemed to be in Owner's best interest.

4.1.7. Proposals shall consist of answers to questions identified in Section 3 of the RFP. It is not necessary to repeat the question in the Proposals; however, it is essential to reference the question number with the corresponding answer.

4.1.8. Failure to comply with all requirements contained in this Request for Proposals may result in the rejection of the Proposals.

4.2. PAGE SIZE, BINDING, DIVIDERS AND TABS:

4.2.1. Proposals shall be printed on letter-size (8-1/2" x 11") paper and assembled with spiral-type bindings or staples. DO NOT USE METAL-RING HARD COVER BINDERS.

4.2.2. Additional attachments shall NOT be included with the Proposals. Only the responses provided by the Respondent to the questions identified in Section 3 of this RFP will be used by the Owner for evaluation.

4.2.3. Separate and identify each criteria response to Section 3 of this RFP by use of a divider sheet with an integral tab for ready reference.

4.3 TABLE OF CONTENTS:

4.3.1. Submittals shall include a "Table of Contents" and give page numbers for each part the Qualifications.

4.4. PAGINATION:

4.4.1. Number all pages of the submittal sequentially using Arabic numerals (1, 2, 3, etc.); the Respondent is not required to number the pages of the HUB Subcontracting Plan.

SECTION 5 - DRAWINGS AND SPECIFICATIONS

5.1. DEFINITION: Bidding Documents include the Bidding Requirements and the proposed Contract Documents. The Bidding Requirements consist of the Advertisement, the Request for Proposals, the Pricing and Delivery Proposal Form, and other sample bidding and contract forms. The proposed Contract Documents consist of the Bid Bond, Performance and Payment Bonds, HUB Utilization Policy, Purchase Orders Terms and Conditions, Owner's Terms and Conditions and other forms and documents identified in the Agreement, Scope of Work and General Requirements, Drawings, Specifications, and all Addenda issued prior to receipt of Proposals, and Change Orders issued after execution of the Contract.

5.2. CONTRACT DOCUMENTS, DRAWINGS AND SPECIFICATIONS:

Scope of Work and General Requirements (Exhibit J)
Specifications (Exhibit K)
Drawings (Exhibit L)

5.3. COMPLETE SETS OF DRAWINGS AND SPECIFICATIONS CAN ALSO BE OBTAINED AT:

UTB/TSC Office for Planning and Construction

1301 E. Madison St.
Brownsville, Texas 78520
956-882-4311
956-882-4316 Fax
Patricia G. Sanchez

Exhibit A

PRICING AND DELIVERY PROPOSAL FORM

To: The University of Texas at Brownsville and Texas Southmost College
Purchasing Office
80 Fort Brown
Brownsville, Texas 78520

Theatrical Equipment for the Arts Center

Proposals are due: Tuesday, April 14, 2009 at 11:00 AM at the UTB/TSC Purchasing Office , Tandy 112, 80 Fort Brown; Brownsville, TX 78520.

Note: Mark outside of envelope:

Proposal For: _____ (title of project)

I have received the documents titled _____
(title of project) and drawings dated _____.

I have received Addenda No. (s) _____, and I have included their provisions in my bid. I have examined both the documents and the site.

In submitting this bid, I agree:

1. To hold price open for a period of ninety (90) days after the Proposal Opening date.
2. To accept the provisions of the Instructions to Bidders regarding dispositions of the Bid Security.
3. To enter into and execute a Contract with the The University of Texas at Brownsville and Texas Southmost College, if awarded on the basis of the Proposal, and to furnish Bonds if required, in accordance with the owners requirements and Instructions to Bidders.
4. To accomplish the work in accordance with the Specifications and Drawings provided
5. To commence installation work on the following estimated date:

October 2009
6. To complete the work within thirty (30) calendar days after Notice to Proceed for each project.

Exhibit A

In compliance with the above, I propose to perform all work required for the described project scope of work as follows:

Pricing Form	
Description	Cost
Theatrical Pit Filler System	
Stage Lighting Instruments	
Acoustical Curtains	
Concert Enclosure System	
Installation	
Subtotal	
10% Contingency	
Total	

In submitting this proposal, I certify that _____ (name of firm) has not been found guilty in a judicial or state administrative agency proceeding for unfair business practices within the year preceding the date of this statement. I further certify that no officer of _____ (name of firm) has served, within the past years as an officer of another company which has been found guilty in a judicial or state administrative agency proceeding of unfair business practice.

Respectfully submitted,

By: Signature and Title

Firm

Date

Address

City

State

Phone Number

EXHIBIT B
HUB SUBCONTRACTING PLAN



HUB SUBCONTRACTING PLAN (HSP)

In accordance with Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, respondents, including State of Texas certified Historically Underutilized Businesses (HUBs), must complete and submit a State of Texas HUB Subcontracting Plan (HSP) with their solicitation response.

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the State of Texas Disparity Study. The HUB goals defined in 1 TAC §111.13 are: **11.9 percent for heavy construction other than building contracts, 26.1 percent for all building construction, including general contractors and operative builders contracts, 57.2 percent for all special trade construction contracts, 20 percent for professional services contracts, 33 percent for all other services contracts, and 12.6 percent for commodities contracts.**

SECTION 1 - RESPONDENT AND SOLICITATION INFORMATION

- a. Respondent (Company) Name: _____ State of Texas VID #: _____
Point of Contact: _____ Phone #: _____
- b. Is your company a State of Texas certified HUB? ☐ - Yes ☐ - No
- c. Solicitation #: _____

SECTION 2 - SUBCONTRACTING INTENTIONS

After having divided the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, the respondent must determine what portion(s) of work, including goods or services, will be subcontracted. Note: In accordance with 1 TAC §111.12., a "Subcontractor" means a person who contracts with a vendor to work, to supply commodities, or contribute toward completing work for a governmental entity. Check the appropriate box that identifies your subcontracting intentions:

- ☐ - Yes, I will be subcontracting portion(s) of the contract.
(If Yes, in the spaces provided below, list the portions of work you will be subcontracting, and go to page 2.)
- ☐ - No, I will not be subcontracting any portion of the contract, and will be fulfilling the entire contract with my own resources. (If No, complete SECTION 9 and 10.)

