

Exhibit 2



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

Request for Offer (RFO)
Live Audio and Video Streaming for State Board of Education
#701-16-009

Authorized by TEC, Title 2, Subtitle B, Chapter 7, Subchapter D, §7.106

<p>PROPOSAL DELIVERY LOCATION: Purchasing, Contracts and Agency Services Division Texas Education Agency 1701 N. Congress Avenue, Rm. 2-125 Austin, TX 78701-1494 (512) 463-9041</p>	<p>REFER INQUIRIES TO Debra Rosas TEAContracts@tea.texas.gov</p>
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WITHOUT EXCEPTION - RESPONSES MUST BE TIME AND DATE STAMPED BY THE TEA PURCHASING, CONTRACTS AND AGENCY SERVICES DIVISION OFFICE BEFORE

Tuesday, August 18, 2015, 2:00 P.M. CT

Pursuant to the Provisions of the Texas Government Code §§2156.121–2156.127, sealed responses will be received until the date and time established for receipt. After receipt, names, prices and other response details may only be divulged after award of a contract, if a contract is awarded. The award notice will be posted to the Electronic State Business Daily at <http://esbd.cpa.state.tx.us>.

All written requests for information will be communicated to all applicants known to TEA. All responses shall become the property of the State of Texas upon receipt. All responses must be delivered to the Texas Education Agency (TEA) Purchasing, Contracts and Agency Services (PCAS) Division as required by the instructions within this RFO. All addenda to and interpretation of this solicitation shall be in writing. The State shall not be legally bound by an addenda or interpretation that is not in writing.

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

NOTE: Failure to formalize the terms of the response by signing the 'Execution of Offer, Contract Terms and Conditions, Affirmations, and Proposal Preferences' will result in disqualification of the offer contained within the response. Respondents must indicate in writing and offer alternative language to any Contract Terms and Conditions that are not feasible with the submission of the response to this RFO. If a response is signed and submitted without including a specific identification of all Contract Terms and Conditions that are not feasible, TEA will not negotiate the Contract Terms and Conditions and reserves the right to commence negotiations with other Respondents.

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ATTACHMENTS

- A - Notice of Intent to Submit a Response
- B - Execution of Offer, Contract Terms and Conditions, Affirmation and Proposal Preferences
- C - HUB Subcontracting Plan (HSP)
- D - Suggested Format for Response Cover Page

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RFO #701-16-009
Live Audio and Video Streaming for State Board of Education

1. INTRODUCTION

The Texas Education Agency (TEA) is seeking offers from Vendors to provide webcasts of the State Board of Education (SBOE) meetings by streaming video live, for viewing in real time, or on-demand from archives in accordance with all requirements stated herein. The awarded Vendor will also need to provide staff to be on-site for equipment operation.

TEA will select a Vendor based on demonstrated overall experience, comparable work experience, knowledge, written and verbal communication skills, ability, and absence of disqualifying relationships or conflicts of interest, reasonableness of proposed fees, and references from past clients. Eligible Respondents include Vendors that have a current contract with the Department of Information Resources for Technology-Based Conferencing Services.

2. BACKGROUND

The State Board of Education (SBOE) sets policies and standards for Texas public schools. The board is made up of SBOE members elected from single-member districts (outside source). The SBOE is required to meet at least quarterly. Meetings are held on the second floor in the William B. Travis State Office Building in Austin, Texas. Each meeting, except for executive sessions restricted by law to specific topics, is open to the public.

Although policy decisions must be made by the full board, much of the detailed preliminary work is completed in committee sessions usually held on the Tuesday, Wednesday and Thursday preceding each SBOE meeting, which is held on Friday. There are three primary SBOE committees and one Ad Hoc Committee:

- a) Committee on Instruction - has primary responsibility for issues dealing with curriculum and instruction, student testing, special education programs, and alternatives to social promotion.
- b) Committee on School Finance/Permanent School Fund - has primary responsibility for the preliminary work on issues dealing with the Permanent School Fund and school finance.
- c) Committee on School Initiatives - deals with issues such as appointing board members to military reservation and special school districts and rules proposed by the State Board of Educator Certification.

3. SCOPE OF WORK

TEA is required to provide a live audio-video broadcast over the internet of each open meeting held by the SBOE and post archived video and audio files after each meeting on a website. The services include internet connectivity for streaming the meetings, a private dedicated data circuit to link the video server, software licenses necessary to operate the webcasting system, operation of the storage media for archiving and operation of the video server and web server. Although not required by state law, TEA intends to provide live streams of meetings of the State Board for Educator Certification, and charter applicant interviews. Additional meetings of the boards and TEA meetings could be added during the year.

Respondent shall provide an optional segment to the response for closed captioning and/or a transcript of the meetings. Respondent shall propose options, which could include real time transcription or closed captioning or transcriptions for archived video. Following are dates for meetings scheduled to occur during the contract period:

2015 SBOE Meetings:	September 8 – 11, 2015
	November 18 – 20, 2015

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2016 SBOE Meetings	January 27 – 29, 2016
	April 6 – 8, 2016
	July 20 – 22, 2016
	September 14 – 16, 2016
	November 16 – 18, 2016
2015 SBEC Meetings	December 11, 2015
2016 SBEC Meetings (tentative)	February 12, 2016
	April 15, 2016
	June 10, 2016
	August 5, 2016
	October 7, 2016
	December 9, 2016
Charter School Applicant Interviews	May 9 – 13, 2016

4. CONTRACTOR RESPONSIBILITIES

The responsibilities of the Contractor for the duration of the project are to:

- A. Install an internet live streaming (webcasting) service in rooms 1-100, 1-104, and 1-111 of the William B. Travis State Office Building.
- B. Livestream approximately forty-eight (48) meetings of the State Board of Education, State Board for Educator Certification or the Texas Education Agency annually. Each meeting is designated per room. Provide an estimated cost for meetings in excess of the approximate amount.
- C. The cost, maintenance and security of all the equipment and software will be the Contractor's responsibility. The equipment includes but is not limited to: pan-tilt zoom cameras, data circuits, editing boards and software.
- D. Multiple cameras are to be used in each meeting room. The largest room, room 1-104 requires a minimum of four cameras. Room 1-100 requires at least two cameras. Room 1-111 requires at least three cameras.
- E. Provide on-site staff to operate the equipment and facilitate technical and webcast clarity issues received from TEA staff. A minimum of two operators will be needed at times when three meetings are under way concurrently. Staff members will be advised that SBOE meetings frequently last longer than eight (8) hours per day.
- F. Prior to the meeting, the on-site operators will check camera focus, range capabilities, audio levels and feeds and will confirm functionality of associated equipment.
- G. Broadcast the livestream in high definition over the internet, across multiple platforms and to mobile devices including phones and tablets.
- H. The video feed for any meeting held in room 1-104 is to be broadcast over television monitors currently in the meeting room.

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- I. The livestream will be available for viewing on all current web browsers and mobile devices.
- J. Provide and host a website from which both live and archived video files can be accessed.
- K. Maintain online video archives of meetings for two years following the date of the meeting.
- L. The archives will contain individual video segments for each agenda item. TEA will provide an electronic version of the agenda to the Contractor.
- M. Provide technical support to TEA staff or its customers.
- N. Adequate bandwidth will be available to support reasonable access by the agency's staff and customers.
- O. Provide a system with redundant backup. If the live stream is interrupted, the meeting video will be restored for archival purposes using the redundant path.
- P. Before each meeting, the on-site operator will check camera focus and range capabilities, audio levels and feeds, and will confirm functionality of other equipment.
- Q. If an open records request requires reproduction of a video, the file will be produced at no additional cost to TEA or the requestor and will be produced in a format designated by TEA.

5. QUALIFICATION AND EXPERIENCE

Responses must include the following:

- A. The number of years Vendor has been providing live audio and video streaming services
- B. The Vendor's ownership structure
- C. The individual who has overall responsibility for operations by providing the following:
 - 1) Name, Title
 - 2) Physical Address, Email Address and Telephone Number
- D. The Vendor's usual process for interface with the client, including the chain of command within the organization
- E. The Vendor's quality control policies and procedures

If Vendor acquires technical services from separate entities, provide the following for each entity:

- A. Name of entity
- B. Type of service the entity provides and the number of years it has been providing such services

6. REPORTS AND MEETINGS

A kickoff meeting will be held at a location and time selected by TEA during which the selected Vendor and the assigned staff will be introduced to the TEA. The Vendor is required to provide emails or other reports that explain how technical problems for customers were resolved.

7. PERIOD OF PERFORMANCE

The term of any Contract resulting from this RFO will be from contract award until August 31, 2016. TEA, at its sole discretion, may extend the Contract pursuant to this RFO for up to three additional one-year terms under the same or negotiated terms subject to appropriation of funds by the Texas Legislature for this project and in accordance with the Vendor's contract with the Department of Information Resources. If the Contract is renewed, the first renewal period will be from September 1, 2016 – August 31, 2017.

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8. INVOICES

The awarded Vendor shall submit monthly invoices to TEA Accounts Payable by mail or email to TEAAccountsPayable@tea.texas.gov.

