

STATE OF TEXAS §

COUNTY OF TRAVIS §

Division/Org Code:	211/211P	Program Name:	Braille Textbooks
Speed Chart:	0P165	Legal/Funding Authority:	TEC §31.028
Payee Name:	Education Service Center, Region 20	Contract #:	2522
Payee ID ISAS	74-1587461	PO #:	

TEXAS EDUCATION AGENCY STANDARD CONTRACT

ARTICLE I. PARTIES TO CONTRACT

This agreement is entered into by and between the Texas Education Agency ("TEA"), a Texas State Agency and Education Service Center, Region 20, 1314 Hines Avenue, San Antonio, Texas 78208 ("Contractor").

ARTICLE II. PERIOD OF CONTRACT

TEA shall pay Contractor for the reasonable and approved costs incurred by Contractor in connection with the Contract Project during the period beginning 01/11/2010 and ending 08/31/2016, unless extended or terminated as otherwise provided for this contract. TEA, at its own discretion, may extend the contract awarded for up to 6 additional fiscal years under the same or different terms subject to appropriation of funds by the Texas Legislature for this project.

ARTICLE III. PURPOSES OF CONTRACT

Contractor shall perform all of the functions and duties set described herein and in the appendices to this Contract, which are attached hereto and incorporated by reference.

ARTICLE IV. PAYMENT UNDER CONTRACT

Subject to the availability to TEA of funds for the purpose(s) of this contract, TEA shall pay to Contractor by State of Texas warrant(s) the amount of \$ 747,410.68 for the performance, satisfactory to the TEA, of Contractor's functions and duties under this Contract. Payment to Contractor by TEA will be made in accordance with the Description of Services / Budget, which is attached hereto and incorporated herein by reference.

ARTICLE V. GENERAL AND SPECIAL PROVISIONS OF CONTRACT

Attached hereto and incorporated herein by reference are the General Provisions and the Special Provisions indicated below with an "X" beside each:

- ☒ Special Provisions A, Program Specific
- ☒ Special Provisions B, Debarment (required if utilizing federal funds)
- ☒ Special Provisions C, Lobbying (required if utilizing federal funds & over \$100,000)
- ☒ Special Provisions D, Historically Underutilized Business Subcontracting Plan (HSP) (required for projects over \$100,000.00)

Pursuant to Section 2252.901 of the Texas Government Code, Contractor certifies that it is not a former employee of TEA or that Contractor has not been an employee of TEA for twelve (12) months prior to the beginning date of this contract.

Contractor must make full disclosure of intent to employ or subcontract with an individual who is a former employee/retiree of TEA. Within the first twelve months of leaving employment at TEA, a former employee/retiree selected by the Contractor for employment or subcontracting, shall not perform services on a project or fill a position that the former employee/retiree worked on while employed at TEA.

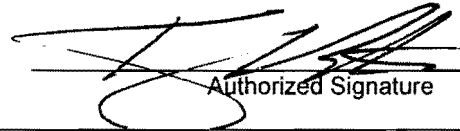
Contractor shall be an independent contractor for matters relating to this Contract. Contractor and its employees are not employees of TEA for any purpose and shall not be entitled to participate in any plan, arrangement, or distribution by TEA pertaining to or in connection with any pension, bonus, or other benefit extended to TEA employees.

ARTICLE VI. ENTIRE CONTRACT

This contract together with the documents including but not limited to Appendices, Attachments, Exhibits, Proposal Responses, mentioned herein and incorporated by reference, contains the entire agreement between the parties relating to the rights granted and the obligations assumed in it. Any oral representations or modifications concerning this contract shall be of no force or effect unless contained in a subsequent amendment executed by both parties.

AGREED and accepted on behalf of Contractor effective beginning on the date of the Contract as specified above and as indicated by signature below of a person authorized to bind Contractor.

Typed name: Terry W. Smith
Typed title: Executive Director


Authorized Signature

This section reserved for TEA use.