Line Item # - Subcontracting Opportunity Description	Line Item # - Subcontracting Opportunity Description
(#1) _	(#11) _
(#2) _	(#12) _
(#3) _	(#13) _
(#4) _	(#14) _
(#5) _	(#15) _
(#6) _	(#16) _
(#7) _	(#17) _
(#8) _	(#18) _
(#9) _	(#19) _
(#10) _	(#20) _

*If you have more than twenty subcontracting opportunities, a continuation page is available at http://www.tbpc.state.tx.us/communities/procurement/prog/hub/hub-forms/hsp_sep06_cont1.doc

EXHIBIT B

Enter your company's name here: _____

Solicitation #: _____

IMPORTANT: You must complete a copy of this page for each of the subcontracting opportunities you listed in SECTION 2. You may photocopy this page or download copies at http://www.tbpc.state.tx.us/communities/procurement/prog/hub/hub-forms/hsp_sep06_cont2.doc.

SECTION 3 - SUBCONTRACTING OPPORTUNITY

Enter the line item number and description of the subcontracting opportunity you listed in SECTION 2.

Line Item # _____

Description: _____

SECTION 4 - MENTOR-PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting their Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the portion of work (subcontracting opportunity) listed in SECTION 3, constitutes a good faith effort towards that specific portion of work. Will you be subcontracting the portion of work listed in SECTION 3 to your Protégé?

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

SECTION 5 - PROFESSIONAL SERVICES CONTRACTS ONLY

This section applies to Professional Services Contracts only. All other contracts go to SECTION 6.

Does your HSP contain subcontracting of 20% or more with HUB(s)?

☐ - Yes (If Yes, complete SECTION 8 and 10.) ☐ - No / Not Applicable (If No or Not Applicable, go to SECTION 6.)

In accordance with Gov't Code §2254.004, "Professional Services" means services: (A) within the scope of the practice, as defined by state law of accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; or professional nursing; or (B) provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant; an architect; a landscape architect; a land surveyor; a physician, including a surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse.

SECTION 6 - NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

Complying with a, b and c of this section constitutes Good Faith Effort towards the portion of work listed in SECTION 3. After performing the requirements of this section, complete SECTION 7, 8 and 10.

- Provide written notification of the subcontracting opportunity listed in SECTION 3 to three (3) or more HUBs. Use the State of Texas' Centralized Master Bidders List (CMBL), found at <http://www2.tbpc.state.tx.us/cmb/cmbhub.html>, and its HUB Directory, found at <http://www2.tbpc.state.tx.us/cmb/hubonly.html>, to identify available HUBs. **Note:** Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.
- Provide written notification of the subcontracting opportunity listed in SECTION 3 to a minority or women trade organization or development center to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. A list of trade organizations and development centers may be accessed at <http://www.tbpc.state.tx.us/hub/minoritywomenbuslinks.html>. **Note:** Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.
- Written notifications should include the scope of the work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. Unless the contracting agency has specified a different time period, you must allow the HUBs no less than five (5) working days from their receipt of notice to respond, and provide notice of your subcontracting opportunity to a minority or women trade organization or development center no less than five (5) working days prior to the submission of your response to the contracting agency.

SECTION 7 - HUB FIRMS CONTACTED FOR SUBCONTRACTING OPPORTUNITY

List three (3) State of Texas certified HUBs you notified regarding the portion of work (subcontracting opportunity) listed in SECTION 3. Specify the vendor ID number, date you provided notice, and if you received a response. **Note:** Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc.) demonstrating evidence of the good faith effort performed.

Company Name	VID #	Notice Date (mm/dd/yyyy)	Was Response Received?
_____	_____	____/____/____	☐ - Yes ☐ - No
_____	_____	____/____/____	☐ - Yes ☐ - No
_____	_____	____/____/____	☐ - Yes ☐ - No

SECTION 8 - SUBCONTRACTOR SELECTION

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

Company Name	VID #	Expected % of Contract	Approximate Dollar Amount	Texas Certified HUB?
_____	_____	____%	____\$	☐ - Yes ☐ - No*
_____	_____	____%	____\$	☐ - Yes ☐ - No*

*If the subcontractor(s) you selected is not a Texas certified HUB, provide written justification of your selection process below:

EXHIBIT B

Enter your company's name here: _____

Solicitation #: _____

SECTION 9 - SELF PERFORMANCE JUSTIFICATION

(If you responded "No" to SECTION 2, you must complete SECTION 9 and 10.)

Does your response/proposal contain an explanation demonstrating how your company will fulfill the entire contract with its own resources?

- ☐ - Yes If Yes, in the space provided below, list the specific page/section of your proposal which identifies how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.
- ☐ - No If No, in the space provided below, explain how your company will perform the entire contract with its own equipment, supplies, materials, and/or employees.

SECTION 10 - AFFIRMATION

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

- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying their compliance with the HSP, including the use/expenditures they have made to subcontractors. (The PAR is available at <http://www.tbpc.state.tx.us/communities/procurement/prog/hub/hub-forms/progressassessmentrptf>).
- The respondent must seek approval from the contracting agency prior to making any modifications to their HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to debarment pursuant to Gov't Code §2161.253(d).
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are to be performed and must provide documents regarding staff and other resources.

