

REQUEST FOR PROPOSAL

by

The University of Texas at Tyler

for

**Debt Collection Services
related to**

Office of Student Business Services

RFP No. 750-08/09-12

Submittal Deadline: 3:00 PM Central Prevailing Time on July 28, 2009

Issued: June 23, 2009

Prepared By:
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The University of Texas at Tyler
Office of Financial Services, ADM 123
3900 University Blvd.
Tyler, Texas, 75799

REQUEST FOR PROPOSAL

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SECTION 1

INTRODUCTION

1.1 Description of the University

A member of the renowned University of Texas System, The University of Texas at Tyler (“**University**”) carries a proud tradition of high quality students and academic opportunities. Located on 200 acres, University is a safe university with a park-like setting of lush trees and wildlife. The campus consists of 14 modern buildings arranged around two lakes. Four professional colleges and one traditional college of arts and sciences comprise University’s academic structure. The five colleges offer nearly 90 academic degrees and their students represent 45 nations, 35 states and 131 counties.

1.2 Background and Special Circumstances

Collection of receivables of the University is of vital interest to both the University and its students. However, it is imperative that no ill will is created in the collection of these debts. During the collection process, it is crucial that our customers realize that the funds collected will benefit future students of the University.

1.3 Objective of this Request for Proposal

The University of Texas at Tyler (the “**University**”) is soliciting proposals in response to this Request for Proposal for Selection of a Vendor to Provide collection of delinquent Federal Perkins Loan accounts and delinquent institutional loan accounts (the “**Services**” related to Office of Student Business Services, RFP No.750-08/09-12 (this “**RFP**”), from qualified vendors. The Services, which are more specifically described in **Section 5.4** (Scope of Work) of this RFP, include (1) skip-tracing, (2) asset searches and (3) related activities required for verifying and collecting accounts.

1.4 Group Purchase Authority

Texas law authorizes institutions of higher education (defined by Section 61.003, *Education Code*) to use the group purchasing procurement method (ref. Sections 51.9335, 73.115, and 74.008, *Education Code*). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Proposer under this RFP.

1.5 Term of Contract

The Initial Term of this Contract shall commence on September 1, 2009 and expire on August 31, 2012. University will have the option to renew this Contract for up to four (4) additional one (1) year terms (each a “Renewal Term”).

SECTION 2**NOTICE TO PROPOSER****2.1 Submittal Deadline**

University will accept proposals submitted in response to this RFP until **3:00 p.m.**, Central Prevailing Time on **July 28, 2009**.

2.2 University Contact Person

Proposers will direct all questions or concerns regarding this RFP to the following University contact (the **"University Contact"**):

Sherre Holmes, CTPM
The University of Texas at Tyler
Office of Financial Services
3900 University Blvd
Tyler, Texas 75799
Email: sherre_holmes@uttyler.edu

University specifically instructs all interested parties to restrict all contact and questions regarding this RFP to written communications forwarded to the University Contact. The University Contact must receive all questions or concerns no later than **July 14, 2009**. University will have a reasonable amount of time to respond to questions or concerns. It is University's intent to respond to all appropriate questions and concerns; however, University reserves the right to decline to respond to any question or concern.

2.3 Criteria for Selection

The successful Proposer, if any, selected by University in accordance with the requirements and specifications set forth in this RFP will be the Proposer that submits a proposal in response to this RFP on or before the Submittal Deadline that is the most advantageous to University. The successful Proposer is referred to as the **"Contractor."**

Proposer is encouraged to propose terms and conditions offering the maximum benefit to University in terms of (1) services to University, (2) total overall cost to University, and (3) project management expertise. Proposers should describe all educational, state and local government discounts, as well as any other applicable discounts that may be available to University in a contract for the Services.

An evaluation team from University will evaluate proposals. The evaluation of proposals and the selection of the Contractor will be based on the information provided by Proposer in its proposal. University may give consideration to additional information if University deems such information relevant.

The criteria to be considered by University in evaluating proposals and selecting the Contractor will be those factors listed below:

- 2.3.1 The reputation of the Proposer and of the Proposer's goods or services;
- 2.3.2 the quality of the Proposer's goods or services;
- 2.3.3 the extent to which the goods or services meet the University's needs;

- 2.3.4 the Proposer's past relationship with the University;
- 2.3.5 the impact on the ability of the University to comply with laws and rules relating to historically underutilized businesses and to the procurement of goods and services from persons with disabilities;

Section	Available Points
Contractor Qualifications and Background	10
Organizational and Staff Structure	5
Company-Customer Relationships	20
Financial	10
Historical Performance	15
Technology	10
Collection Procedures	20
References	5
Additional Services	5
TOTAL	100

Contractor Qualifications and Background – Provide a copy of the license, which allows the company to solicit business and collect debts in the State of Texas. Discuss the company's ability to operate throughout the United States and the ability to collect accounts outside the United States. Provide a brief history of the company. Demonstrate that the company has a minimum of five years experience collecting delinquent student accounts specifically for Higher Education Institutions. Show documentation of the percentage that the collection of delinquent student loan accounts provides of the company's gross revenue.

Organizational and Staff Structure – Provide the total number of employees. Provide the number of employees dedicated to the collection of accounts. Describe the training given to company employees. Discuss how collectors and other employees who have contact with borrowers are kept up to date on developments in the student loan collections area, including changes in federal regulations and institutional requirements.