Texas Education Agency
Accounts Payable Division, Room 2-130
1701 N. Congress Ave
Austin, TX 78701-1494

9. RESPONDENT RESPONSE

9.1 Conflict of Interest

A Respondent will not be selected if it has a conflict of interest that will or may arise during the performance of its obligations under the contract. For this reason, Respondent's response to this RFO must disclose any existing or potential conflicts of interest or possible issues that might create appearances of impropriety relative to the submission of a response from Respondent and its proposed subcontractors, possible selection as successful Respondent, or its performance of the Contract.

As part of this disclosure requirement, each Respondent must include in its response all past and present contractual, business, financial, or personal relationships between Respondent and TEA and between Respondent's proposed subcontractors, if any, and TEA. For purposes of this disclosure requirement, (i) "past" is defined as within the two (2) calendar years prior to the deadline for submission of proposals in response to this RFO; (ii) TEA is defined as the statewide elected official who heads the agency as well as the agency's employees or recent former employees; and (iii) "recent former employees" are defined as those TEA employees who have terminated agency employment within the two (2) calendar years prior to the deadline for submission of proposals in response to this RFO. For each item, Respondent must provide a detailed explanation of why Respondent does or does not believe such item poses a conflict of interest, potential conflict of interest, or appearance of impropriety issue relative to Respondent's submission of a response, possible selection as Successful Respondent or its performance of the Contract.

For purposes of this RFO, "personal relationship" is defined as a current or past connection other than a clearly contractual, business, financial, or similar relationship and includes family relationships or other connections outside simply providing a response to this RFO. For this purpose, "family relationship" means a relationship within the third degree of consanguinity or second degree of affinity (see Chapter 573 of the Texas Government Code, which defines these degrees of consanguinity and affinity).

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

Respondent certifies that it is in compliance with Texas Government Code, Title 6, Subtitle B, Section 669.003, of the Government Code, relating to contracting with executive head of a state agency. If Section 669.003 applies, Respondent will complete the following information in order for the bid to be evaluated: Name of Former Executive, Name of State Agency, Date of Separation from State Agency, Position with Bidder, and Date of Employment with Bidder.

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If the circumstances certified by Respondent change or additional information is obtained subsequent to submission of responses, by submitting a response Respondent agrees that it is under a continuing duty to supplement its response under this provision and that the duty to disclose any conflicts of interest is an ongoing obligation throughout the term of the contract. Respondent shall submit updated information as soon as reasonably possible upon learning of any change to its affirmation

9.2 Family Educational Rights and Privacy Act (FERPA)

FERPA (20 U.S.C. § 1232g; 34 CFR Part 99) is a federal law that protects the privacy of student education records. The law applies to all schools that receive funds under applicable programs of the U.S. Department of Education. FERPA gives parents certain rights with respect to their children's education records. The rights transfer to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are "eligible students." FERPA outlines the circumstances in which schools are required to have written permission from a parent or eligible student in order to release information from a student's education record.

9.3 Response Format and Content

Responses must be written on 8 ½" × 11" paper and must be limited to fifty pages, not including appendices and attachments. Responses should be stapled in the top left corner or, if bound, may be bound in a 3-ring binder. Responses shall include a "Table of Contents" and give page numbers for each part of the qualifications. All pages of the response must be numbered sequentially. Responses must be submitted in a manner that does not carry any benefit, keepsake, or value for members of the review panel.

9.4 Response Cover Page

Response should include a cover page that clearly states the name of the firm or organization and the name, position, and telephone number of the Respondent's project administrator whom TEA may contact regarding the response.

9.5 Response Checklist

This checklist is to assist Respondents in ensuring that all information is included in their response. Respondents must refer to the appropriate section of the RFO for detailed information on the following:

- | | | |
|--------------------------|---|--------------|
| <input type="checkbox"/> | Response Cover Page | Attachment D |
| <input type="checkbox"/> | Understanding of the Project and Methodology | Sec. 10.1 |
| <input type="checkbox"/> | Management Plan | Sec. 10.2 |
| <input type="checkbox"/> | Qualifications and Experience | Sec. 5 |
| <input type="checkbox"/> | HUB Subcontracting Plan | Attachment C |
| <input type="checkbox"/> | Personnel Resources | Sec. 10.4 |
| <input type="checkbox"/> | Pricing Proposal | Sec. 11 |
| <input type="checkbox"/> | Execution of Offer, Contract Terms and Conditions | Attachment B |

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

10. RFO FORMAT AND CONTENT

10.1 Understanding of the Project and Methodology

The response must communicate an understanding in the areas of the project, describe the tasks to be performed, and identify potential problems in the conduct of the project and methods to identify and solve such problems.

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The Respondent must describe clearly, specifically, and as completely as possible, the methodology for carrying out the objectives and requirements of the project as described in this RFO. The response must describe the project activities, materials, and services. The Respondent must append technical evidence relating to its ability to perform the proposed services to the response. Failure to meet these conditions shall result in disqualification of response and the response shall receive no further consideration

10.2 Management Plan for the Project

Respondent must provide satisfactory evidence of capability to manage and coordinate the types of activities described in the RFO and to produce the specified product or service on time. To provide information on qualifications to accomplish the described tasks, Respondents must include in this section the following information:

- A. Structure of the organization
- B. Indications of the ability to perform the tasks described in the RFO
- C. Names of staff member(s) who will direct the overall project throughout the duration of the contract as well as those of staff members who will coordinate major activities during each phase of the contract, and the time allocations that the personnel described will devote to fulfillment of the contract

10.3 Subcontracts

Respondent must identify key partnerships and sub-contractors it intends to leverage for this project and specify the tasks and activities and the level of responsibility each will have with the project. Respondent must complete and identify any sub-contractors proposed to work on the project who are Historically Underutilized Businesses (HUBs) as defined in V.T.C.A., TX Govt. Code, §2161.001.

All Respondents must submit a HUB Subcontracting Plan (HSP) regardless of whether it is subcontracting or not. The HUB subcontracting goal for this procurement is 26.0% minority and/or woman-owned business participation. Failure to submit the HSP will result in disqualification of the response.

The HSP will be incorporated into the contract between the TEA and the awarded Contractor. Respondents are encouraged to collaborate with TEA to develop Mentor-Protégé opportunities. Under TAC Title 34, §20.14, a Respondent's participation in a Mentor-Protégé Program under TGC §2161.065 and the submission of a protégé as a subcontractor in the HUB Subcontracting Plan constitutes a good faith effort for the particular area to be subcontracted with the protégé.

The Respondent awarded the contract will be responsible for maintaining business records documenting compliance with HUB Program requirements. The awarded Contractor shall submit a Progress Assessment Report (PAR) monthly verifying compliance with the HSP, including the use of and expenditures made to its subcontractors (HUB and Non-HUBs). Submission of the PAR is a condition for payment. The selected Contractor shall also report all 2nd and 3rd Tier subcontracting in the monthly PAR. PARs are due no later than the 10th day of each month. The PAR is required to be submitted monthly, even if no activity occurred for the month. Reports shall be submitted electronically to the HUBOffice@tea.texas.gov.

10.4 Personnel Resources

An appendix to the response must contain résumés of project staff members. If the résumés include references, TEA will not consider the references in the review. In addition, the Respondent cannot list employees of TEA in the response as references. Respondent may list TEA employees in a memo transmitting the response, but not in the response. If the Respondent plans to use subcontractors, a staff organization and résumés of subcontractors must be included.

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Respondent must provide the following information for each of the skill sets they identify in the pricing table:

- A. Position title
- B. Job description for the position
- C. Description of the minimum education, certification and skill set and experience levels
- D. Estimated number of staff in position

Respondent must provide the following information on all personnel services:

- A. Description of each individual's experience
- B. Documentation of education and certification(s)
- C. Specific information on years of experience with accessibility and roles and responsibilities with projects of similar nature
- D. Specific information concerning roles and responsibilities, if any, on the required reference projects
- E. Proposed role and responsibilities on the project

11. PRICING

Vendor must detail the pricing for the services; below is a sample which should be modified as needed to provide a summary of assumptions and exclusions.

Sample Pricing Sheet

Task #	Task Name	Price

Respondents are required to provide hourly rates as a point of reference for TEA when evaluating the pricing submitted for the RFO. Below is a sample and Respondents should modify as needed and provide a summary of any assumptions and exclusions.

Pricing Sheet for Hourly Rates

Name	Hourly Rate	Number of Hours

12. RESPONSE SUBMISSION REQUIREMENTS

12.1 Response Submission, Date, and Time

Without exception – Response must be time and date stamped by TEA Purchasing, Contracts and Agency Services (PCAS) Division before

Tuesday, August 18, 2015, 2:00 P.M. CT

TEA's PCAS Division is open Monday through Friday, 8:00 A.M. to 5:00 P.M., Central Time, excluding State of Texas holidays. TEA will not consider responses PCAS receives after 2:00 P.M. CT on the closing date. PCAS is located on the 2nd floor of the William B. Travis Building. The mailing address is

Purchasing, Contracts and Agency Services Division, Room 2-125
Texas Education Agency
William B. Travis Building
1701 N. Congress Avenue
Austin, TX 78701-1494

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

TEA will not accept facsimile transmissions (FAX) of responses under any circumstances. Discovery of any false statement in the response is a material breach and shall void the submitted response or any resulting contracts and contractor may also be removed from all Vendor lists maintained by the State of Texas. Regardless of the method of submitting the response—United States Postal Service (USPS), United Parcel Service, Federal Express, or any other delivery service—the response must be received in TEA's PCAS Division by 2:00 P.M. CT on or before the closing date in order to be considered.