Signature

Printed Name Title

Date

EXHIBIT C

EXECUTION OF OFFER

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

- 2.1** By signature hereon, Proposer represents and warrants the following:
- 2.1.1 Proposer acknowledges and agrees that (1) this RFP is a solicitation for a proposal and is not a contract or an offer to contract; (2) the submission of a proposal by Proposer in response to this RFP will not create a contract between University and Proposer; (3) University has made no representation or warranty, written or oral, that one or more contracts with University will be awarded under this RFP; and (4) Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
 - 2.1.2 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
 - 2.1.3 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
 - 2.1.4 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances.
 - 2.1.5 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in the Agreement under which Proposer will be required to operate.
 - 2.1.6 If selected by University, Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
 - 2.1.7 If selected by University, Proposer will maintain any insurance coverage as required by the Agreement during the term thereof.
 - 2.1.8 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. Proposer acknowledges that University will rely on such statements, information and representations in selecting the Contractor. If selected by University, Proposer will notify University immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
 - 2.1.9 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, INDEMNIFY, AND HOLD HARMLESS UNIVERSITY, THE UNIVERSITY OF TEXAS SYSTEM, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFP.
 - 21.10 Pursuant to Sections 2107.008 and 2252.903, *Government Code*, any payments owing to Proposer under any contract or agreement resulting from this RFP may be applied directly to any debt or delinquency that Proposer owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
- 2.2** By signature hereon, Proposer offers and agrees to furnish the Services to University and comply with all terms, conditions, requirements and specifications set forth in this RFP.
- 2.3** By signature hereon, Proposer affirms that it has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its submitted proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting contracts, and the Proposer may be removed from all proposal lists at University.
- 2.4** By signature hereon, Proposer certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, *Tax Code*, or that Proposer is exempt from the payment of those taxes, or that Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at University's option, may result in termination of any resulting contract or agreement.
- 2.5** By signature hereon, Proposer hereby certifies that neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, or anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in Section 15.01, et seq., *Business and Commerce Code*, or the Federal antitrust laws, nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.

EXHIBIT C

2.6 By signature hereon, 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 agreements and other contractual arrangements that may result from the submission of Proposer's proposal.

2.7 By signature hereon, Proposer certifies as follows:

"Under Section 231.006, *Family Code*, relating to child support, Proposer certifies that the individual or business entity named in the Proposer's proposal is not ineligible to receive the specified contract award and acknowledges that any agreements or other contractual arrangements resulting from this RFP may be terminated if this certification is inaccurate."

2.8 By signature hereon, Proposer certifies that (i) no relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture or the members or managers of any Proposer that is a limited liability company, on one hand, and an employee of any component of The University of Texas System, on the other hand, other than the relationships which have been previously disclosed to University in writing and (ii) Proposer has not been an employee of any component institution of The University of Texas System within the immediate twelve (12) months prior to the Submittal Deadline. All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before University enters into a contract or agreement with Proposer.

2.9 By signature hereon, Proposer certifies that in accordance with Section 2155.004, *Government Code*, no compensation has been received for its participation in the preparation of the requirements or specifications for this RFP. In addition, Proposer certifies that an award of a contract to Proposer will not violate Section 2155.006, *Government Code*, prohibiting University from entering into a contract that involves financial participation by a person who, during the previous five years, has been convicted of violating federal law or 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, Hurricane Katrina, or any other disaster occurring after September 24, 2005. Pursuant to Sections 2155.004 and 2155.006, *Government Code*, Proposer certifies that Proposer is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if these certifications are inaccurate.

2.10 By signature hereon, Proposer certifies its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.

2.11 By signature hereon, Proposer represents and warrants that all products and services offered to University in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and the *Texas Hazard Communication Act*, Chapter 502, *Health and Safety Code*, and all related regulations in effect or proposed as of the date of this RFP.

2.12 Proposer will and has disclosed, as part of its proposal, any exceptions to the certifications stated in this Execution of Offer. All such disclosures will be subject to administrative review and approval prior to the time University makes an award or enters into any contract or agreement with Proposer.

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

If Proposer is a Corporation, then State of Incorporation: _____

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

RFP No.: _____

EXHIBIT C

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

Submitted and Certified By:

(Proposer Institution's Name)

(Signature of Duly Authorized Representative)

(Printed Name/Title)

(Date Signed)

(Proposer's Street Address)

(City, State, Zip Code)

(Telephone Number)

(FAX Number)