Company-Customer Relationships – Describe the customer service offered to clients. Provide the name, title and telephone number of the individual within the company who will serve as the primary point of contact if an award is made based on this proposal. Describe how University inquiries will be handled in this person's absence.

Financial – Provide evidence of insurance/bonds as described in Section 5.2.1. Discuss the payment processing procedures and systems, including the forms in which payments will be accepted and the distribution of payments.

Historical Performance – How many years has the company provided collection services for student accounts? Discuss the company's experience with higher education institutions in the State of Texas. Provide the number of college/university accounts currently managed and serviced. Provide the total dollar volume and number of accounts currently managed in all categories. Discuss the company's experience in the collection of each type of student loan account (federal and institutional). For each type, provide the company's overall collection performance rate including:

- The number, dollar value, and average balance of placements
- The total dollars collected and recovery percentage

- The total number of accounts and percentage of accounts brought into repayment, cancellation or deferment
- The dollar amount and percentage of dollars placed returned to the client

Technology – Describe the technology utilized by the company including the company's computer capabilities and available services provided directly by the company or by a third-party software vendor. Describe the software used to monitor accounts. Discuss the components of the company's disaster recovery plan.

Collection Procedures - The soundness of the Proposer's approach to Loan Collections. The Proposer's demonstrated competence and experience with Loan and Accounts Receivable Collections. Collection practices and procedures should ensure maximum recovery of debts. State the affiliations in state and trade organizations, including COHEAO, NACUBO and other professional organizations specializing in the university accounts field, in which the company or individual employees hold membership. Discuss the degree of involvement in these organizations.

References - Provide the following information for at least five current clients who share similar characteristics to the University and for which the company has provided at least three years of service:

- Name of institution, dates of service, name of contact, contact's title, address and telephone number.

Additional Services – Provide a description of any additional services that may be valuable to the University such as seminars, training, and access provided to information regarding regulatory updates.

Additional factors to be considered in evaluating proposals will be the following:

- 1) Proposer's demonstrated capability and financial resources to perform the required operations within the time periods projected.
- 2) Proposer's responses to the questions and requests for information in **Section 6** of this RFP.

2.4 Key Events Schedule

Issuance of RFP	June 23, 2009
Deadline for Questions/Concerns (ref. Section 2.2 of this RFP)	July 14, 2009
Submittal Deadline (ref. Section 2.1 of this RFP)	3:00 p.m. Central Prevailing Time on July 28, 2009

2.5 Historically Underutilized Businesses

2.5.1 All agencies of the State of Texas are required to make a good faith effort to assist historically underutilized businesses (each a “**HUB**”) in receiving contract awards. The goal of the HUB program is to promote full and equal business opportunity for all businesses in contracting with state agencies. Pursuant to the HUB program, if under the terms of any agreement or contractual arrangement resulting from this RFP, the Contractor subcontracts any of the Services, then the Contractor must make a good faith effort to utilize HUBs certified by the Texas Building and Procurement Commission. Proposals that fail to comply with the requirements contained in this Section 2.5 will constitute a material failure to comply with advertised specifications and will be rejected by the University as non-responsive. Additionally, compliance with good faith effort guidelines is a condition precedent to awarding any agreement or contractual arrangement resulting from this RFP. Proposer acknowledges that, if selected by University, its obligation to make a good faith effort to utilize HUBs when subcontracting any of the Services will continue throughout the term of all agreements and contractual arrangements resulting from this RFP. Furthermore, any subcontracting of the Services by the Proposer is subject to review by the University to ensure compliance with the HUB program.

2.5.2 University has reviewed this RFP in accordance with Title 34, *Texas Administrative Code*, Section 20.14, and has determined that subcontracting opportunities are not probable under this RFP.

SECTION 3**SUBMISSION OF PROPOSAL****3.1 Number of Copies**

Proposer must submit a total of seven (7) complete and identical copies of its *entire* proposal. An *original* signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) of at least one (1) copy of the submitted proposal. The copy of the Proposer's proposal bearing an original signature should contain the mark "original" on the front cover of the proposal.

3.2 Submission

Proposals must be received by University on or before the Submittal Deadline (ref. **Section 2.1** of this RFP) and shall be delivered to:

Sherre Holmes, CTPM
The University of Texas at Tyler
Office of Financial Services, ADM 123
3900 University Blvd.
Tyler, Texas 75799

3.3 Proposal Validity Period

Each proposal must state that it will remain valid for University's acceptance for a minimum of ninety (90) days after the Submittal Deadline, to allow time for evaluation, selection, and any unforeseen delays.

3.4 Terms and Conditions

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

- 3.4.1.1. Specifications and Additional Questions (ref. **Section 5** of this RFP);
- 3.4.1.2. Agreement (ref. **APPENDIX TWO**);
- 3.4.1.3. Proposal Requirements (ref. **APPENDIX ONE**);
- 3.4.1.4. Notice to Proposers (ref. **Section 2** of this RFP).

3.5 Submittal Checklist

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

- 3.5.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**)
- 3.5.2 Signed and Completed Pricing and Delivery Schedule (ref. **Section 6** of this RFP)
- 3.5.3 Responses to Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**)
- 3.5.4 Responses to questions and requests for information in the Specifications and Additional Questions Section (ref. **Section 5** of this RFP)

SECTION 4

GENERAL TERMS AND CONDITIONS

The terms and conditions contained in the attached Sample Agreement (ref. **APPENDIX TWO**) or, in the sole discretion of University, terms and conditions substantially similar to those contained in the Sample Agreement, will constitute and govern any contract or agreement that results from this RFP.