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

12.2 Number of Copies of Response

Respondents must submit the following number of copies:

- A. One signed original (clearly marked 'Original') of the complete response
- B. Five signed copies (clearly marked 'Copy') of the complete response

Paper responses must be bound in a 3-ring binder and the cover of the binder(s) must reference "RFO #701-16-009" and include the name and address of the Respondent. Photocopying is not available at TEA. TEA PCAS Division will not accept additions or replacements to the response after the closing date for receiving the responses.

12.3 Questions and Requests for Additional Information

In order to assure that no prospective Vendor may obtain a competitive advantage because of acquisition of information unknown to other prospective Vendors, TEA will provide any additional information that is different from or in addition to information provided in the RFO only in response to written inquiries. TEA will provide answers to all such inquiries and the written answers will be sent to every DIR Vendor selected to receive this solicitation.

Respondents must make all inquiries for information in writing (email or fax) to the attention of Debra Rosas, TEAContracts@tea.texas.gov, or to fax number (512) 475-1706.

12.4 Tentative Schedule of Events/Critical Dates

Date*	Event
Tuesday, July 28, 2015	Request for Offer posted on Electronic State Business Daily and sent to DIR Tele-Video Services Vendors
July 28 – August 7, 2015	Open period for questions
Monday, August 3, 2015	Respondent Conference
Tuesday, August 4, 2015	Notice of Intent Due
Friday, August 7, 2015	Deadline for Questions to TEA PCAS, by 10:00 A.M., CT
Monday, August 10, 2015	Questions and Answers Addendum
Tuesday, August 18, 2015	Response is due at TEA PCAS before 2:00 P.M., CT
August 18 – 25, 2015	Evaluation and Negotiations Process
Tuesday, September 1, 2015	Beginning date of contract and commencement of work

*It should be noted that all dates may vary slightly as conditions require.

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12.5 Respondent's Conference

The purpose of this conference will be to provide Respondent's an opportunity to walk-through the meeting rooms to view the layout and existing audio/video equipment, provide an overview of work to be performed under the contract, HUB requirements and address any questions. The conference is for informational purposes. The Respondent's Conference will be on Monday, August 3, 2015, from 2:00 P.M. until 3:00 P.M. in Rm.1-104 of the William B Travis Building, 1701 North Congress Ave, Austin, TX.

The conference is open to all potential Respondents and potential Subcontractors. Questions asked and answered will be in the presence of all attending. Each person attending will be required to sign the attendee register. Any answers furnished will not be official until verified in writing by TEA. The Q&A and conference attendee list will be posted to electronic state business daily at <http://esbd.cpa.state.tx.us/> and available to the public.

12.6 Standard Response Requirements

The Agency reserves the right to reject any and all responses and to negotiate portions thereof. TEA may not necessarily fund the selected responses for the full response price if the Agency determines that a different price is more appropriate. The pricing proposal submitted by the Respondent is subject to negotiation by the Texas Education Agency.

Texas Education Agency reserves the right to select the response containing the best value to the State and TEA. Respondent shall furnish such additional information that the Agency may reasonably require. Respondent must work with TEA staff to clarify the project activities and/or other products and modify these items if necessary.

12.7 State not Responsible for Preparation Costs

TEA will not be liable for any costs incurred in the preparation and submittal of a response.

12.8 Disclosure of Offer Content

After contract award, responses are subject to release under the Texas Government Code, Chapter 552, Public Information Act. Respondents must indicate on their response cover if their submission contains proprietary information. TEA recommends that Respondent's identify the specific sections within the response that it considers proprietary.

12.9 Review of Responses

Respondents receiving the most favorable ratings during the first round of selection may be requested to send a representative to Austin, Texas, at a time and place TEA will arrange for oral presentation of their responses. TEA will rate the responses again if oral presentations are made. The Evaluation Team shall consist of TEA staff knowledgeable in the content area.

TEA will notify each Respondent in writing of the selection or non-selection for award. TEA will destroy additional copies of responses not selected for award in accordance with the Agency's approved records retention policy. TEA will select responses based on the ability of each Respondent to carry out all of the requirements contained in this RFO. TEA will base its selection on, among other things, demonstrated competence and qualifications of the Respondent and on the reasonableness of the proposed cost.

TEA will apply the following criteria and the total number of points of each portion of the RFO in selecting the Contractor.

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Categories	Possible Points
A. Quality of Task/Activity: <ol style="list-style-type: none"> 1. Logical, credible, specific and clear description of details for carrying out project 2. Sufficient detail to provide evidence of satisfactory delivery of services 	70
B. Staffing and Personnel Qualifications: <ol style="list-style-type: none"> 1. Knowledge, skills and abilities of individual candidates as related to the RFO tasks 2. Experience of the Respondent as related to the RFO tasks 	40
C. Quality of Management Component: <ol style="list-style-type: none"> 1. The track record of the Vendor in performing similar projects successfully 2. Ability of Vendor to acquire quality staff and knowledgeable resources 3. Vendor's financial viability and stability 	30
D. Cost-Effectiveness	30
E. Familiar with the WCAG 2.0 AA Accessibility Guidelines	30
TOTAL	200

TEA determines weights based on the criticality of the particular factor to the selection process. TEA cautions Respondents not to minimize the importance of adequate responses in any area because it carries less weight than other areas.

TEA may develop a "short list" of qualified offers and may determine that the Respondent(s) should submit a Best and Final Offer (BAFO). TEA will give each "short-listed" Respondent a reasonable opportunity for discussion and revision of its offer. After receipt of the BAFO(s), TEA will re-evaluate all Respondents submitting a BAFO based on the Evaluation Criteria. TEA shall also give preference, among responses that are otherwise comparable, to a response submitted by a Texas certified HUB.

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ATTACHMENT A

NOTICE OF INTENT TO SUBMIT A RESPONSE

RFO #701-16-009

Live Audio and Video Streaming for State Board of Education

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

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

- Filing of this notice is not mandatory; however, it will assist the Texas Education Agency (TEA) in anticipating the volume of responses to better expedite the review process and finalize contract awards.
- The information from the Notice of intent may also be provided to HUB Contractors (if requested) to help establish subcontracting relationships for this solicitation as well as future solicitations with TEA.
- Filing this notice in no way binds the organization to submit a response for this RFO.
- Respondents who do not file this notice are still eligible to submit a response.

PLEASE SUBMIT THIS NOTICE BY E-MAIL OR FAX BY TUESDAY, AUGUST 4, 2015 TO

TEAContracts@tea.texas.gov

Texas Education Agency

Attention: Debra Rosas

Purchasing, Contracts and Agency Services (PCAS) Division

FAX (512) 475-1706

Execution of Offer**Contract Terms and Conditions, Affirmations, and Proposal References****A. Definitions as used in these Contract Terms and Conditions:**

- *Contract* means the entire document, and all of TEA's attachments, appendices, schedules (including but not limited to the Terms and Conditions and the Special Provisions), amendments and extensions of or to the Standard Contract.
- *Receiving Agency, Party, Owner or TEA* means the Texas Education Agency.
- *Proposer or Respondent* may be used interchangeably in the competitive solicitation. Contractor and Respondent infer pre RFP award status and Contractor infers to post RFP award status.
- *Contractor or Performing Agency* means the party or parties to this Contract other than TEA, including its or their officers, directors, employees, agents, representatives, consultants and subcontractors, and subcontractors' officers, directors, employees, agents, representatives and consultants.
- *Project Manager/Administrator* means the respective person(s) representing TEA or Contractor, as indicated by the Contract, for the purposes of administering the Contract Project.
- *Contract Project* means the purpose intended to be achieved through the Contract.
- *Amendment* means a Contract that is revised in any respect, and includes both the original Contract, and any subsequent amendments or extensions thereto.
- *Major Contract* means any contract over \$10 million cumulative over the life of the contract.
- *Works* means all tangible or intangible material, products, ideas, documents or works of authorship prepared or created by Contractor for or on behalf of TEA at any time after the beginning date of the Contract ("Works" includes but is not limited to computer software, data, information, images, illustrations, designs, graphics, drawings, educational materials, assessment forms, testing materials, logos, trademarks, patentable materials, etc.) this does not include any pre-existing materials of Contractor, or any licensed third party materials provided by Contractor.
- *Intellectual Property Rights* means the worldwide intangible legal rights or interests evidenced by or embodied in: (a) any idea, design, concept, method, process, technique, apparatus, invention, discovery, or improvement, including any patents, trade secrets, and know-how; (b) any work of authorship, including any copyrights, moral rights or neighboring rights; (c) any trademark, service mark, trade dress, trade name, or other indicia of source or origin; (d) domain name registrations; and (e) any other similar rights. The Intellectual Property Rights of a party include all worldwide intangible legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.