EXHIBIT D

AGREEMENT

Purchase Order Terms and Conditions

1. **DELIVERY; SUBSTITUTIONS; INVOICES:** If delay is foreseen, Contractor shall give prompt written notice to University. Upon notice, University has the right to extend the delivery date in its sole discretion. Contractor shall keep University advised at all times of the status of delivery or performance under this Purchase Order. Contractor shall only tender for acceptance those goods and services that conform to the requirements of this Purchase Order. Substitutions, cancellations and price changes will require prior written consent of University. Default in promised delivery or failure to conform to the requirements of this Purchase Order authorizes University to purchase goods or services elsewhere and charge to Contractor any excess cost of such repurchase. Contractor shall show this Purchase Order number on all packages, shipments, and invoices.
2. **TITLE AND RISK OF LOSS:** Title to and risk of loss to any goods to be delivered under this Purchase Order shall not pass to University until University actually receives and takes possession of such goods at the point of delivery.
3. **WARRANTIES:** In addition to all warranties established by law, Contractor hereby represents, covenants, certifies, warrants and agrees that:
 - (a) it will comply with all requirements of this Purchase Order.
 - (b) if contractor is a corporation or a limited liability company, it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas.
 - (c) if contractor is a corporation or a limited liability company, it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171, Texas Tax Code, or that the corporation or limited company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable, and that if this certification is false or inaccurate, at University's option, this Purchase Order may be terminated and payment withheld.
 - (d) in accordance with Section 2155.004, Texas Government Code, the individual or business entity named in this Purchase Order is not ineligible to receive the award of or payment under this Purchase Order and this Purchase Order may be terminated and payment withheld if this certification is inaccurate.
 - (e) Pursuant to Sections 2107.008 and 2252.903, Texas Government Code, Contractor agrees that any payments owing to Contractor under this Purchase Order may be applied directly toward any debt or delinquency that Contractor owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.
 - (f) in accordance with Section 231.006, Texas Family Code, the individual or business entity named in this Purchase Order is not ineligible to receive the award of or payment under this Purchase Order and this Purchase Order may be terminated and payment may be withheld if this certification is inaccurate.
 - (g) all goods and services covered by this Purchase Order shall conform to the specifications, drawings, samples or other descriptions furnished or adopted by University (collectively "specifications"), and shall be new, merchantable, fit for the purpose intended, of best quality and workmanship, and free from all defects. University shall have the rights of inspection and approval and may reject and return goods or require reperformance of services at Contractor's expense if defective or not in compliance with University's specifications. Defects shall not be deemed waived by University's failure to notify Contractor upon receipt of goods or completion of services or by payment of invoice.
 - (h) no disclosure, description, or other communication of any sort shall be made by Contractor to any third person of the fact of University's purchase of goods or services hereunder, or of the details and characteristics thereof without University's prior written consent. Anything furnished to Contractor by University's pursuant to this Purchase Order including without limitation samples, drawings, patterns, and materials shall remain the property of University, shall be held at Contractor's risk, and shall be returned to University upon University's request, and no disclosure or reproduction thereof in any form shall be made without University's prior written consent.
 - (i) all goods delivered or services provided pursuant to this Purchase Order shall conform to standards established for such goods and services by any applicable federal, state, or local news or regulations, including without limitation those standards promulgated by the federal Occupational Safety and Health Administration (OSHA) and the Texas Hazard Communication Act, Chapter 502, Texas Health and Safety Code.
 - (j) use or sale of any goods delivered hereunder, except (with respect to patents) goods produced to University's detailed design, will not infringe any adverse valid patent, copyright, trademark or other intellectual property right.
 - (k) the price to be paid by University shall be that contained in Contractor's bid, which Contractor warrants to be no higher than Contractor's current prices on orders by others for goods or services of the kind covered by this Purchase Order for similar quantities to similar customers under similar conditions. In the event Contractor breaches its warranty, the prices shall be reduced to Contractor's current prices on orders by others or, in the alternative, University may cancel this Purchase Order without liability to Contractor.
 - (l) it is aware of and is fully informed about the various problems known generally as the "Year 2000 Problem." Upon written request, Contractor shall provide University with evidence reasonably satisfactory to University, that Contractor is Year 2000 compliant and will not fail to perform its duties and obligations in accordance with requirements of this Purchase Order due to the Year 2000 Problem.
 - (m) all goods identified in this Purchase Order conform to the Texas Department of Information Resources' ("DIR") Year 2000 policy guidelines set forth in 1 Texas Administrative Code Section on 201.13, as amended from time to time. Upon written request, Contractor shall provide evidence reasonably satisfactory to University that the goods identified in this Purchase Order conform to the DIR Year 2000 policy guidelines, which evidence shall include without limitation, a test script which validates that such goods are 2000 compliant and determines the latest future date that such goods are able to process.
 - (n) the foregoing representations, covenants, certification, warranties and agreements shall survive acceptance of goods and software as well as performance of services hereunder.
4. **TECHNOLOGY ACCESS:** Pursuant to Section 2157.006, Texas Government Code, Contractor is not conceding that the technology provided to University under this Purchase Order constitutes an automated information system as defined by Section 2157.001(1), Texas Government Code, and used in Section 2157.005, Texas Government Code. If the technology constitutes an automated information system then, in accordance with Section 2157.005, Texas Government Code, the Contractor expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly, the Contractor represents and warrants to University that the technology provided to University for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of (1) providing equivalent access for effective use by both visual and non-visual means; (2) presenting information, including prompts used for interactive communications, in formats intended for both visual and non-visual use; and (3) being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired. For purposes of this clause, the phrase "equivalent access" means substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services that would constitute reasonable accommodations under the federal Americans with Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.
5. **CISV:** This Purchase Order/Contract/Agreement is established in accordance with the Texas Building and Procurement Commission's Catalog Information Services Vendor Catalog Program (CISV), <http://www.tbpc.state.tx.us/tprch/cisv.html>
6. **ANTITRUST LAWS; CLAIMS FOR OVERCHARGES:** Contractor warrants and represents that neither Contractor nor any party acting on behalf of Contractor has violated the antitrust laws of the United States or of the States of Texas. Contractor hereby assigns to University any and all claims for overcharges associated with this Purchase Order which arise under the antitrust laws of the United States, 15 U.S.C.A. Section 1, et seq., or of the State of Texas, Tex. Bus. & Comm. Code Sec. 15.01, et seq.
7. **COMPLIANCE WITH LAW AND CONTRACTOR'S RULES:**
 - (a) Contractor is fully informed concerning and is in full compliance with its obligations, of any, under the following:
 - (1) Equal Employment Opportunities provisions of the Civil Rights Act of 1964, as amended;
 - (2) Executive Order 11701, as amended;
 - (3) Executive Order 11246, as amended;
 - (4) Rehabilitation Act of 1973, as implemented by 41 CFR 60-741, as amended;
 - (5) Vietnam Era Veterans Readjustment Act of 1974 as implemented by 41 CFR 60-250, as amended;
 - (6) Fair Labor Standards Act of 1938, Sections 6, 7, and 12, as amended.
 - (b) If this Purchase Order requires the presence on University's premises of Contractor's employees, agents, subcontractors or suppliers, Contractor shall cause such parties to comply with all applicable rules of University, including without limitation those relative to environmental quality, safety, and fire protection.
8. **INDEPENDENT CONTRACTOR:** In performing any services hereunder, Contractor is, and undertakes performance thereof as, and independent Contractor, with sole responsibility for all persons employed in connection therewith, including without limitation, exclusive liability for the payment of all federal, state, and local unemployment and disability insurance premiums and fees and all social security and other taxes and contributions payable in respect of such persons, from and against which liability Contractor agrees to indemnify, exonerate and hold harmless University.
9. **INDEMNITY:** CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS UNIVERSITY, THE BOARD OF REGENTS OF THE UNIVERSITY OF TEXAS SYSTEM ("BOARD") AND THE STATE OF TEXAS AND THEIR OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY THE "INDEMNIFIED PARTIES") FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND ALL OTHER CLAIMS, INCLUDING REASONABLE ATTORNEY'S FEES (COLLECTIVELY "CLAIMS"), ARISING OUT OF, IN CONNECTION WITH OR RESULTING FROM THIS PURCHASE ORDER OR THE GOODS OR SERVICES PROVIDED UNDER THIS PURCHASE ORDER, TO THE EXTENT CAUSED BY THE ACTS, OMISSIONS OR WILLFUL MISCONDUCT OF CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS OR SUPPLIERS. IN ADDITION, CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE INDEMNIFIED PARTIES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF, IN CONNECTION WITH OR RESULTING FROM THIS PURCHASE ORDER OR THE GOODS OR SERVICES PROVIDED UNDER THIS PURCHASE ORDER.
10. **INSURANCE:** If this Purchase Order requires the presence on University's premises of Contractor's employees, agents, suppliers or permitted subcontractors (if any), Seller agrees to maintain and to cause its agents, suppliers and permitted subcontractors (if any) to maintain the following insurance coverages for at least the specified limits:

Coverages	Limits
Workers Compensation	Statutory Limits
Employer's Liability	\$1,000,000 per accident and employee
Commercial General Liability (including contractual liability)	\$1,000,000 per occurrence
Product/Completed Ops	\$1,000,000 aggregate
Auto Liability	\$1,000,000 combined single limit

All policies (except Workers' Compensation) shall name University, the Board of Regents of the University of Texas System ("Board") and their officers and employees as Additional Insured. A Waiver of Subrogation in favor of University and the Board and thirty (30) day notice of cancellation is required on all policies. Certificates of insurance verifying the foregoing requirements shall be provided to University prior to commencement of any services under this Purchase Order.
11. **VENUE; CHOICE OF LAW:** Cameron County, Texas shall be the proper place of venue for suit on or in respect to this Purchase Order. This Purchase Order and all of the rights and obligations of the parties hereto and of 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.
12. **ASSIGNMENT AND DELEGATION:** Contractor may not assign any of its rights or delegate any of its obligations under this Purchase Order without University's prior written consent. Any assignment or delegation attempted by Contractor in violation of this clause shall be void and ineffective for all purposes.
13. **ENTIRE AGREEMENT; MODIFICATIONS:** This Purchase Order supercedes all prior agreements, written or oral, between Contractor and University and shall constitute the entire agreement and understanding between the parties with respect to the subject matter hereof. This Purchase Order and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by University and Contractor.
14. **DISPUTE RESOLUTION:** To the extent that Chapter 2260, Texas Government Code, is applicable to this Purchase Order and not preempted by other Applicable law, the dispute resolution process provided for in Chapter 2260 and related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by University and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The Chief Business Officer of University shall examine Contractor's claim and any counterclaim and negotiate with the Contractor in an effort to resolve such claims. The parties hereto specifically agree that (1) neither the issuance of this Purchase Order by University nor any other conduct, action or inaction of any representative of University relating to this Purchase Order constitutes or is intended to constitute a waiver of University's or the State's sovereign immunity to suit; and (2) University has not waived its right to seek redress in the courts.
15. **THE PROMPT PAYMENT ACT:** Notwithstanding any other requirements for notices given by a party under this Purchase Order, if Contractor intends to deliver written notice to The University of Texas at Brownsville and Texas Southmost College pursuant to Section 2251.054, Texas Government Code, then Contractor shall send that notice to The University of Texas at Brownsville and Texas Southmost College at the following address, or to such other person or address as may be given in writing by the University to the contractor.

Rosemary R. Martinez, CPA VPBA 80 Fort Brown Brownsville, TX 78520 Fax: 956-982-0115 E-mail rmartinez@hpb.utbsc.edu	With Copy to: Yolanda De la Riva Director for Business Office 80 Fort Brown Brownsville, TX 78520 Fax: 956-548-6514 E-mail ydelariva@hpb.utbsc.edu
---	---
16. **Loss of Funding.** Performance by University under this Purchase Order may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or all location of funds by the Board of Regents of The University of Texas System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then University shall issue written notice to Contractor and University may terminate this Purchase Order without further duty or obligation hereunder. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of University.
17. **State Auditor's Office.** Contractor understands that acceptance of funds under this Purchase Order constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Sections 51.9335(c), 73.115(c) and 74.008(c), Texas Education Code. Contractor agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors
18. **Products and Materials Produced in Texas.** If Contractor will provide services under this Purchase Order, Contractor covenants and agrees that in accordance with Section 2155.4441, Texas Government Code, in performing its duties and obligations under this Purchase Order, the Contractor shall purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

The University of Texas at Brownsville and Texas Southmost College shall have the right to change this contact information by written instructions to Contractor.