I, an authorized official of the Texas Education Agency, hereby certify that this contract is in compliance with the authorizing program statute and applicable regulations and authorize the services to be performed as written above.

AGREED and accepted on behalf of Agency on 3-10-10 (month/day/year) by a person authorized to bind Agency.

Return three (3) copies with original signature to:

Norma Barrera

Texas Education Agency
Purchasing and Contracts Division

1701 North Congress Avenue Rm. 2-125
Austin, Texas 78701-1494



Adam Jones, Deputy Commissioner Finance and
Administration/Chief Operating Officer

APPENDIX 1

- A. The definitions of terms in the General Provisions are incorporated herein.
- B. The attached proposal entitled Request for Proposal #701-10-004, Production of Braille Textbook Copies for Texas Public Schools is incorporated herein by reference and is therefore made a part of this contract.
- C. The terms, conditions, and requirements contained in the Request for Proposal entitled "Production of Braille Textbook Copies for Texas Public Schools" , with a closing date of 09/01/2009 , and identified as RFP #701-10-004, are incorporated herein by reference, although in the event of conflict the General Provisions to Standard Contract shall control.
- D. If there is a conflict or ambiguity between or among the terms of the documents that constitute this Contract, and if that conflict or ambiguity cannot be resolved by construing the terms so as to harmonize all their terms, then the conflict or ambiguity shall be resolved with the following Contract documents prevailing in the following order of priority:
- General Provisions of the Standard Contract;
 - The Standard Contract, inclusive of all appendices;
 - Contractor's Best and Final Offer dated 08/31/2009 ;
 - Contractor's Proposal to the Texas Education Agency entitled Production of Braille Textbook Copies for Texas Public Schools submitted 08/31/2009 ; and
 - The Request for Proposal entitled "Production of Braille Textbook Copies for Texas Public School" released 07/29/2009.

E. Description of Services/Activities:

The Contractor will produce Braille copies of textbooks included in Packages A and B and will perform the functions listed on pages 2 and 3 of the Agency's RFP on Braille copies referenced above. If there are extenuating circumstances in the delivery of corrected print textbooks and/or publisher's disks to the contractor, both parties will mutually agree upon a timeline for delivery of Braille materials to the school districts.

The Agency may request the Contractor to reproduce teacher edition textbooks, ancillaries or previously adopted student editions or materials associated with new reading initiatives. The Contractor will reproduce these as requested by the Agency.

An independent contractor will be hired by the Agency as a quality monitor. The quality monitor will assess the quality of Braille textbooks delivered to the school districts by the contractors and make periodic reports to the Agency.

Braille textbooks produced for the Agency shall be free of defects and are subject to recall by the Agency. Rebrailing shall be at the expense of the Contractor if the defect is due to a brailing error and not a reproduction error. Re-embossing and rebinding shall be at the expense of the Contractor. If the defect is in transcription, re-embossing and rebinding shall be at the expense of the Agency. It shall be the prerogative of the Agency to institute a recall.

If a defect is caused by the reproduction process, re-embossing and rebinding shall be at the expense of the Contractor responsible for producing copies. It shall be the prerogative of the Agency to institute a recall.

The Agency reserves the right to inspect any process or test being performed. At any time during the course of the contract, during normal business hours, Agency representatives shall have authority to select, at random, samples of the finished product to test for adherence to the requirements specified in Attachment S of the RFP on Braille copies referenced above.

The Agency will review the quality of the textbooks at the end of each year to determine if the contract should be continued or if the contract should be canceled and payments settled.

Penalties may be imposed by the State Board of Education for the following reasons:

1. Untimely delivery of instructional materials.
2. Delivery of materials which do not meet the administrative specifications at Attachment S of the RFP.
3. Delivery of Braille textbooks with errors comparable to the ones found in printed textbooks. Failure to follow brailing standards will be treated as failure to correct errors.