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

C. Indemnification:Acts or Omissions

Contractor shall indemnify and hold harmless the State of Texas and the Texas Education Agency, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Contractor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND TEA AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

Infringements

- 1) Contractor shall indemnify and hold harmless the State of Texas and the Texas Education Agency, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT. CONTRACTOR AND TEA AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

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- 2) Contractor shall have no liability under this section if the alleged infringement is caused in whole or in part by (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Contractor's written approval, (iii) any modifications made to the product by the Contractor pursuant to TEA's specific instructions, (iv) any intellectual property right owned by or licensed to TEA, or (v) any use of the product or service by TEA that is not in conformity with the terms of any applicable license agreement.
- 3) If Contractor becomes aware of an actual or potential claim, or TEA provides Contractor with notice of an actual or potential claim, Contractor may (or in the case of an injunction against TEA, shall), at Contractor's sole option and expense (i) procure for the TEA the right to continue to use the affected portion of the product or service or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that TEA's use is non-infringing.

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

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

- D. **Subcontracting and Substitutions:** Contractor shall not assign, transfer or subcontract any of its rights or responsibilities under this Contract without prior formal written amendment to this Contract properly executed by both TEA and Contractor. TEA reserves the right to request changes in personnel assigned to the project. The TEA Project Manager must pre-approve any changes in key personnel throughout the contract term. Any changes to the HUB Subcontracting Plan (HSP) must be approved by the Agency HUB Coordinator before staffing changes are initiated. Substitutions are not permitted without written approval of the TEA Project Manager.
- E. **Encumbrances/Obligations:** All encumbrances, accounts payable, and expenditures shall occur on or between the beginning and ending dates of this Contract. All goods must have been received and all services rendered during the Contract period in order for Contractor to recover funds due. In no manner shall encumbrances be considered or reflected as accounts payable or as expenditures.
- F. **Contractor's Proposal:** Contractor's proposal that was furnished to TEA in response to a Request for Proposal is incorporated in this Contract by reference. The provisions of this Contract shall prevail, however, in all cases of conflict arising from the terms of Contractor's proposal whether such proposal is a written part of this Contract or is attached as a separate document.
- G. **Requirements, Terms, Conditions, and Assurances:** The terms, conditions, and assurances, which are stated in the Request for Proposal, in response to which Contractor submitted a proposal, are incorporated herein by reference for all purposes, although the current Terms and Conditions shall prevail in the event of conflict.
- H. **Records Retention and the Right to Audit:** Contractor shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Contractor in connection with the Contract Project. These records and accounts shall be retained by Contractor and made available for programmatic or financial audit by TEA and by others authorized by law or regulation to make such an audit for a period of not less than seven (7) years from the date of completion of the Contract Project or the date of the receipt by TEA of Contractor's final claim for payment or final expenditure report in connection with this Contract, whichever is later. If an audit has been announced, the records shall be retained until such audit has been completed.

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

Contractor further agrees that acceptance of funds under this contract acts as acceptance for TEA to conduct an audit or investigation in connection with those funds. Contractor, subcontractors, and any entities receiving funds through this contract shall cooperate fully with TEA in the conduct of the audit or investigation, including providing all records pertaining to this contract that are requested.

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

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

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

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

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

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

- J. **Time Delays; Suspension; Sanctions for Failure to Perform; Noncompliance:** Time is of the Essence. Contractor's timely performance is essential to this Contract.

Suspension

If this Contract is suspended by TEA prior to its expiration date, the reasonable monetary value of services properly performed by Contractor pursuant to this Contract prior to suspension shall be determined by TEA and paid to Contractor as soon as reasonably possible. TEA shall not be required to pay any standby hourly rates during a suspension of Work, if TEA suspends performance of the Work because the Work is defective, or Contractor fails to supply sufficiently skilled workers or suitable materials or equipment, or fails to provide required insurance coverage, or fails to furnish or perform the Work in such a way that the completed Work will conform to this Contract.

Exhibit 2

Sanctions

If Contractor, in TEA's sole determination, fails or refuses for any reason to comply with or perform any of its obligations under this Contract, TEA may impose such sanctions as it may deem appropriate. This includes but is not limited to the withholding of payments to Contractor until Contractor complies; the cancellation, termination, or suspension of this Contract in whole or in part; and the seeking of other remedies as may be provided by this Contract or by law. Any cancellation, termination, or suspension of this Contract, if imposed, shall become effective at the close of business on the day of Contractor's receipt of written notice thereof from TEA.

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

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

- a. Date and time of sanitization/destruction
- b. Description of the item(s) and serial number(s) if applicable
- c. Inventory number(s)
- d. Procedures and tools used for sanitization/destruction

No later than sixty (60) days from contract expiration or termination or as otherwise specified in this Contract, Contractor must complete the sanitization and destruction of the data and provide to Comptroller all sanitization documentation.

Access to Internal TEA Network and Systems

As a condition of gaining remote access to any internal TEA network and systems, Contractor must comply with TEA's policies and procedures. TEA's remote access request procedures will require Contractor to submit TEA Applicable Access Request forms for TEA's review and approval. Remote access technologies provided by Contractor must be approved by TEA's Information Security Officer. TEA, in its sole discretion, may deny network or system access to any individual that does not complete the required forms. Contractor must secure its own connected systems in a manner consistent with TEA's requirements. TEA reserves the right to audit the security measures in effect on Contractor's connected systems without prior warning. TEA also reserves the right to immediately terminate network and system connections not meeting such requirements.

Disclosure of Security Breach

Contractor shall provide notice to TEA's Project Manager and TEA's Information Security Officer as soon as possible following Contractor's discovery or reasonable belief that there has been unauthorized use, exposure, access, disclosure, compromise, modification, or loss of sensitive or confidential Comptroller information ("Security Incident"). Within twenty-four (24) hours of the discovery or reasonable belief of a Security Incident, Contractor shall provide a written report to TEA's Information Security Officer detailing the circumstances of the incident which includes, at a minimum, the following:

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

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

- (1) Who is known or suspected to have gained unauthorized access to TEA information

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- (2) Whether there is any knowledge if TEA information has been abused or compromised
- (3) What additional steps Contractor has taken or will take to investigate the Security Incident
- (4) What steps Contractor has taken or will take to mitigate any negative effect of the Security Incident
- (5) What corrective action Contractor has taken or will take to prevent future similar unauthorized use or disclosure

Contractor shall confer with TEA's Chief Information Security Officer regarding the proper course of the investigation and risk mitigation. TEA reserves the right to conduct an independent investigation of any Security Incident, and should TEA choose to do so, Contractor shall cooperate fully by making resources, personnel, and systems access available to TEA and TEA's authorized representative(s). Subject to review and approval of TEA's Information Security Officer, Contractor, at its own cost, shall provide notice that satisfies the requirements of applicable law to individuals whose personal, confidential, or privileged data were compromised or likely compromised as a result of the Security Incident. If TEA, in its sole discretion, elects to send its own separate notice, then all costs associated with preparing and providing notice shall be reimbursed to TEA by Contractor. If Contractor does not reimburse such costs within thirty (30) days of TEA's written request, then TEA shall have the right to collect such costs.

- L. Refunds Due to TEA:** If TEA determines that TEA is due a refund of money paid to Contractor pursuant to this Contract, Contractor shall pay the money due to TEA within thirty (30) days of Contractor's receipt of written notice that such money is due to TEA. If Contractor fails to make timely payment, TEA may obtain such money from Contractor by any means permitted by law, including but not limited to offset, counterclaim, cancellation, termination, suspension, total withholding, and/or disapproval of all or any subsequent applications for said funds.
- M. Capital Outlay:** If Contractor purchases capital outlay (furniture and/or equipment) to accomplish the Contract Project, title will remain with Contractor for the period of the Contract. TEA reserves the right to transfer capital outlay items for Contract noncompliance during the Contract period or as needed after the ending date of the Contract. This provision applies to any and all furniture and/or equipment regardless of unit price and how the item is classified in Contractor's accounting record. This provision is applicable when federal funds are utilized for the Contract.
- N. TEA Property (terms):** In the event of loss, damage or destruction of any property owned by or loaned by TEA while in the custody or control of Contractor, Contractor shall indemnify TEA and pay to TEA the full value of or the full cost of repair or replacement of such property, whichever is the greater, within thirty (30) days of Contractor's receipt of written notice of TEA's determination of the amount due. This applies whether the property is developed or purchased by Contractor pursuant to this Contract or is provided by TEA to Contractor for use in the Contract Project. If Contractor fails to make timely payment, TEA may obtain such money from Contractor by any means permitted by law, including but not limited to offset or counterclaim against any money otherwise due to Contractor by TEA.
- O. State of Texas Laws:** In the conduct of the Contract Project, Contractor shall be subject to laws or rules of the State of Texas pertaining to and or governing this Contract and the Contract Project. This Contract constitutes the entire agreement between TEA and Contractor for the accomplishment of the Contract Project. This Contract shall be interpreted according to the laws of the State of Texas except as may be otherwise provided for in this Contract.
- P. Federal Regulations Applicable to All Federally Funded Contracts:** The Code of Federal Regulations (CFR) annual edition is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government produced by the Office of the Federal Register (OFR) and the Government Publishing Office. Website: http://www.ecfr.gov/cgi-bin/text-idx?SID=6214841a79953f26c5c230d72d6b70a1&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl
- Q. Federal Rules, Laws, and Regulations That Apply to all Federal Programs:** Contractor shall be subject to and shall abide by all federal laws, rules, and regulations, pertaining to the Contract Project, including, but not limited to the following:
1. Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. sec. 12101, and the regulations effectuating its provisions contained in 28 CFR Parts 35 and 36, 29 CFR Part 1630, and 47 CFR Parts 0 and 64
 2. Title VI of the Civil Rights Act of 1964, as amended (prohibition of discrimination by race, color, or national origin), and the regulations effectuating its provisions contained in 34 CFR Part 100
 3. Title IX of the Education Amendments 1972, as amended (prohibition of sex discrimination in educational institutions) and the regulations effectuating its provisions contained in 34 CFR Part 106, if Contractor is an educational institution
 4. Section 504 of the Rehabilitation Act of 1973, as amended (nondiscrimination on the basis of handicapping condition), and the regulations effectuating its provisions contained in 34 CFR Parts 104 and 105