SECTION 5

SPECIFICATIONS AND ADDITIONAL QUESTIONS

5.1 General

The minimum requirements and the specifications for the Services, as well as certain requests for information to be provided by Proposer as part of its proposal, are set forth below. As indicated in **Section 2.3** of this RFP, the successful Proposer is referred to as the “**Contractor.**”

5.2 Minimum Requirements

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

- 5.2.1 Contractor shall be responsible for and shall protect the University from loss of any funds collected while the funds are in the custody of the Contractor. Contractor shall promptly transmit to the University all funds collected regardless of any such loss. Contractor shall maintain in force for the period of this Contract, and following its termination, for so long as the Contractor is engaged in collecting the University's accounts, a blanket **performance bond** in the amount of \$125,000 payable to The University of Texas at Tyler to protect The University against any loss or failure of Contractor or any of its officers, employees or agents to transmit to the University for any reason the monies collected as required by this Agreement. The bond shall be in a form and issued by a surety satisfactory to the University and shall require at least sixty (60) working days' advance written notice of cancellation to the University. These limits are minimum limits and Contractor shall increase the amount of the bond upon request by the University.

In addition, Contractor shall maintain insurance policies with an agency that maintains an “A” rating and is licensed in all states. At a minimum, the Contractor must maintain insurance in the following amounts: General Liability, \$2,000,000 aggregate, \$1,000,000 each occurrence; Excess Liability, \$2,000,000 aggregate, \$2,000,000 each occurrence; Errors and Omissions (Professional Liability), \$2,000,000; Employee Fidelity Bond, \$2,000,000.

Verification of the insurance coverage shall be furnished annually to the University, Office of Student Business Services.

- 5.2.2 Either party has the right to cancel this Agreement upon thirty (30) days written notice to the other party. Upon notification of cancellation, Contractor must immediately cease all collection efforts on the University's accounts. Monies received by Contractor during a sixty (60) days period immediately following the cancellation date will be subject to the fee provisions of Paragraph B8 of this Agreement. (See Appendix 2 for Sample Agreement.) All accounts shall be returned to the University within sixty (60) days of the cancellation of this Agreement.
- 5.2.3 Contractor shall maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this Agreement.

- 5.2.4 Contractor shall remit monthly payment reports to The University of Texas at Tyler and deposit the gross proceeds of payments collected by ACH to the University's account. Returned checks are not to be netted out of the totals, but rather the fee originally paid to the agency returned to the University, and the gross amount of the checks paid to the agency. The monthly statements will contain the Student ID as identifier combined with loan number or billing code and, in addition for tuition bills, the semester code being paid.
- 5.2.5 Contractor shall identify one primary contact through which all correspondence and questions of and from the University will be directed.
- 5.2.6 Monthly reports will be made available to the University through the agency's web site or by mail as specified in Section 5.4(G).
- 5.2.7 The University shall provide weekly reports each Friday and on the last day of each month to the Contractor of payments made at the University on the loans at the collection agency.

5.3 Additional Questions Specific to this RFP

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

- 5.3.1 In its proposal, Proposer must indicate whether it will consent to include in the Agreement the Technology Access Clause set forth in **APPENDIX THREE**. If Proposer objects to the inclusion of the Technology Access Clause in the Agreement, Proposer must, as part of its proposal, specifically identify and describe in detail all of the reasons for Proposer's objection. NOTE THAT A GENERAL OBJECTION IS NOT AN ACCEPTABLE RESPONSE TO THIS QUESTION.

5.4 Scope of Work

Contractor will provide the following services to University:

- A. Contractor agrees to accept for collection, upon the terms and conditions prescribed in the Agreement (ref. Appendix Two), all unpaid accounts that the University may choose to refer to the Contractor for collection. The number and origin of these accounts and the means by which Contractor shall receive the accounts shall be determined solely by, and may be altered at the discretion of, the University.
- B. Contractor shall acknowledge to the Office of Student Business Services and to any other office or entity designated in writing by the University, the receipt of all accounts referred to Contractor for collection. Contractor shall transmit this acknowledgment in a form acceptable to the University no later than seven (7) calendar days after accounts are referred to Contractor.
- C. Contractor shall promptly undertake, through proper and lawful means, the collection of every account referred by the University without regard to the amount. Contractor agrees and warrants that all collection activities will be in conformity to existing federal, state or local laws and regulations. Contractor agrees to indemnify the University for any costs of whatever kind and nature incurred by the University as a result of any legal action against the University

from the collection practices or methods of Contractor's officers, agents or employees.

- D. Contractor shall implement thorough collection procedures in its attempt to achieve a maximum recovery of debts. Such procedures shall include telephone calls, mail efforts and skip tracing procedures whenever necessary.
- E. Contractor acknowledges the privacy rights of debtors and shall not release information to any credit bureau or other third parties without full compliance with all federal and state privacy laws and prior written approval from the University.
- F. Contractor shall maintain sufficient safeguards to prevent unauthorized access to information, such as secure handling and storage of all data and security password protection on any computer equipment.
- G. Contractor shall furnish to the Office of Student Business Services, and any other office as stated in 5.2, the following reports:
 - 1.) A quarterly Debtor Status Report detailing all active accounts.
 - 2.) A quarterly Placement Analysis Report.
 - 3.) A Schedule of Aged Accounts Receivables of all active accounts submitted quarterly.
 - 4.) A monthly report of accounts returned to the University which have not been converted to regular repayment status by the end of 12 (twelve) consecutive calendar months.