See **RFP No.: 701-10-004 Production of Braille Textbook Copies for Texas Public Schools, Section 1.5**
PROJECT DESCRIPTION AND REQUIREMENTS

F. Budget:

The Pricing Proposal is located on pages 14 - 19 of the Contractor's Proposal. Payment shall be monthly upon completion of designated tasks/activities.

No funds shall be used to pay for food costs (i.e., refreshments, banquets, group meals, etc.) unless requested as a specific line item in the budget by the Contractor and approved (prior to expenditures occurring) by TEA. This applies to both federally and state funded Contracts.

Contractor will make a good faith effort to comply with the State of Texas Travel Guidelines. TEA may at its discretion approve requests for reimbursement of travel which exceed the State of Texas Travel Guidelines. Contractor shall maintain receipts in accordance with item H of the General Provisions. The Comptroller's website for travel rules and regulations – **tExtravel**: <https://fmxcpa.state.tx.us/fmx/travel/texttravel/index.php>. Receipts must be 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 five (5) years.

State travel expense reimbursement is not a per diem. Employees and contractors must claim the actual expenses incurred for meals and lodging not to exceed the maximum allowable rates. The maximum should not be claimed unless the actual expenditures equal or exceed the maximum allowable rate.

**ATTACHMENT L: PRICE WORKSHEET FOR COPY PACKAGE A
ESTIMATED NUMBER OF BRAILLE MASTER PAGES**

Type of Material Estimated Page Count

Level I* 81,255

Braille Copies

Subject Area	Pages Divided by Number of Titles		Average Page Count for Titles		Estimate d # of Orders	Page Subtotals
Level I*						
Literature, Grade 6	9,954/2	=	4,977	X	19	94,563
Literature, Grade 7	10,227/2	=	5,114	X	22	112,508
Literature, Grade 8	10,344/2	=	5,172	X	23	118,956
Literature I	11,433/2	=	5,717	X	28	160,076
Literature II	11,976/2	=	5,988	X	30	179,640
Literature III	13,530/2	=	6,765	X	23	155,595
Literature IV	13,791/2	=	6,896	x	24	165,504
Level I Total	81,255					
Page Total						986,842
Proposed Price Per Page						\$0.26
Proposed Package A Price (Page Total X Proposal Price Per Page)						\$256,578.92

Definitions:

*Level I: Literary

ATTACHMENT M: PRICE WORKSHEET FOR COPY PACKAGE B
ESTIMATED NUMBER OF BRAILLE MASTER PAGES

Type of Material	Estimated Page Count
Level I*	69,555
Level II**	29,484

Braille Copies

Subject Area	Pages Divided by Number of Titles		Average Page Count for Titles		Estimated # of Orders	Page Subtotals
Level I*						
English Language Arts & Reading, Grade 1	8,802/1	=	8,802	X	30	264,060
Reading, Grade 2	6,954/1	=	6,954	X	28	194,712
Reading, Grade 3	6,027/1	=	6,027	X	31	186,837
Reading, Grade 4	4,530/1	=	4,530	X	28	126,840
Reading, Grade 5	4,554/1	=	4,554	X	22	100,188
Literature, Grade 6	3,408/1	=	3,408	X	19	64,752
Literature, Grade 7	3,588/1	=	3,588	X	22	78,936
Literature, Grade 8	3,891/1	=	3,891	X	23	89,493
Literature I	4,218/1	=	4,218	X	28	118,104
Literature II	4,206/1	=	4,206	X	30	126,180
Literature III	4,845/1	=	4,845	X	23	111,435
Literature IV	4,905/1	=	4,905	X	24	117,720
AP English Language	3,636/1	=	3,636	X	2	7,272
AP English Literature	5,991/1	=	5,991	X	1	5,991
<i>Level I Total</i>	<i>69,555</i>					<i>1,592,520</i>
Level II*						
Spanish Language Arts & Reading, Grade 1	8,802/1	=	8,802	X	2	17,604
Spanish Reading, Grade 2	6,954/1	=	6,954	X	1	6,954
Spanish Reading, Grade 3	4,644/1	=	4,644	X	1	4,644
Spanish Reading, Grade 4	4,530/1	=	4,530	X	0	0
Spanish Reading, Grade 5	4,554/1	=	4,554	X	1	4,554
<i>Level II Total</i>	<i>20,682</i>					<i>33,756</i>
Page Total						1,626,276
Proposed Price Per Page						\$0.26
Proposed Package B Price (Page Total X Proposal Price Per Page)						\$422,831.76