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5. The Age Discrimination Act of 1975, as amended (prohibition of discrimination on basis of age), and the implementing regulations contained in 34 CFR, Part 110
6. Family Educational Rights and Privacy Act of 1975, as amended, and the implementing regulations contained in 34 CFR, Part 99, if Contractor is an educational institution
7. Section 509 of H.R. 5233 as incorporated by reference in P.L. 99-500 and P.L. 99-591 (prohibition against the use of federal grant funds to influence legislation pending before Congress)
8. P.L. 103-227, Title X, Miscellaneous Provisions of the GOALS 2000: Educate America Act; P.L. 103-382, Title XIV, Terms and Conditions of the Elementary and Secondary Education Act, as amended
9. General Education Provisions Act, as amended

R. Point of Contact and Escalation: All notices, reports and correspondence required by this Contract shall be in writing and delivered to the TEA Project Manager listed below or his/her successors in office. Within thirty (30) days of execution of a contract, the respective Parties will designate the next level of personnel within each organization to address conflicts or ambiguity that cannot be resolved at the Project Manager level.

TEA
Debbie Ratcliffe
Division of Communications
Texas Education Agency
William B. Travis Building
1701 N. Congress Avenue
Austin, Texas 78701

CONTRACTOR

S. Forms, Assurances, and Reports: Contractor shall timely make and file with the proper authorities all forms, assurances and reports required by federal laws and regulations. TEA shall be responsible for reporting to the proper authorities any failure by Contractor to comply with the foregoing laws and regulations coming to TEA's attention, and may deny payment or recover payments made by TEA to Contractor in the event of Contractor's failure so to comply. Contractor who is indebted or owes delinquent taxes to the state will have any payments under the Contract applied toward the debt or delinquent taxes owed the state until the account is paid in full, regardless of when the debt or delinquency was incurred. This provision does not apply if the warrant or transfer results in payments being made in whole or in part with money paid to the state by the Federal Government. Pursuant to 34 TAC 201.14 -18 and TGC 2161, Contractors shall maintain business records documenting compliance with the HUB subcontracting plan (HSP) and shall submit a compliance report to the contracting agency monthly, in the format required by the Agency. The compliance report submission shall be required as a condition for payment. If the Contractor subcontracts any part of the contract in a manner that is not consistent with its HUB subcontracting plan, the selected respondent must submit a revised HUB subcontracting plan before subcontracting any of the work under the contract.

If the Contractor subcontracts any of the work without prior authorization and without complying with this section, the Contractor is deemed to have breached the contract and is subject to any remedial actions provided by Government Code, Chapter 2161, and other applicable state law.

T. Signature Authority; Final Expression; Superseding Document: Contractor certifies that the person signing this Contract has been properly delegated this authority. The Contract represents the final and complete expression of the terms of agreement between the parties. The Contract supersedes any previous understandings or negotiations between the parties. Any representations, oral statements, promises or warranties that differ from the Contract shall have no force or effect. The Contract may be modified, amended or extended only by formal written amendment properly executed by both TEA and Contractor.

U. Antitrust: By signing this Contract, Contractor, represents and warrants that neither Contractor nor any firm, corporation, partnership, or institution represented by Contractor, or anyone acting for such firm, corporation or institution has, (1) violated the antitrust laws of the State of Texas under Tex. Bus. & Com. Code, Chapter 15, or the federal antitrust laws; or (2) communicated directly or indirectly the Proposal to any competitor or any other person engaged in such line of business during the procurement process for this Contract.

V. Family Code Applicability: By signing this Contract, Contractor, if other than a state Party, certifies that under Section 231.006, Family Code, that Contractor is not ineligible to receive specified grant, loan, or payment under this Contract and acknowledges that this Contract may be terminated and payment may be withheld if this certification is inaccurate. TEA reserves the right to terminate this Contract if Contractor is found to be ineligible to receive payment. If Contractor is found to be ineligible to receive payment and the Contract is terminated, Contractor is liable to TEA for attorney's fees, the costs necessary to complete the Contract, including the cost of advertising and awarding a second contract, and any other damages or relief provided by law or equity.

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- W. Dispute Resolution:** The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by TEA and Contractor to attempt to resolve all disputes arising under this Contract. The parties may agree to mediation of their dispute at any time. However, if all issues in dispute are not completely resolved through direct negotiations between the parties within 180 days after the Agency receives Contractor's notice of claim, then the parties must submit the dispute to mediation before a mutually acceptable mediator in Travis County, Texas. The mediation must be completed on or before 270 days after the Agency receives Contractor's notice of claim. Completion of the mediation is a condition precedent to the filing of a contested case hearing under Chapter 2260. The Agency's participation in mediation or any other dispute resolution process shall not waive any of the Agency's contractual or legal rights and remedies, including but not limited to sovereign immunity.
- X. Interpretation:** In the case of conflicts arising in the interpretation of wording and/or meaning of various sections, parts, Appendices, Terms and Conditions, Special Provisions, Exhibits, and Attachments or other documents, the TEA Contract and its Terms and Conditions, Appendices and Special Provisions shall take precedence over all other documents which are a part of this Contract.
- Y. Education Service Center:** No funds transferred to regional education service centers or to school districts may be used to hire a registered lobbyist.
- Z. Compliance with Laws:** Contractor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting Contractor's performance, including if applicable, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment and licensing laws and regulations. For the entire duration of the Contract, Contractor shall maintain all required licenses, certifications, permits, and any other documentation necessary to perform this Contract. When required or requested by the Agency, Contractor shall furnish TEA with satisfactory proof of its compliance with this provision.
- AA. Public Information:** The TEA is subject to the provisions of the Texas Public Information Act. If a request for disclosure of this Contract or any information related to the goods or services provided under the Contract or information provided to the TEA under this Contract constituting a record under the Act is received by the TEA, the information must qualify for an exception provided by the Texas Public Information Act in order to be withheld from public disclosure. Contractor authorizes the TEA to submit any information contained in the Contract, provided under the Contract, or otherwise requested to be disclosed, including information Contractor has labeled as confidential proprietary information, to the Office of the Attorney General for a determination as to whether any such information may be exempt from public disclosure under the Act. If the TEA does not have a good faith belief that information may be subject to an exception to disclosure, the TEA is not obligating itself by this Contract to submit the information to the Attorney General. It shall be the responsibility of the Contractor to make any legal argument to the Attorney General or appropriate court of law regarding the exception of the information in question from disclosure. The Contractor waives any claim against and releases from liability the TEA, its officers, employees, agents, and attorneys with respect to disclosure of information provided under or in this Contract or otherwise created, assembled, maintained, or held by the Contractor and determined by the Attorney General or a court of law to be subject to disclosure under the Texas Public Information Act.
- Contractor is required to make any information created or exchanged with the state pursuant to this Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state. The TEA Project Manager will provide the specific format by which the Contractor is required to make the information accessible by the public.
- BB. Gratuities:** By signing this Contract, Contractor represents and warrants that the Contractor has not given, offer to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response.
- CC. Venue and Jurisdiction:** Subject to and without waiving any of the Agency's rights, including sovereign immunity, this Contract is governed by and construed under and in accordance with the laws of the State of Texas. Venue for any suit concerning this solicitation and any resulting contract or purchase order shall be in a court of competent jurisdiction in Travis County, Texas.
- DD. Protests:** Any actual or prospective Bidder, Respondent, or Contractor who is aggrieved in connection with the solicitation, evaluation, or award of this or any other contract by the TEA may submit a formal protest to the Director of the Agency's Contracts and Purchasing Division. This protest procedure shall be the exclusive method by which anyone may make a challenge to any aspect of the Agency's contracting process. The Agency will not be required to consider the merits of any protest unless the written protest is submitted within ten (10) working days after such aggrieved person knows, or reasonably should have known, of the occurrence of the action which is protested. The protest document must meet with all requirements in applicable law and Agency's rules (Title 19 of the Texas Administrative Code at § 30.2002) <http://ritter.tea.state.tx.us/rules/tac/index.html>.