All reports must be kept separated by the particular department of the University that referred the account to the Agency.

- H. These reports shall be in a form acceptable to the University, shall include information required by the University, and be furnished at times prescribed by the University. The University requires that all reports submitted to the University list Student ID numbers as the University account number and not individual's social security numbers unless otherwise requested. However, the website should include both Student ID and social security numbers since the website should be a secure site.
- I. Contractor shall be responsible for ensuring that the accounts are updated to reflect the amount actually past due. Contractor shall return an account to the University as soon as the delinquency has been paid. Contractor shall exercise special care to ensure that the entire principal with interest and penalties assessed and collection fees, as authorized by the Debtor's signed agreement or as otherwise authorized by law, have been paid before informing the borrower or debtor that the debt is paid in full.
- J. Contractor shall reimburse the University for any amount which becomes uncollectible or which is lost due to any act or omission of the Contractor or its officers, agents, or employees. Such acts or omissions may include, but are not limited to, accepting a compromise settlement for less than the total amount due without authorization of the University, acknowledging that a payment constitutes

payment in full when in fact the loan or account is not paid in full, and failing to immediately refer any Notice of Bankruptcy to the University.

- K. Contractor agrees to suspend action either temporarily or permanently on any account referred for collection upon notification to do so by the University and to return accounts to the University upon request.
- L. No collection fees shall be paid to Contractor on accounts that are referred for collection, but on which the University receives payment prior to any collection efforts being performed by Contractor.
- M. No collection fee shall be paid to Contractor on accounts that are deferred, postponed or canceled.
- N. Contractor shall not share in funds collected by the University as a result of exercise by the University of its rights to offset monies owed the debtor by the State of Texas or the University or to hold the grades, degree or transcript or bar the readmission of the debtor. The University will notify Contractor of any monies received pursuant to these enforcements or offset procedures.
- O. Any amounts received by Contractor, which are in excess of that which is due and payable, are overpayments and shall be forwarded in full to the University with an explanation that the amount is an overpayment. Contractor shall not be entitled to a collection fee for overpayments and shall not retain any portion of an overpayment.
- P. Contractor agrees to promptly cancel and return to the University all accounts on which collection activity has ceased or accounts which are requested to be returned by the University. Contractor agrees to return accounts with a record of any contacts made with the borrower including current address, telephone number, and other information that will aid in the future collection of the account. The transmission of such information is part of the service to the University that Contractor agrees to perform.
- Q. Contractor shall appoint one specially designated representative who will have primary responsibility and authority for the University's accounts.
- R. Contractor will maintain records as they pertain to said accounts in such a manner as to be auditable by the University during normal business hours. The University shall have the right to conduct such audits upon reasonable notice to Contractor. Contractor will not destroy any of the records and documents relating to University accounts until it has received written permission to do so from the University.
- S. Contractor shall promptly respond to complaints or inquiries transmitted to Contractor by the University which arise out of Contractor's performance of the resulting Agreement, and shall remove from any and all University accounts any of Contractor's officers, employees or agents who are engaged in questionable tactics.
- T. Upon the termination of any resulting Agreement, Contractor shall return all accounts to the University and any payments received by the Contractor after such termination date shall be sent to the University without a fee charge.

- U. All money received for an account after the date that the account was required to be returned to the University under any provisions of any resulting Agreement shall be returned in full by Contractor to the University.
- V. Should Contractor either fail or refuse to return an account to the University as required by any provision of any resulting Agreement, Contractor shall cease any further collection effort on the account and shall consider the account under the control of the University. Contractor shall be responsible for all costs, fees, and expenses incurred by the University in its efforts either in or out of court to obtain the return of accounts. Contractor shall also be responsible for any claims or damages that may arise from its failure or refusal to return accounts in a timely fashion.
- W. Contractor, pursuant to Federal Regulations, agrees to comply with all applicable statutory provisions of or applicable to Title IV of the Higher Education Act of 1965, as amended and as set forth in 34 CFR §668.25.
- X. Contractor shall return to the University all accounts not converted to regular repayment status by the end of 12 consecutive calendar months from date of placement with Contractor.
- Y. Contractor shall provide the borrower or debtor a printed statement of account at least quarterly.
- Z. All correspondence regarding addenda required due to regulatory changes should be forwarded to Office of Student Business Services.
- AA. Contractor shall be responsible for compliance with the regulations governing third-party Servicers and additional accountability requirements as stated in 34 CFR Section 668.25. Contractor, as a third-party servicer, will assume joint and several liability with the Contractor for any violation by Contractor of any statutory or regulatory provision applicable to Title IV programs. A copy of the Contractor's Third Party Servicer Audit must be submitted with this RFP.
- BB. Contractor shall not, under any circumstances, use any threats, intimidation, harassment, or any unfair collection practices in the collection of accounts or violate any guidelines established by federal, state, and local laws, regulations, and rules affecting the work and shall maintain all required protection for property, employees, and public.
- CC. Contractor shall provide collection services in accordance with the most recent applicable federal regulations. The personnel of the contractor who handle collection efforts shall be knowledgeable of and comply with the most recent applicable federal regulations, guidelines, and policy interpretations governing the federal and institutional loan programs.