Definitions:

- *Level I: Literary
 **Level II: Foreign Language

ATTACHMENT N: PRICE WORKSHEET FOR COPY PACKAGE C
ESTIMATED NUMBER OF BRAILLE MASTER PAGES

Type of Material	Estimated Page Count
Level I*	47,424
Level II**	26,592

Braille Copies

Subject Area	Pages Divided by Number of Titles		Average Page Count for Titles		Estimate d # of Orders	Page Subtotals
Level I*						
English Language Arts & Reading, Grade 1	6,075/1	=	6,075	X	30	182,250
Reading, Grade 2	5,910/1	=	5,910	X	28	165,480
Reading, Grade 3	4,998/1	=	4,998	X	31	154,938
Reading, Grade 4	4,698/1	=	4,698	X	28	131,544
Reading, Grade 5	5,289/2	=	2,645	X	22	58,190
English I for Speakers of Other Languages	4,413/1	=	4,413	X	0	0
English II for Speakers of Other Languages	5,082/1	=	5,082	X	0	0
AP English Language	3,729/1	=	3,729	X	2	7,458
AP English Literature	7,230/1	=	7,230	X	1	7,230
Level I Total	47,424					707,090
Level II**						
Spanish Language Arts & Reading, Grade 1	5,697/1	=	5,697	X	2	11,394
Spanish Reading, Grade 2	5,910/1	=	5,910	X	1	5,910
Spanish Reading, Grade 3	4,998/1	=	4,998	X	1	4,998
Spanish Reading, Grade 4	4,698/1	=	4,698	X	0	0
Spanish Reading, Grade 5	5,289/2	=	2,645	X	1	2,645
Level II Total	26,952					24,947

Page Total	732,037
Proposed Price Per Page	\$0.26
Proposed Package C Price (Page Total X Proposal Price Per Page)	\$190,329.62

Definitions:

*Level I:	Literary
**Level II:	Foreign Language

**ATTACHMENT O: PRICE WORKSHEET FOR COPY PACKAGE D
ESTIMATED NUMBER OF BRAILLE MASTER PAGES**

Type of Material	Estimated Page Count
Level I*	62,367
Level II**	15,588

Braille Copies

Subject Area	Pages Divided by Number of Titles		Average Page Count for Titles		Estimate d # of Orders	Page Subtotals
Level I*						
English Language Arts & Reading, Grade 1	10,482/2	=	5,241	X	30	157,230
Reading, Grade 2	10,044/2	=	5,022	X	28	140,616
Reading, Grade 3	9,840/2	=	4,920	X	31	152,520
Reading, Grade 4	11,811/2	=	5,906	X	28	165,368
Reading, Grade 5	13,254/2	=	6,627	X	22	145,794
Reading Elective, Grade 6	2,274/1	=	2,274	X	0	0
Reading Elective, Grade 7	2,325/1	=	2,325	X	8	18,600
Reading Elective, Grade 8	2,337/1	=	2,337	X	1	2,337
Level I Total	62,367					782,465
Level II**						
Spanish Language Arts & Reading, Grade 1	4,341/1	=	4,341	X	2	8,682
Spanish Reading, Grade 2	3,282/1	=	3,282	X	1	3,282
Spanish Reading, Grade 3	3,084/1	=	3,084	X	1	3,084
Spanish Reading, Grade 4	2,421/1	=	2,421	X	0	0
Spanish Reading, Grade 5	2,460/1	=	2,460	X	1	2,460
Level II Total	15,588					17,508