Revised 11/11/2005

**The University of Texas at Brownsville
and
Texas Southmost College**

TERMS AND CONDITIONS

1. PROPOSAL REQUIREMENTS:

- 1.1** Each PROPOSAL shall be placed in a separate envelope and properly identified with PROPOSAL No. and Opening Date. Proposals must be time-stamped at The University of Texas at Brownsville and Texas Southmost College (UTB/TSC), 80 Fort Brown, Brownsville, TX 78520 on or before opening date and time shown on other side of this form. Late bids will not be considered.
- 1.2** Proposals should be quoted F.O.B. Destination. If otherwise, bidder will show exact cost to deliver. PROPOSAL unit price on the quantity specified, extend and show total. In case of errors, unit prices shall govern. PROPOSAL prices will be considered firm for acceptance within 30 days after the PROPOSAL opening date unless otherwise specified. Cash discounts will not be considered in determining award; all cash discounts offered will be taken if earned. Proposer will list and deduct all trade discounts, educational discounts, and other discounts, not based on early payment from the proposer's prices quoted.
- 1.3** UTB/TSC is exempt from State Sales Tax and Federal Excise Tax. Do not include. Tax Exemption Certificate furnished upon request.
- 1.4** Proposals must give full name and address of proposer.
- 1.5** UTB/TSC reserves the right to accept or reject all or part of any proposal, waive any formalities or technical inconsistencies, delete any requirement or specification from this invitation, or terminate this solicitation when deemed to be in UTB/TSC's best interest.
- 1.6** Facsimile proposals, telephone proposals and/or email proposals are not acceptable UNLESS PROPOSAL OPENING DATE SPECIFIES "RETURN MAIL". Email responses to proposals NOT MARKED WITH A PROPOSAL OPENING DATE OF "RETURN MAIL" WILL BE DELETED WITHOUT REVIEW AND WILL NOT BE CONSIDERED AS VALID RESPONSES. CAUTION: UTB/TSC offers facsimile service as a convenience only. UTB/TSC shall not be responsible for proposals received late, illegible, incomplete, or otherwise non responsive due to failure of electronic equipment or operator error. Confirmation of facsimile proposals is not required.
- 1.7** Proposer hereby assigns to UTB/TSC any and all claims for overcharges associated with any resulting contract arising under antitrust laws of the United States, 15 U.S.C.A. Sec. 1 et seq. (1973) and the State of Texas, Tex. Bus. & Comm. Code Ann. Sec. 15.01, at seq. (1967).
- 1.8** The Vendor ID Number is the taxpayer number assigned and used by the Comptroller of Public Accounts of Texas. If the Vendor ID number is not known, enter proposer's Federal Employer's Identification Number, or Social Security Number if a sole owner. (Disclosure of SSN, if applicable, is mandatory pursuant to Section 231.005, Texas Family Code, and will be used in determining whether any person having 25% or greater ownership interest in the bidder company is more than 30 days delinquent in paying child support.)
- 1.9** In case of tie proposals, any award will be made pursuant to Texas Bldg. & Procurement Comm. Rule 1; T.A.C. Section 113.6 (b)(3)(8) (preferences).
- 1.10** Proposer shall not assign any resulting contractor purchase order without prior written approval from UTB/TSC.
- 1.11** All proposals must include a PROPOSAL bond of 5% of the full contract amount to be considered valid.
- 1.12A** payment bond in the amount of 100% of the full contract amount will be required on all contracts over \$100,000.
- 1.13A** payment performance bond in the amount of 100% of the full contract amount will be required on all contracts over \$100,000.
- 1.14** Substitutions will not be allowed after a proposal has been submitted for consideration.
- 1.15** All addenda and/or cancellations will be issued in writing by UTB/TSC or its designee.

2. SPECIFICATIONS:

- 2.1** Unless specifically stated otherwise, any catalog, brand name or manufacturer's reference used in this Invitation is descriptive (not restrictive), and is used to indicate type and quality desired. Proposals on brands of like nature and quality will be considered. If proposing on other than referenced specifications, the PROPOSAL MUST show manufacturer brand or trade name and description of product offered. Illustrations and complete descriptions of product offered should be made part of the proposal. If proposer does not identify exceptions to the specifications shown in this RFP, proposer will be required to furnish

Exhibit E

brand names, numbers, etc., as shown in the RFP.

- 2.2 All items shall be new, in first class condition, including containers suitable for shipment and storage, unless otherwise indicated in this RFP. Verbal agreements to the contrary will not be recognized.
- 2.3 Proposer warrants fault free performance in the processing of data and data related data (including, but not limited to, calculating, comparing and sequencing) by the product(s) identified on this RFP. Fault free performance includes, but is not limited to, the manipulation of data with dates prior to, through, and beyond January 1, 2000, and during leap years, and performance shall be transparent to the user.

3. DELIVERY:

- 3.1 PROPOSAL should show the number of days required to deliver items to UTB/TSC's designated location under normal conditions. Unrealistically short or long delivery promises may cause PROPOSAL to be disregarded. Failure to state delivery time obligates bidder to complete delivery in 14 calendar days.
- 3.2 The Texas Hazard Communication Act (Article 5182b, VTCS) requires chemical manufacturers and distributors to provide Material Safety Data Sheets (MSDSs) for hazardous materials sold. Products covered by this Act must be accompanied by a MSDS, and such products must be labeled in compliance with the law. For any product not covered under the Act, a statement of exemption must be provided.