5.5 Miscellaneous Provisions

This RFP does not commit The University of Texas at Tyler to negotiate an Agreement, nor does it obligate the above mentioned to pay any cost incurred in the preparation and submission of proposal or in anticipation of an Agreement. The above-mentioned reserves the right to contract with any of the firms responding to the RFP based solely upon its judgment of the qualifications and capabilities of the firm. No information relating to the results of the RFP process will be released until after the decision of the award has been made.

SECTION 6**PRICING AND DELIVERY SCHEDULE**

Proposal of: _____
(Proposer Company Name)

To: The University of Texas at Tyler

Ref.: Services related to the collection of delinquent Federal Perkins loan accounts, delinquent Institutional loan accounts, and delinquent tuition bills.

RFP No.: 750-08/09-12

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFP and any attachments thereto, the undersigned proposes to provide loan collection services pursuant to the above-referenced Request for Proposal upon the terms quoted below.

6.1 Pricing for Services Offered

The following collection fees shall be the sole consideration paid to Contractor for its services under this Contract: 25% collection fee on the delinquent balance of each account collected without the filing of suit. To the extent allowed by the Debtor's signed agreement or as otherwise authorized by law, this collection fee is to be collected in addition to the balance due. The percentage collection fee shall be based on the money actually collected which is past due and which is deposited in the University's bank account. Said commission fee shall be billed by the Contractor weekly.

6.2 Delivery Schedule of Events and Time Periods

Payments received by Contractor shall be electronically deposited in the University's Operating Account weekly within two days from the statement date. The University will supply the Contractor with the bank name, routing and account numbers, and will inform the Contractor immediately of any changes. The Contractor shall provide a copy of said weekly deposit to the University along with a statement summarizing collections received on each debtors account. The Contractor shall provide a separate weekly report summarizing payment reversals, such as insufficient funds and error corrections, along with a refund to the University for any collection fee paid in association with these payments.

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

APPENDIX ONE
PROPOSAL REQUIREMENTS

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SECTION 1

GENERAL INFORMATION**1.1 Purpose**

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

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

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

1.2 Inquiries and Interpretations

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

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

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

1.3 Public Information

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

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

Upon execution of a final agreement, University will consider all information, documentation, and other materials requested to be submitted in response to this RFP, to be of a non-confidential and non-proprietary nature and, therefore, subject to public disclosure under the *Texas Public Information Act (Texas Government Code, Chapter 552.001, et seq.)*. Proposer will be advised of a request for public information that implicates their materials and will have the opportunity to raise any objections to disclosure to the Texas Attorney General. Certain information may be protected from release under Sections 552.101, 552.110, 552.113, and 552.131, *Texas Government Code*.

1.4 Type of Agreement

The Contractor, if any, will be required to enter into a contract with University in a form substantially similar to the Agreement between University and Contractor (the "**Agreement**") attached to this RFP as **APPENDIX TWO** and incorporated for all purposes.

1.5 Proposal Evaluation Process

University will select the Contractor by using the competitive sealed proposal process described in this Section. All proposals submitted by the Submittal Deadline will be opened publicly to identify the name of each Proposer submitting a proposal. Any proposals that are not submitted by the Submittal Date will be rejected by the University as non-responsive due to material failure to comply with advertised specifications. After the opening of the proposals and upon completion of the initial review and evaluation of the proposals, University may invite one or more selected Proposers to participate in oral presentations. University will use commercially reasonable efforts to avoid public disclosure of the contents of a proposal prior to selection of the Contractor.

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

At University's sole option and discretion, University may discuss and negotiate all elements of the proposals submitted by selected Proposers within a specified competitive range. For purposes of negotiation, University may establish, after an initial review of the proposals, a competitive range of acceptable or potentially acceptable proposals composed of the highest rated proposal(s). In that event, University will defer further action on proposals not included within the competitive range pending the selection of the Contractor; provided, however, University reserves the right to include additional proposals in the competitive range if deemed to be in the best interests of University.

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

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

1.6 Proposer's Acceptance of Evaluation Methodology

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

1.7 Solicitation for Proposal and Proposal Preparation Costs

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

1.8 Proposal Requirements and General Instructions

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

1.9 Preparation and Submittal Instructions

1.9.1 Specifications and Additional Questions

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

1.9.2 Execution of Offer

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

1.9.3 Pricing and Delivery Schedule

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

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

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

1.9.4 Proposer's General Questionnaire

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

1.9.5 Addenda Checklist

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

1.9.6 Submission

Proposer should submit all proposal materials enclosed in a sealed envelope, box, or container. The RFP No. (ref. **Section 1.3** of this RFP) and the Submittal Deadline (ref. **Section 2.1** of this RFP) should be clearly shown in the lower left-hand corner on the top surface of the container. In addition, the name and the return address of the Proposer should be clearly visible.

Upon Proposer's request and at Proposer's expense, University will return to a Proposer its proposal received after the Submittal Deadline if the proposal is properly identified. University will not under any circumstances consider a proposal that is received after the Submittal Deadline.