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

- EE. Liability for and Payment of Taxes:** Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Contractor or its employees. TEA shall not be liable for any taxes resulting from this Contract.
- FF. Severability:** In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, the invalid provision will be deemed severable and stricken from the Contract as if it had never been incorporated herein. The remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.
- GG. Conformance:** The Contractor warrants that all goods and services furnished shall conform in all respects to the terms of this Contract, including any drawings, specifications or standards incorporated herein, and any defects in materials, workmanship, and free from such defects in design. In addition, Contractor warrants that goods and services are suitable for and will perform in accordance with the purposes for which they are intended.
- HH. Felony Criminal Convictions:** Contractor represents and warrants that Contractor has not and Contractor's employees assigned to TEA projects have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Contractor has fully advised TEA as to the facts and circumstances surrounding the conviction.
- II. Criminal Background Checks:** If during the term of this Contract, Contractor, and/or Contractor staff, or subcontractor have access to Texas public school campuses, all Contractor and/or Contractor's staff must submit to a national criminal history record information review (includes fingerprinting) and meet all eligibility standards and criteria as set by Agency before serving in assignments on behalf of the Agency. This requirement applies to all individuals who currently serve or will serve in Agency assignments that have the possibility of direct contact with students. Assignments are contingent upon meeting Agency eligibility standards. Contractor and/or any staff member of Contractor who may perform services under this contract must complete this criminal history review before the beginning of an assignment. If said individuals have not completed this requirement or the review results in a determination that Contractor is not eligible for assignment, this contract will be terminated effective immediately or the date of notice of non-eligibility, whichever is earliest.
- JJ. Assignment of Contract:** This Contract may not be assigned, sold, or transferred without the express written consent of the TEA Purchasing, Contracts, and Agency Services (PCAS) Division. An attempted assignment after Contract award without the TEA approval will constitute a material breach of contract.
- KK. Buy Texas:** In accordance with Government Code, Section 2155.444, the State of Texas requires that during the performance of a contract for services, Contractor shall purchase products and materials produced in the State of Texas when available at a price and time comparable to products and materials produced outside the state. This provision does not apply if Contractor receives any federal funds under this Contract.
- LL. Excluded Parties List System:** The Texas Education Agency and the Contractor must adhere to the directions provided in the President's Executive Order (EO) 13224, Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, which may be viewed at <http://www.whitehouse.gov/briefing-room/presidential-actions/executive-orders>. That Executive Order prohibits any transaction or dealing by United States persons, including but not limited to the making or receiving of any contribution of funds, goods, or services to or for the benefit of those persons listed in the General Services Administration's Excluded Parties List System (EPLS) which may be viewed on the System for Award Management (SAM) site at <http://www.sam.gov>.
- MM. Suspension and Debarment:** Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntary excluded from participation in this transaction by any federal, state or local government entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement. If Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this contract.
- NN. Electronic and Information Resources Accessibility Standards and Reporting:** State agencies shall procure products which comply with the State of Texas Accessibility requirements for Electronic Information Resources specified in 1TAC Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.
- Section 508 of the US Rehabilitation Act of 1973 has been revised and adopted. Therefore, all current and potential Contractors are hereby notified of the requirement. The current technical requirements for accessibility contained within this regulation form the basis for our Texas TAC rules on EIR Accessibility.

Exhibit 2

This refresh of 508 uses the [WCAG 2.0 AA Accessibility Guidelines](#) (also ISO/IEC standard 40500) as the new technical standard that Federal agencies are now required to meet when procuring products and services. With the adoption of 508 requirements being adopted, DIR will be modifying the TAC rules to synchronize with it.

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

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

Web development Contractors should already be familiar with designing to this standard, and their ability to meet these standards should be a strong consideration in the selection process. The free online resources listed below are available to assist developers and content producers in transitioning to these guidelines.

[WCAG 2.0 at a glance](#)

[IBM Developer Guidelines Web Checklist](#)

[Webaim.org Accessibility Checklist](#)

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

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

- OO. Collusion:** Contractor certifies and represents that Contractor has not colluded with, nor received any assistance from, any person who was paid by TEA to prepare specifications or a solicitation on which a Contractor's bid or proposal is based and will not allow any person who prepared the respective specifications or solicitation to participate financially in any contract award.
- PP. Social Security Numbers Withheld:** TEA will not provide Social Security Numbers (SSNs) to any Contractor under this contract unless specifically specified as part of the project requirements. TEA, its Contractors and their subcontractors, will not require or request school districts to provide SSNs under this contract. Contractor agrees that in executing tasks on behalf of the TEA, they will not use any student-identifying information in any way that violates the provisions of FERPA, and will destroy or return all student-identifying information to TEA within thirty (30) days of project completion. An authorized officer of the company must certify that ALL records have either been properly destroyed or returned to the Agency in order to close out the Contract.
- QQ. Proprietary; Confidential Information; Nondisclosure; Press Releases:** All information gathered, produced, derived, obtained, analyzed, controlled or Accessed by Contractor in connection with a contract resulting from this RFP ("Confidential Information") shall be and remain Confidential Information and shall not be released or disclosed by Contractor without the prior written consent of the TEA, which consent must specifically identify the Confidential Information to be disclosed by Contractor and the nature of the disclosure for which consent is sought. Contractor, its employees and subcontractors, agree that in executing tasks on behalf of the TEA, they will not use any student-identifying information in any way that violates the provisions of FERPA, and will destroy or return all student-identifying information within thirty (30) days of project completion. Contractor also agrees not to disclose any information to which it is privy under this Contract without the prior consent of the agency. Contractor will indemnify and hold harmless the State of Texas, its officers and employees, and TEA, its officers and employees for any claims or damages that arise from the disclosure by Contractor or its Contractors of information held by the State of Texas.
- Except when defined as part of the Work under this Contract, Contractor will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor in connection with the Project, or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of TEA.
- RR. Independent Contractor:** Contractor shall serve as an independent Contractor in providing services under this Contract. Contractor's employees are not and shall not be construed as employees or agents of the State of Texas.

Exhibit 2

SS. Contractor Performance: All state agencies must report unsatisfactory Contractor performance on purchases over \$25,000. Contractors who are in default or otherwise not in good standing under any other current or prior contract with TEA at the time of selection will not be eligible for award of this contract. A Contractor's past performance will be measured based upon pass/fail criteria, in compliance with applicable provisions of §§2155.074, 2155.075, 2156.007, 2157.003, and 2157.125, Gov't Code. Contractor's may fail this selection criterion for any of the following conditions: A score of less than 90% in the Contractor Performance System, currently under a Corrective Action Plan, having repeated negative Contractor performance reports for the same reason, having purchase orders that have been cancelled in the previous 12 months for non-performance (i.e. late delivery, etc.). TEA may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Contractor Performance Tracking System (as authorized by 34 Texas Administrative Code §20.108), TEA may examine other sources of Contractor performance including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Any such investigations shall be at the sole discretion of TEA, and any negative findings, as determined by TEA, may result in non-award to the Contractor.

Agencies report satisfactory and exceptional Contractor performance to assist in determining best value. In accordance with Texas Government Code, §2155.074 and §2155.75, Contractor performance may be used as a factor in future contract award. Contractor performance information is located on the CPA website at http://www.cpa.state.tx.us/procurement/prog/vendor_performance/.

TT. Termination: This Contract shall terminate upon full performance of all requirements contained in this Contract, unless otherwise extended or renewed as provided in accordance with the Contract terms and conditions.

1. **Termination for Convenience:** TEA may terminate this Contract at any time, in whole or in part, without penalty, by providing fifteen (15) calendar days advance written notice to the other Party. In the event of such a termination, the Contractor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TEA shall be liable for reimbursing only those expenses incurred by the Contractor that are permitted, properly performed under this Contract and were incurred prior to the effective termination date.
2. **Termination for Cause/Default:** If the Contractor fails to provide the goods or services contracted for according to the provisions of the Contract, or fails to comply with any of the terms or conditions of the Contract, TEA may, upon written notice of default to the Contractor, immediately terminate all or any part of the Contract. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law or under the Contract.