Page Total	799,973
Proposed Price Per Page	\$0.26
Proposed Package D Price (Page Total X Proposal Price Per Page)	\$207,992.98

Definitions:

*Level I:	Literary
**Level II:	Foreign Language

**ATTACHMENT P: PRICE WORKSHEET FOR COPY PACKAGE E
ESTIMATED NUMBER OF BRAILLE MASTER PAGES**

Type of Material	Estimated Page Count
Level I*	39,342
Level II**	28,467

Braille Copies

Subject Area	Pages Divided by Number of Titles		Average Page Count for Titles		Estimate d # of Orders	Page Subtotals
Level I*						
English Language Arts & Reading, Grade 1	5,805/1	=	5,805	X	30	174,150
Reading, Grade 2	6,558/1	=	6,558	X	28	183,624
Reading, Grade 3	5,832/1	=	5,832	X	31	180,792
Reading, Grade 4	4,944/1	=	4,944	X	28	138,432
Reading, Grade 5	5,328/1	=	5,328	X	22	117,216
English I for Speakers of Other Languages	6,375/3	=	2,125	X	0	0
English II for Speakers of Other Languages	4,500/4	=	1,125	X	0	0
Level I Total	42,210					794,214
Level II**						
Spanish Language Arts & Reading, Grade 1	5,805/1	=	5,805	X	2	11,610
Spanish Reading, Grade 2	6,558/1	=	6,558	X	1	6,558
Spanish Reading, Grade 3	5,832/1	=	5,832	X	1	5,832
Spanish Reading, Grade 4	4,944/1	=	4,944	X	0	0
Spanish Reading, Grade 5	5,328/1	=	5,328	X	1	5,328
Level II Total	28,467					29,328

Page Total	823,542
Proposed Price Per Page	\$0.26
Proposed Package E Price (Page Total X Proposal Price Per Page)	\$214,120.92

Definitions:

- *Level I: Literary
 **Level II: Foreign Language

ESC-20 PROPOSAL PREFERENCES

	Total Copy Pages to Reproduce	Total Cost
Package A	986,842	\$256,578.92
Package B	1,626,276	\$422,831.76
Package C	732,037	\$190,329.62
Package D	799,973	\$207,992.98
Package E	823,542	\$214,120.92

Desired Packages for RFP 701-10-004		Total Cost
Preference 1: Packages A & B	2,613,118	\$679,410.38
Preference 2: Packages B & C	2,358,313	\$613,161.38
Preference 3: Packages C, D & E	2,355,552	\$612,443.52

Maximum number of pages seeking to reproduce: 2,613,118

Minimum number of pages seeking to reproduce: 2,355,552

GENERAL PROVISIONS

A. As used in these General Provisions:

- *Contract* means the entire document, and all of TEA's attachments, appendices, schedules (including but not limited to the General Provisions and the Special Provisions), amendments and extensions of or to the Standard Contract;
- *Receiving Agency or Party or TEA* means the Texas Education Agency;
- *Performing Agency or Contractor* 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;
- *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.); and,
- *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(s), 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:**

For local educational agencies (LEAs), regional education service centers (ESCs), institutions of higher education (IHEs), and state agencies: Contractor, to the extent permitted by law, shall hold TEA harmless from and shall indemnify TEA against any and all claims, demands, and causes of action of whatever kind or nature asserted by any third party and occurring or in any way incident to, arising from, or in connection with, any acts of Contractor in performance of the Contract Project.

For all other contractors, including nonprofit organizations and for-profit businesses: Contractor shall indemnify, hold harmless, and defend TEA and the State, all of its officers, agents, and employees from any and all claims, actions, suits, demands, and causes of action of whatever kind or nature asserted by any third party and occurring or in any way incident to, arising from, or in connection with, any acts or omissions of the Contractor or any agent, employee, subcontractor, or supplier of Contractor in performance of the Contract Project.

D. **Subcontracting:** 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. 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.