University will not accept proposals submitted by telephone, proposals submitted by Facsimile ("FAX") transmission, or proposals submitted by electronic transmission (i.e., e-mail) in response to this RFP.

Except as otherwise provided in this RFP, no proposal may be changed, amended, or modified after it has been submitted to University. However, a proposal may be withdrawn and resubmitted at any time prior to the Submittal Deadline. No proposal may be withdrawn after the Submittal Deadline without University's consent, which will be based on Proposer's submittal of a written explanation and documentation evidencing a reason acceptable to University, in University's sole discretion.

By signing the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) and submitting a proposal, Proposer certifies that any terms, conditions, or documents attached to or referenced in its proposal are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFP and (b) do not place any requirements on University that are not set forth in this RFP or in the Appendices to this RFP. Proposer further certifies that the submission of a proposal is Proposer's good faith intent to enter into the Agreement with University as specified herein and that such intent is not contingent upon University's

acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.

1.9.7 Page Size, Binders, and Dividers

Proposals must be typed on letter-size (8-1/2" x 11") paper, and must be submitted in a binder. Preprinted material should be referenced in the proposal and included as labeled attachments. Sections within a proposal should be divided by tabs for ease of reference.

1.9.8 Table of Contents

Proposals must include a Table of Contents with page number references. The Table of Contents must contain sufficient detail and be organized according to the same format as presented in this RFP, to allow easy reference to the sections of the proposal as well as to any separate attachments (which should be identified in the main Table of Contents). If a Proposer includes supplemental information or non-required attachments with its proposal, this material should be clearly identified in the Table of Contents and organized as a separate section of the proposal.

1.9.9 Pagination

All pages of the proposal should be numbered sequentially in Arabic numerals (1, 2, 3, etc.). Attachments should be numbered or referenced separately.

SECTION 2

EXECUTION OF OFFER

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

- 2.1** 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, 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 claims, actions, suits, demands, costs (including, but not limited to reasonable attorneys' fees), damages, and liabilities, 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.
 - 2.1.10 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.

- 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 affirms that no compensation has been received for its participation in the preparation of the requirements or specifications for this RFP, in accordance with Section 2155.004, *Government Code*.
- 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.: 750-08/09-12

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 and FAX Number)

(Email Address)

SECTION 3

PROPOSER'S GENERAL QUESTIONNAIRE

NOTICE: WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER 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 is it 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? Please provide confirmation. If requested by the University, the Proposer will provide a copy of the plan.

SECTION 4

ADDENDA CHECKLIST

Proposal of: _____
(Proposer Company Name)

To: The University of Texas at Tyler

Ref.: Services related to the collection of delinquent Federal Perkins loan accounts, delinquent Institutional loan accounts, and delinquent tuition bills

RFP No.: 750-08/09-12

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: _____

BROUGHT IN A COURT OF COMPETENT JURISDICTION OF THE STATE OF TEXAS IN SMITH COUNTY, TEXAS.

8. The Initial Term of this Contract shall commence on September 1, 2009 and expire on August 31, 2012. University will have the option to renew this Contract for up to four (4) additional one (1) year terms (each a "Renewal Term").

9. To the extent that Chapter 2260, Texas Government Code, is applicable to this Contract and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by the 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 the University shall examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims. The parties hereto specifically agree that (i) neither the execution of this Contract by the University nor any other conduct, action or inaction of any representative of the University relating to this Contract constitutes or is intended to constitute a waiver of the University's or the state's sovereign immunity to suit; and (ii) the University has not waived its right to seek redress in the courts.

10. By its signature below, Contractor certifies that it has the authority to do business in Texas and shall provide a Certificate evidencing same upon its execution of this Contract. Further, by its signature below, Contractor certifies that, to the best of its knowledge, it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the Texas Tax Code and there are no outstanding warrant holds in place against Contractor at the office of the Texas Comptroller of Public Accounts. Pursuant to Sections 2107.008 and 2252.903, Texas Government Code, Contractor further agrees that any payments owing to Contractor under this Contract 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.

11. Pursuant to Section 231.006, Texas Family Code, Contractor certifies that it is not ineligible to receive the award of or payments under this Contract and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate.

12. Pursuant to Section 2155.004, Texas Government Code, Contractor certifies that the individual or business entity named in this Contract is not ineligible to receive the award of or payments under this Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

13. Contractor covenants and agrees that as required by Section 2155.4441, *Texas Government Code*, in performing its duties and obligations under this Contract, 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.

14. Contractor certifies that it is currently in full compliance with the Gramm-Leach-Bliley Act (Title 15, Chapter 94, United States Code). Contractor will continually monitor its operations and take any action necessary to guarantee that the information it receives from the University (the "Information"), including social security numbers, is safeguarded appropriately per University policy (see UT System Administration Business Procedures Memorandum 66) and, if required, under the Standards for Safeguarding Customer Information, 16 C.F.R. Part 314, keeping in mind the objectives of §314.3(b). Contractor shall safeguard the Information, if and as required, using commercially reasonable administrative, physical and technical standards that are no less rigorous than the standards by which Contractor protects its own confidential information. Contractor agrees that it will only use or disclose the Information as permitted by this Contract, as required by law or as authorized in writing by the University. Contractor agrees to provide a summary of the safeguards in place at the request of University. Contractor will report to University if an impermissible disclosure of the Information occurs, within one business day of its discovery of the disclosure. Contractor will provide information as reasonably requested by University regarding the disclosure. If University determines that its Information is not appropriately protected by Contractor, University may terminate the Contract immediately. Contractor

agrees that, within 30 days of the conclusion of the Contract, all Information provided by University shall either be returned to University, with no copies retained by Contractor, or destroyed, if return is not feasible. Contractor will notify University prior to destruction of any of the Information. Contractor's obligation to protect the Information under this Paragraph shall extend beyond the term of the Contract, to the extent Contractor is unable to either return or destroy the Information. If Contractor releases the Information to a subcontractor or agent, Contractor will require the subcontractor or agent to comply with the provisions of this Paragraph the same as if it were the Contractor.