4. PROPOSER AFFIRMATION: BY SIGNATURE HEREON,

- 4.1 Proposer affirms that it has not given or offered to give, and does not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal. Failure to sign the PROPOSAL may, and signing it with a false statement shall, void the submitted PROPOSAL or any resulting contract and bidder will be removed from all PROPOSAL lists.
- 4.2 Proposer affirms that no kinship, relationship, or affiliation exists between owners, officers, administrators and employees of the proposer and UTB/TSC which could be construed as a conflict of interest.
- 4.3 Proposer certifies that it is not currently delinquent in the payment of any franchise tax owed the State of Texas under Chapter 171, Texas Tax Code. Proposer acknowledges that making a false statement as to its corporate tax status is a material breach of any resulting contract.
- 4.4 Proposer certifies that neither the proposer nor any firm, corporation, partnership or institution represented by proposer, or anyone acting for any such entity, 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, or communicated directly or indirectly the PROPOSAL made to any competitor or any other person engaged in such line of business.
- 4.5 Proposer has not received compensation for participation in the preparation of the specifications for this RFP.
- 4.6 Under Section 2155.004, Texas Government Code (re: collecting state and local sales and use taxes) bidder certifies that the individual or entity named in its PROPOSAL is not ineligible to receive the specified contract, which may be terminated and/or payment withheld if certification is inaccurate.
- 4.7 Proposer agrees that any payments due under any resulting 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.
- 4.8 Proposer certifies, if awarded a contract, that proposer shall defend, indemnify, and hold harmless the Board of Regents of The University of Texas, and all of their respective officers, agents and employees from and against all claims, actions, suits, demands, proceedings costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of bidder, or any agent, employee, subcontractor or supplier of bidder in the execution or performance of the contract.

EXHIBIT F

PROPOSER'S GENERAL QUESTIONNAIRE

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

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

3.1 Proposer Profile

3.1.1 Legal name of Proposer company:

Address of principal place of business:

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

Number of years in Business: _____

State of incorporation: _____

Number of Employees: _____

Annual Revenues Volume: _____

Name of Parent Corporation, if any _____

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

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

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

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

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

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

3.1.7 Proposer will provide a customer reference list of no less than three (3) organizations with which Proposer currently has contracts and/or to which Proposer has previously provided services (within the past five (5) years) of a type and scope similar to those required by University's RFP. Proposer will include in its customer reference list the customer's company name, contact person, telephone number, project description, length of business relationship, and background of services provided by Proposer.

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

3.2 Approach to Project Services

- 3.2.1 Proposer will provide a statement of the Proposer's service approach and will describe any unique benefits to University from doing business with Proposer. Proposer will briefly describe its approach for each of the required services identified in **Section 5.4** Scope of Work of this RFP.
- 3.2.2 Proposer will provide an estimate of the earliest starting date for services following execution of an Agreement.
- 3.2.3 Proposer will submit a work plan with key dates and milestones. The work plan should include:
 - 3.2.3.1 Identification of tasks to be performed;
 - 3.2.3.2 Time frames to perform the identified tasks;
 - 3.2.3.3 Project management methodology;
 - 3.2.3.4 Implementation strategy; and
 - 3.2.3.5 The expected time frame in which the services would be implemented.
- 3.2.4 Proposer will describe the types of reports or other written documents Proposer will provide (if any) and the frequency of reporting, if more frequent than required in the RFP. Proposer will include samples of reports and documents if appropriate.

3.3 General Requirements

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

3.4 Service Support

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

3.5 Quality Assurance

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

3.6 Miscellaneous

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

EXHIBIT G

ADDENDA CHECKLIST

Proposal of: _____
(Proposer Company Name)

To: The University of Texas _____

Ref.: _____ Services related to the _____

RFP No.: _____

Ladies and Gentlemen:

The undersigned Proposer hereby acknowledges receipt of the following Addenda to the captioned RFP (initial if applicable).

No. 1 _____ No. 2 _____ No. 3 _____ No. 4 _____ No. 5 _____

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____



Exhibit H

THE UNIVERSITY OF TEXAS AT BROWNSVILLE

Purchasing Department

80 Fort Brown

Brownsville, Tx 78520

(956) 882-6553

(956) 882-6583 FAX

RFP

747-032309-2009

Due:04/14/09

11:00 AM

Respondent: To assist us in obtaining good competition on our Request for Proposals, we ask that each firm which received an invitation (request) but does not wish to bid, state their reason(s) below. This information will not prelude receipt of future invitations unless you request removal from the list of bidders by so indication below.

We hereby submit a " no bid" because

☐

1. We are not interested in selling through the RFP process.

☐

2. We are unable to prepare the RFP in the time to meet the due date.

☐

3. We do not wish to bid under the Term(s) and condition(s) of the RFP document.

Objections:

☐

4. We do not feel we can be competitive.

☐

5. We can not submit an RFP because of the

Objections:

☐

6. We do not wish to sell to a state agency.

Objections:

☐

7. We do not sell the items or services on which the RFP are requested.

☐

8. Other:

Firm Name:

Signed:

We wish to:

☐

Remain on the list of bidders or

☐

Be deleted from the list of bidders

EXHIBIT I

CAMPUS MAP

<http://pubs.utb.edu/campusmap/campusmap5-18-07.pdf>

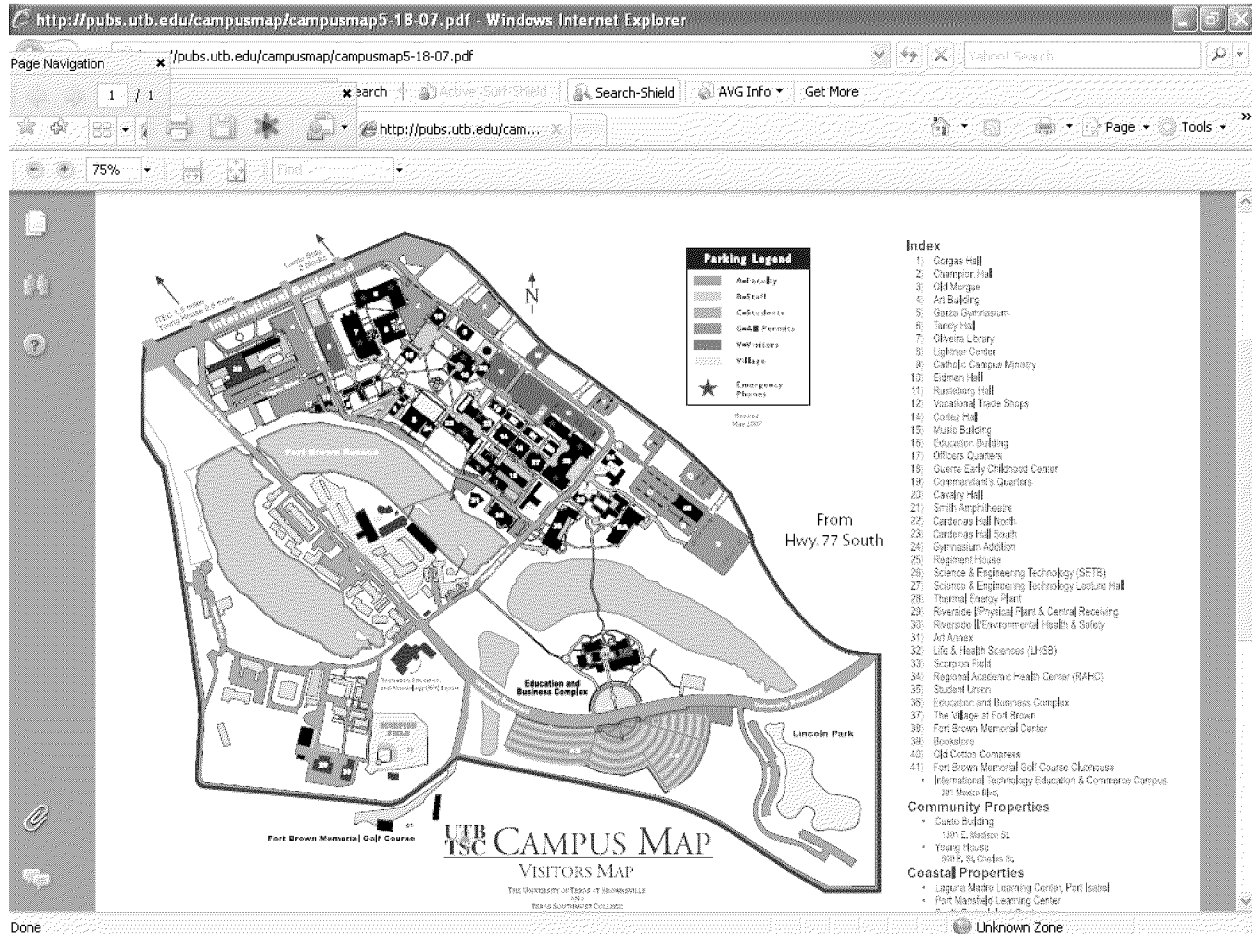


Exhibit J

SCOPE OF WORK

The companies must demonstrate the ability to provide all materials, equipment, labor and all other incidental material, tools, appliances, delivery and transportation as required for a complete, efficient, and functional turn-key installation of the Theatrical Equipment required.

SCOPE OF WORK:

Provide and install all equipment, accessories and material needed for the functionality and performing of the following systems for the New Arts Center facility per construction drawings and specifications provided for the Music Education Building project (Arts Center):

- 1. Theatrical Pit Filler System** -Section 11061 of the Division 11
- 2. Stage Lighting Instruments** -Section 11062 of the Division 11
- 3. Acoustical Curtains** -Section 11065 of the Division 11
- 4. Concert Enclosure System** -Section 11066 of the Division 11

Contractor shall refer to the construction documents provided in this RFP not only for the specifications of the required equipment but also for coordination of compatibility and functionality with the rest of the equipment, systems and electrical installations to be provided by the General Contractor (Skanska USA).

1. General elements of the work shall consist of but not limited to:

- a. Procure all permits and license required to complete the installation.
- b. Submission of a Schedule of Values for all equipment, materials, and labor.
- c. Submittal preparation and owner review/acceptance prior to ordering equipment.
- d. Verify conditions and dimensions at the job site prior to installation.
- e. Perform installation according to manufacturer's recommendations.
- f. Protect new facilities finishes and equipment.
- g. Maintain construction materials and refuse within the area of work.
- h. Clean the work area at the end of each work day.
- i. Perform initial testing, programming, commissioning, and adjustments with written reports.
- j. Make final adjustments, calibrations, and programming modifications as directed by the Owner.
- k. Demonstrate all systems for final acceptance.
- l. Preparation of O&M manuals and as built documents for Owner's use.
- m. Provide training for owner's facility personnel and technical staff.

2. General Requirements:

1. The contractor shall obtain Owner's permission before proceeding with any work necessitating cutting into or through any part of the building structures such as girders, beams, concrete, or tile floors and partition ceilings.
2. The contractor shall exercise reasonable care to avoid any damage to Owner's property. Contractor shall be responsible for and repair all damage due to carelessness of workers. Contractor will report to Owner and damage to the building, which may

exist during the occupancy of the quarters.

3. The Contractor shall take necessary steps to ensure that required fire fighting apparatus is accessible at all times. Flammable materials shall be kept in suitable places outside the building.
4. The Contractor shall install the materials in accordance with the manufacturer's specifications.
5. The Contractor shall promptly correct all defects for which the contractor is responsible.
6. The Contractor shall coordinate delivery and installation of the systems and equipment with the owner and the General Contractor of the project.