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

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

3. **Termination Due to Changes in Law:** If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either Party cannot reasonably fulfill this Contract and if the Parties cannot agree to an amendment that would enable substantial continuation of the Contract, the Parties shall be discharged from any further obligations under this Contract.
4. **Rights upon Termination or Expiration of Contract:** In the event that the Contract is terminated for any reason, or upon its expiration, TEA shall retain ownership of all associated work products and documentation obtained from the Contractor under the Contract.
5. **Survival of Terms:** Termination of the Contract for any reason shall not release the Contractor from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.
6. **Contract Transition:** In the event a subsequent competitive solicitation is awarded to a New Contractor, the Outgoing Contractor shall hand-over to the New Contractor all "Works" including but not limited to the following: data, materials, database access, intellectual property, source code, training materials, access to websites, asset transfer, and maintenance of service commitments. The purpose of transition planning is to ensure a seamless and continuous service when changing from one contract to another. The Outgoing Contractor will begin shipping, transmitting or providing access to all appropriate materials and data to the New Contractor within 10 days of announcement of award at the New Contractor's expense for data processing and production, packing and shipping. The Outgoing Contractor will be responsible for providing the services identified in the Contract until all records have

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been completely transferred to the New Contractor. The Outgoing Contractor is responsible for performing due diligence to ensure that all the transition activities are identified and completed during the Contract Transition.

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

UU. Amendments: All Amendments to this Contract will be in a manner as prescribed by the Agency Contracting Process and are, subject to Paragraph B of the Terms and Conditions and will be made on AMENDMENT TO TEXAS EDUCATION AGENCY STANDARD CONTRACT form. All Amendments will be initiated by the TEA Contracts staff. An Amendment to this Contract will become effective on the date of signature of TEA or the effective date shown on the Amendment document whichever is first.

If the initial major contract (defined as expected value of \$10M or more) solicitation document submitted to the CPA Contract Advisory Team (CAT) changes substantially, agencies are required to resubmit their solicitation documents(s) for CAT review. Changes in the major contract solicitation are considered substantial when: 1) the solicitation change caused the estimated value for the original term of the contract, not including renewal periods, to increase by 25% or more; 2) or there are significant revisions, deletions and/or additions to the specifications, statement of work (SOW), set(s) of deliverables, performance measures, payment methodology, etc.

1. The Contractor is permitted to re-budget among direct cost categories within the approved budget to meet unanticipated requirements and to make limited changes to the approved budget without the issuance of a written Amendment as long as the total budget amount does not change. However, a revised budget document must be preapproved by the TEA Project Manager before the making the changes. Once approved, the documents must be submitted to the Contracts office for incorporation into the Contract file. Failure to submit the budget documents will result in invoices being rejected or payment delayed.
2. Written Amendments are required for the following Contract changes:
 - a. Any revision which would result in the need for additional funding
 - b. Any revision to the scope of work, deliverables, or objectives of the Contract (regardless of whether there is an associated budget revision requiring prior approval) additionally increases of 25% or more for Major Contracts must be approved by the Comptroller
 - c. A request to extend the period of the Contract
 - d. Cumulative transfers among direct cost categories which exceed or are expected to exceed 25 percent of the current total approved budget category
 - e. Any reduction of funds or reduction in the scope of work
 - f. Whenever a line item within a class/object code is added
 - g. An increase in the quantity of capital outlay item(s) requested
 - h. An increase or decrease in the number of positions charged to Contract

All Amendments must be signed by both parties.

VV. Payment: Payment for goods or services purchased with appropriated funds will be issued by electronic Direct Deposit from the State Treasury. Direct Deposit is the preferred method of payment. Any payment owed by an Agency must be transmitted electronically to the Contractor no later than 30 days after the later of the following:

- (1) Day on which the Agency received the goods
- (2) Date the performance of the service under the contract is completed
- (3) Day on which the Agency received the complete and correct invoice for goods or services

Invoices must be submitted to TEAAccountsPayable@tea.texas.gov, the TEA Project Manager and when applicable the designated Contract Manager. Additional information and a Direct Deposit Authorization application may be found at: <https://fm.xcpa.state.tx.us/fm/payment/index.php>.

- A. Payment for service(s) described in this Contract is contingent upon satisfactory completion of the **Deliverables and Services Review and Acceptance Process**. The Contractor must submit final deliverables to TEA for review and approval prior to invoicing. These include test items developed under the contract. "Final" deliverable means a deliverable that, in the belief and testimony of the Contractor, is in final completed form and in compliance with all required specifications as defined by project documentation and this Contract. TEA will review each deliverable, including test items, submitted by the Contractor for quality and alignment to the deliverable definition agreed to under the "Deliverables and Services Definition Process". TEA will have fifteen (15) working days to approve a deliverable or request revisions to the deliverable. TEA must review and approve any deliverable before it may be invoiced by the Contractor. If TEA finds a submitted deliverable to be substandard or not in compliance with the deliverable definition agreed to under the "Deliverables and Services Definition Process", the

Exhibit 2

Contractor will have ten (10) working days to address the quality or other compliance requirement and resubmit the deliverable. Additional costs incurred by the Contractor that result from repeated submissions and revising of substandard deliverables will be borne solely by the Contractor and not charged against the Contract or to TEA. This process will apply to all deliverables and requirements of the Contract, including test items developed. This does not preclude an arrangement that allows the Contractor to bill against a deliverable as progress is made toward completing that deliverable, so long as documentation of such progress in a form and nature satisfactory to TEA is provided and is approved by TEA. It is up to the Contractor to request incremental billing based on progress towards a deliverable, and such a request must be approved by TEA prior to submission of any invoice by the Contractor. TEA reserves the right to reject and not provide payment for deliverables found to be substandard or not in compliance with the deliverable definition agreed to under the "Deliverables and Services Definition Process", including test items developed under the Contract. The Contractor is strongly encouraged to collaborate with TEA on draft versions of any deliverables or services and request review(s) of such draft versions before submitting a final version.

- B. Retainage: TEA may withhold 5% or less of each payment as retainage for certain projects. Retainage fees shall be documented in the Contract and may not be arbitrarily imposed after execution of the Contract. The release of retainage may be requested in the final invoice.
- C. Unless otherwise stated, payment under this Contract will be made upon performance of services based upon submission of an expenditure report/invoice, properly prepared and certified, outlining expenditures by cost category. Include the contract number, purchase order number, and the Texas Comptroller of Public Accounts Texas Identification Number (TIN) on all invoices/expenditure reports. The cost categories provided in the expenditure report/invoice must coincide with the cost categories detailed in the approved budget. A list of tasks/activities performed during the invoice period must accompany the expenditure report/invoice. The final expenditure report/invoice is due within forty-five days after the end of the Contract. Payment on the final expenditure report is contingent upon receipt of all reports/products required by this Contract.
- D. An encumbrance, accounts payable, and expenditure, as with all other contract accounting terms, will be as defined in the *Financial Accounting and Reporting Module of the TEA Financial Accountability System Resource Guide*. All goods must have been received and all services rendered by the ending date of this Contract in order for Contractor to include these costs as either expenditures or as accounts payable and, thereby, recover funds due. In no manner shall encumbrances be considered or reflected as accounts payable or as expenditures.
- E. Contractor who is indebted or owes delinquent taxes to the State will have any payments under the Contract applied toward the debt or delinquent taxes owed the State until the amount is paid in full, regardless of when the debt or delinquency was incurred. TEA shall determine whether a payment law prohibits the Comptroller from issuing a warrant or initiating an electronic funds transfer to a person before TEA enters into a written contract with that person.

Contractor may verify their account status by accessing the Comptroller's website at https://fm.x.cpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=indebted&page=persons_indebted

WW. Prohibition of text messaging and emailing while driving during official federal grant business:

Contractors and their staff, subcontractors, consultants etc. are prohibited from texting messaging while driving a government owned vehicle or while driving their own privately owned vehicle during official business, or from using government supplied electronic equipment to text message or email while driving. Recipients must comply with these conditions under Executive Order 13513, "Federal Leadership On Reducing Text Messaging While Driving," effective October 1, 2009.

XX. Insurance: Contractor represents and warrants that it will, within five (5) business days of being requested by the TEA, provide TEA with current certificates of insurance or other proof acceptable to TEA of the following insurance coverage:

Workers Compensation & Employers Liability: Contractor must maintain Workers' Compensation insurance coverage in accordance with statutory limits.

Workers Compensation: Statutory Limits

Employers Liability: Each Accident \$1,000,000

Disease- Each Employee \$1,000,000

Disease-Policy Limit \$1,000,000

This state of Texas website (Coverage starts with 406 of the Labor code) addresses what Texas requires may be found at <http://www.tdi.texas.gov/wc/act/index.html>

Commercial General Liability: Occurrence based:

Bodily Injury and Property Damage

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ATTACHMENT B

Each occurrence limit: \$1,000,000;
Aggregate limit: \$2,000,000;
Medical Expense each person: \$5,000;
Personal Injury and Advertising Liability: \$1,000,000;
Products /Completed Operations Aggregate Limit: \$2,000,000; and
Damage to Premises Rented to You: \$50,000

Contractor represents and warrants that all of the above coverage is with companies licensed in the state of Texas, with "A" rating from A.M. Best, and authorized to provide the corresponding coverage. Contractor also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days prior written notice to TEA. Contractor represents and warrants that it shall maintain the above insurance coverage during the term of this Contract, and shall provide TEA with an executed copy of the policies immediately upon request.