B. SPECIFICATIONS FOR COLLECTIONS

1. Contractor agrees to accept for collection, upon the terms and conditions prescribed in this Contract, all unpaid accounts that the University may choose to refer to the Contractor. The number and origin of these accounts and the means by which Contractor shall receive the accounts shall be determined solely by, and may be altered at the discretion of, the University. Additional University departments may refer accounts to the Contractor.

2. Contractor shall acknowledge to the Office of Student Business or any other office or entity designated in writing by the University, the receipt of all accounts referred to Contractor for collection. Contractor shall transmit this acknowledgment in a form acceptable to the University no later than seven (7) calendar days after accounts are referred to Contractor.

* 3. Contractor shall promptly undertake, through proper and lawful means, the collection of every account referred by the University without regard to the amount. Contractor agrees and warrants that all collection activities will be in conformity to existing federal, state or local laws and regulations. Contractor agrees to indemnify the University for any costs of whatever kind and nature incurred by the University as a result of any legal action against the University from the collection practices or methods of Contractor's officers, agents or employees.

4. Contractor shall implement thorough collection procedures in its attempt to achieve a maximum recovery of debts. Such procedures shall include telephone calls, mail efforts and skip tracing procedures whenever necessary.

* 5. Contractor acknowledges the privacy rights of debtors and shall not release information concerning the delinquent debtor to any credit bureau or other third parties without full compliance with all federal and state privacy laws and prior written approval from the University.

6. Contractor shall furnish to the Office of Student Business Services the reports itemized in Exhibit A. These reports shall be in a form acceptable to the University, shall include information required by the University, and be furnished at times prescribed by the University. The University requires that all reports submitted to the University list Student ID numbers as the University account number and not individual's social security numbers unless otherwise requested. However, website access shall include both Student ID and social security numbers since the website should be a secure site.

7. Payments received by Contractor shall be deposited in the University's Operating Account weekly. The Contractor shall provide a copy of said weekly deposit to the University along with a statement of collections received on each debtor's account. The Contractor shall provide a separate weekly report summarizing payment reversals, such as insufficient funds and error corrections, along with a refund to the University for any collection fee paid in association with these payments.

8. The following collection fees shall be the sole consideration paid to Contractor for its services under this Contract:

25% collection fee on the delinquent balance of each account collected without the filing of suit. To the extent allowed by the Debtor's signed agreement or as otherwise authorized by law, this collection fee is to be collected in addition to the balance due. The

percentage collection fee shall be based on the money actually collected which is past due and which is deposited in the University's bank account.

*The University shall not be liable to the Contractor for any costs, fees or expenses incurred by Contractor in the collection of accounts over and above the percentage commission allowed in Item B.8 above. THE CONTRACTOR WILL NOT BE AUTHORIZED TO FILE LAWSUITS ON BEHALF OF THE UNIVERSITY IN ORDER TO COLLECT ACCOUNTS. The University will be responsible only for the specified commission and no other expenses incurred by Contractor. Said commission fee shall be paid after weekly statements from Contractor are received and processed.

* 9. Contractor shall be responsible for ensuring that the accounts are updated to reflect the amount actually past due. Contractor shall return an account to the University as soon as the delinquency has been paid. Contractor shall exercise special care to ensure that the entire principal with interest and penalties assessed and collection fees, as authorized by the Debtor's signed agreement or as otherwise authorized by law, have been paid before informing the borrower or debtor that the debt is paid in full.

* 10. Contractor shall reimburse the University for any amount which becomes uncollectible or which is lost due to any act or omission of the Contractor or its officers, agents or employees. Such acts or omissions may include, but are not limited to, accepting a compromise settlement for less than the total amount due without authorization of the University, acknowledging that a payment constitutes payment in full when in fact the loan or account is not paid in full, and failing to immediately refer any Notice of Bankruptcy to the University.

* 11. Contractor agrees to suspend action either temporarily or permanently on any account referred for collection upon notification to do so by the University and to return accounts to the University upon request. Accounts referred to Contractor by University shall be returned to the University if there is no payment activity for four (4) consecutive calendar months since date of last transaction.

* 12. No collection fees shall be paid to Contractor on accounts which are referred for collection, but on which the University receives payment prior to any collection efforts being performed by Contractor.

* 13. No collection fee shall be paid to Contractor on accounts which are deferred, postponed or canceled.

* 14. Contractor shall not share in funds collected by the University as a result of exercise or enforcement by the University of any statutory rights (including but not limited to enforcement of hospital liens), its right to offset monies owed the debtor by the State of Texas or the University or its rights to hold the grades, degree or transcript or bar the readmission of the debtor. The University will notify Contractor of any monies received pursuant to exercise of these rights.

* 15. Any amounts received by Contractor which are in excess of that which is due and payable are overpayments and shall be forwarded in full to the University with an explanation that the amount is an overpayment. Contractor shall not be entitled to a collection fee for overpayments and shall not retain any portion of an overpayment.

16. Contractor agrees to promptly cancel and return to the University all accounts on which collection activity has ceased or accounts which are requested to be returned by the University. Contractor agrees to return accounts with a record of any contacts made with the borrower including current address, telephone number, and any other information that will aid in the future collection of the account. The transmission of such information is part of the service to the University that Contractor agrees to perform.

* 17. Contractor shall appoint at least one representative who will have primary responsibility and authority for the University's accounts.

* 18. Contractor will maintain records as they pertain to said accounts in such a manner as to be auditable by the University during normal business hours. University shall have the right to conduct such audits upon reasonable notice to Contractor. Contractor will not destroy any of the records and documents relating to University accounts until it has received written permission to do so from the University.

19. Contractor shall promptly respond to complaints or inquiries transmitted to Contractor by the University which arise out of Contractor's performance of this Contract.

20. Contractor shall be responsible for and shall protect the University from loss of any funds collected while the funds are in the custody of the Contractor. Contractor shall promptly transmit to the University all funds collected regardless of any such loss. Contractor shall maintain in force for the period of this Contract, and following its termination, for so long as the Contractor is engaged in collecting the University's accounts, a blanket performance bond in the amount of \$125,000, payable to the University of Texas (Component) to protect the University against any loss or failure of Contractor or any of its officers, employees or agents to transmit to the University for any reason the monies collected as required by this Contract. The bond shall be in a form and issued by a surety satisfactory to the University and shall require at least sixty (60) working days' advance written notice of cancellation to the University. These limits are minimum limits and Contractor shall increase the amount of the bond upon request of the University. Further, Contractor must maintain all coverage required under the terms of the RFP. The bond shall be in a form and issued by a surety satisfactory to the University and shall require at least sixty (60) working days' advance written notice of cancellation to the University. In addition, Contractor shall maintain insurance policies with an agency that maintains an "A" rating and is licensed in all states. At a minimum, the Contractor must maintain insurance in the following amounts: General Liability, \$2,000,000 aggregate, \$1,000,000 each occurrence; Excess Liability, \$2,000,000 aggregate, \$2,000,000 each occurrence; Errors and Omissions (Professional Liability), \$2,000,000; Employee Fidelity Bond, \$2,000,000.

* 21. Either party has the right to cancel this Contract upon thirty (30) days written notice to the other party. Upon notification of cancellation, Contractor must immediately cease all collection efforts on University accounts. Monies received by Contractor during the sixty (60) day period immediately following the cancellation date will be subject to the fee provisions of Paragraph B.8. All accounts shall be returned to the University within sixty (60) days of the cancellation of this Contract.

22. Upon the termination of the Contract, other than as provided in Paragraph B.21, Contractor shall return all accounts to the University and any collections received by the Contractor after such termination date shall be sent to the University without a fee charge.

23. All money received for an account after the date that the account was required to be returned to the University under any provision of this Contract shall be returned in full by Contractor to the University.

* 24. Should Contractor either fail or refuse to return an account to the University as required by any provision of this Contract, Contractor shall cease any further collection effort on the account and shall consider the account under the control of the University. Contractor shall be responsible for all costs, fees, and expenses incurred by the University in its efforts either in or out of court to obtain the return of accounts. Contractor shall also be responsible for any claims or damages which may arise from its failure or refusal to return accounts in a timely fashion.

25. Contractor, pursuant to Federal Regulation, agrees to comply with all applicable statutory provisions of or applicable to Title IV of the Higher Education Act of 1965, as amended and as set forth in 34 CFR §668.25.

ENTERED INTO THIS ____ DAY OF _____, 20__.

THE UNIVERSITY OF TEXAS
AT TYLER

COLLECTION AGENCY NAME

By: _____
Name _____
Title _____

By: _____
Name _____
Title _____

FORM APPROVED:
Office of General Counsel
The University of Texas System

By: _____
Traci L. Cotton, Attorney
Manager, Claims and Bankruptcy

OFFICE OF THE ATTORNEY GENERAL OF TEXAS

By _____
Ronald R. Del Vento
Assistant Attorney General
Chief, Bankruptcy & Collections Division

EXHIBIT A

At a minimum, the following reports must be submitted monthly:

1. A report detailing all active accounts (by name, Student ID, social security number, and amount)
2. A report detailing all amounts paid during the month
3. A schedule of aged accounts receivable for all active accounts

APPENDIX THREE

Access by Individuals with Disabilities

Contractor represents and warrants (the "EIR Accessibility Warranty") that the electronic and information resources and all associated information, documentation, and support that it provides to University under the Agreement (collectively, the "EIRs") comply with the applicable requirements set forth in Title 1, Chapter 213 of the *Texas Administrative Code* and Title 1, Chapter 206, Rule §206.70 of the *Texas Administrative Code* (as authorized by Chapter 2054, Subchapter M of the *Texas Government Code*.) To the extent Contractor becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants that it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Contractor fails or is unable to do so, then University may terminate the Agreement and Contractor will refund to University all amounts University has paid under the Agreement within thirty (30) days after the termination date.