- YY. Force Majeure:** Neither Contractor nor Texas Education Agency shall be liable to the other for any delay in, nor failure of performance, of any requirement included in any Contract resulting from this RFP caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.
- ZZ. Drug Free Workplace Policy:** The Contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place requirements under the Code of Federal Regulations incorporated by reference and the Contractor shall comply with the relevant provisions thereof, including any amendments or revisions that may hereafter be issued.
- AAA. Abandonment or Default:** If the Contractor defaults on the Contract, TEA reserves the right to cancel the Contract without notice and either re-solicit or re-award the Contract to the next best responsive and responsible Contractor. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the Agency based on the seriousness of the default.
- The Texas Government Code and Family Code sites referenced in this document may be viewed at <http://www.statutes.legis.state.tx.us/>
- The Texas Administrative Code site referenced in this document may be viewed at [http://texreg.sos.state.tx.us/public/readtac\\$ext.viewtac](http://texreg.sos.state.tx.us/public/readtac$ext.viewtac)
- Any terms and conditions attached to a solicitation will not be considered unless specifically referred to on this solicitation and may result in disqualification.

Exhibit 2

ATTACHMENT B

AFFIRMATIONS:

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

All statements and information prepared and submitted in the response to this RFO are current, complete and accurate.

Respondent has not given, offered to give, not intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response.

Pursuant to Texas Government Code, Title 10, Subtitle D, Section 2155.004(b), the Respondent 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.

Respondent understands if they are awarded a contract that it will utilize and continue to utilize, for the term of the contract, the U.S. Department of Homeland Security's E-Verify system to determine eligibility of 1. All persons employed to perform duties within Texas, during the term of the Contract and 2. All persons (including subcontractors) assigned by the Respondent to perform work pursuant to the Contract, within the United States of America. Contractor shall provide, upon request of the TEA an electronic or hardcopy screen shot of the confirmation number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Contractor, and Contractor's subcontractors, as proof that this provision is being followed.

If this certification is falsely made, the Contract may be immediately terminated, at the discretion of the state and at no fault to the state, with no prior notification. The Contractor shall also be responsible for the costs of any re-solicitation that the state must undertake to replace the terminated Contract.

Under Section 2155.006(b) of the Texas Government Code, a state agency may not accept a bid or award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five year period preceding the date of the bid or award, has been (1) convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005 or (2) assessed a penalty in a federal civil or administrative enforcement action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005.

Respondent certifies that they are in compliance with Texas Government Code, Title 6, Subtitle B, Section 669.003 of the Government Code, relating to contracting with executive head of a state agency. If Section 669.003 applies, Respondent will complete the following information in order for the response to be evaluated.

Name of Former Executive: _____

Name of State Agency: _____

Date of Separation from State Agency: _____

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

Pursuant to Texas Government code, Title 10, Subtitle D, Section 2155.004(a), the Respondent has not received compensation for participation in the preparation of specifications for this solicitation.

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

Contractor's FEI#

Contractor's TIN

Contractor's charter #

TEA has a policy of being a smoke-free agency. The policy reflects our commitment to providing a healthy environment for all our employees and visitors. This policy prohibits smoking within any state building or on the grounds. Respondent, by acceptance of this contract, agrees to abide by this policy when on the property of TEA.

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

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ATTACHMENT B

PROPOSAL PREFERENCES

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

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

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

In compliance with this RFO, and subject to all the conditions herein, the undersigned offers and agrees to furnish any or all commodities or services at the prices quoted in the response. When a Texas business address shown hereon that address is, in fact, the legal business address of Respondent and Respondent qualifies as a Texas Resident Bidder Under TAC Title 34, Part 1, Chapter 20.

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

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

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

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ATTACHMENT C

HISTORICALLY UNDERUTILIZED BUSINESS SUBCONTRACTING PLAN (HSP)



HUB Subcontracting Plan (HSP)

QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors
 - Section 2 c. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you have a continuous contract in place for five (5) years or less meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors
 - Section 2 c. - No
 - Section 2 d. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you have a continuous contract in place for five (5) years or less does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract
 - Section 2 b. - List all the portions of work you will subcontract, and indicated the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors
 - Section 2 c. - No
 - Section 2 d. - No
 - Section 4 - Affirmation
 - GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources, complete:
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources
 - Section 3 - Self Performing Justification
 - Section 4 - Affirmation

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



HUB Subcontracting Plan (HSP)

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

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas 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 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

- - Agency Special Instructions/Additional Requirements - -

In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only contracts that have been in place for five years or less shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

SECTION-1: RESPONDENT AND REQUISITION INFORM

- a. Respondent (Company) Name: _____ State of Texas VID #: _____
 Point of Contact: _____ Phone #: _____
 E-mail Address: _____ Fax #: _____
- b. Is your company a State of Texas certified HUB? - Yes - No
- c. Requisition #: _____ Bid Open Date: _____

(mm/dd/yyyy)

EXHIBIT 2

Enter your company's name here: _____ Requisition #: _____

SECTION 2: SUBCONTRACTING INTENTIONS RESPONDENT

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, including goods and services, will be subcontracted. Note: In accordance with 34 TAC §20.11., an "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b, of this SECTION and continue to Item c of this SECTION.)
- **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources. (If **No**, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for five (5) years or less.	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <http://window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified HUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, Item b.

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract **with Texas certified** HUBs with which you have a **continuous contract*** in place with for five (5) years or less **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the **"Agency Special Instructions/Additional Requirements"**.

- **Yes** (If **Yes**, continue to SECTION 4 **and** complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to SECTION 4 **and** complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Exhibit 2

Enter your company's name here: _____ Requisition #: _____

SECTION-2: SUBCONTRACTING INTENTIONS RESPONDENT (CONTINUATION SHEET)

a. This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for five (5) years or less.	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Exhibit 2

Enter your company's name here: _____ Requisition #: _____

SECTION-3: SELF PERFORMING JUSTIFICATION (if you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4)

Check the appropriate box (Yes or No) that indicates whether your response/proposal contains 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(s)/section(s)** of your proposal which explains 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-4: 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 is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- 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 being performed and must provide documentation regarding staffing and other resources.

Signature	Printed Name	Title	Date (mm/dd/yyyy)
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Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort Method B (Attachment B)

Rev. 10/14

Enter your company's name here: _____	Requisition #: _____
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IMPORTANT: If you responded "Yes" to SECTION 2, Items c or d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <http://window.state.tx.us/procurement/prog/hub/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If Yes, to continue to SECTION B-4.)

- No / Not Applicable (If No or Not Applicable, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you MUST comply with items a, b, c and d, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to your submitting your bid response to the contracting agency. When searching for Texas certified HUBs, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) and Historically Underutilized Business (HUB) Search directory located at <http://mycpa.state.tx.us/tpasscmlsearch/index.jsp>. HUB Status code "A" signifies that the company is a Texas certified HUB.
- b. List the three (3) Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Vendor ID (VID) number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	VID Number	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to two (2) or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>.

- d. List two (2) trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

HSP Good Faith Effort - ~~Method A~~ Method B (Attachment B) Cont.

Enter your company's name here: _____	Requisition #: _____
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SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in SECTION B-1. Also identify whether they are a Texas certified HUB and their VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB.

Company Name	Texas certified HUB	VID Number <small>(Required if Texas certified HUB)</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in SECTION B-1 is **not** a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

Exhibit 2

ATTACHMENT D

SUGGESTED FORMAT FOR RESPONSE COVER PAGE

Submitted to the Texas Education Agency
Purchasing, Contracts and Agency Services
For
RFO #701-16-009

Title of Proposed Project:	Live Audio and Video Streaming for State Board of Education
Respondent Organization:	(Name and address of organization submitting response. Include zip code.)
Identification Number:	(Respondent organization's Federal Employer's Identification Number. If Respondent organization is a corporation or if individual is incorporated, the Respondent must also show the charter number of Respondent organization or individual.)
Response Developed By:	(Name, position, and telephone number of person responsible for development of response.)
Project Administrator:	(Name, position, and telephone number of person to be in charge of proposed project.)
Response Transmitted By:	(Name, position, and telephone number of official committing the Respondent organization to the proposed project.)
Contracting Officer:	(Name, position, and telephone number of official with authority to negotiate contracts for Respondent's organization.)
Total Budget for Proposed Project:	(Total of projected expenditures listed in budget section.)
Contains Proprietary Information:	<input type="checkbox"/> Check here if the material submitted contains proprietary information.
Date Submitted:	(Date Respondent submitted the response to TEA.)

Exhibit 2
RFO #701-16-009
Live Audio and Video Streaming for State Board of Education
Addendum 1

Questions received by Friday, August 7, 2015

1. In reviewing the RFO it seems the requirement is geared towards an in-house webcasting solution. By in-house, it is meant an on premise solution where a Vendor will host on-site any equipment necessary on an event by event basis, is this correct?

TEA Response: An in-house operator who is on-site when the meeting is under way is wanted so that the operator can adjust the camera shots in order to follow the action in the meeting.

2. Would the State Board of Education entertain a proposal for a Cloud-based solution if it satisfies all the RFO Vendor responsibilities?

TEA Response: TEA will take into consideration cloud-based solutions.