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 General Provisions shall prevail in the event of conflict.
- H. **Records Retention:** 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 five (5) 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.

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

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

- J. **Sanctions for Failure to Perform or for Noncompliance:** 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. **Contract Cancellation, etc.:** If this Contract is cancelled, terminated, or suspended by TEA prior to its expiration date, the reasonable monetary value of services properly performed by Contractor pursuant to this Contract prior to such cancellation, termination or suspension shall be determined by TEA and paid to Contractor as soon as reasonably possible.
- 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 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 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 Texas State Board of Education rules pertaining to this Contract and the Contract Project, and to the laws of the State of Texas 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:**
 - 1. For Local Education Agencies (LEAs): 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 75 or 76 as applicable, 77, 79, 80, 81, 82, 85, 99, 104, 47 CFR 0 and 64, and OMB Circulars A-87 (Cost Principles) and A-133 (Audits);
 - 2. For Education Service Centers (ESCs): 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 75 or 76 as applicable, 77, 79, 80, 81, 82, 85, 99, 104, 47 CFR 0 and 64, and OMB Circulars A-87 (Cost Principles) and A-133 (Audits);
 - 3. For Institutions of Higher Education (IHEs): 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 74, 77, 79, 81, 82, 85, 99, 104, OMB Circular A-21 (Cost Principles), 47 CFR 0 and 64, OMB Circular A-133 (Audits), and OMB Circular A-110 (Uniform Administrative Requirements);
 - 4. For Nonprofit Organizations: 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 74, 77, 79, 81, 82, 85, 99, 104, 47 CFR 0 and 64, OMB Circulars A-122 (Cost Principles) and A-133 (Audits), and OMB Circular A-110 (Uniform Administrative Requirements);
 - 5. For State Agencies: 28 CFR 35 Subparts A-E, 28 CFR 36 Subparts C & D, Appendix A, 29 CFR 1630, 34 CFR 76, 80, 81, 82, 85, 99, 104, 47 CFR 0 and 64, OMB Circulars A-87 (Cost Principles) and A-133 (Audits), and OMB Circular A-110 (Uniform Administrative Requirements); and
 - 6. For Commercial (for-profit) Organizations: 29 CFR 1630 and 48 CFR Part 31.
 - 7. For American Recovery and Reinvestment Act funded projects: FAR 52.204-11, 52.212-5, 52.214-26, 52.215-2, and OMB Guidance Memo M-09-15.

- Q. **Point of Contact:** All notices, reports and correspondence required by this Contract shall be in writing and delivered to the TEA project manager listed below or their successors in office:

TEA

Charles E. Mayo
Instructional Materials and Educational Technology
Texas Education Agency
William B. Travis Building
1701 N. Congress Avenue
Austin, Texas 78701

CONTRACTOR

Terry W. Smith
Education Service Center, Region 20
1314 Hines Avenue
San Antonio, Texas 78208
210-370-5600 (Phone)
201-370-5750 (Fax)

- R. **Time and Effort Recordkeeping:** For those personnel whose salaries are prorated between or among different funding sources, time and effort records will be maintained by Contractor that will confirm the services provided within each funding source. Contractor must adjust payroll records and expenditures based on this documentation. This requirement applies to all projects, regardless of funding source, unless otherwise specified. For federally funded projects, time and effort records must be in accordance with the requirements in the applicable OMB cost principles.
- S. **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:
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 of 1972, as amended (prohibition of sex discrimination in educational institutions) and the regulations effectuating its provisions contained in 34 CFR Part 106, if Contractor is an educational institution;
 4. Section 504 of the Rehabilitation Act of 1973, as amended (nondiscrimination on the basis of handicapping condition), and the regulations effectuating its provisions contained in 34 CFR Parts 104 and 105.
 5. The Age Discrimination Act of 1975, as amended (prohibition of discrimination on basis of age), and the implementing regulations contained in 34 CFR, Part 110;
 6. 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, General Provisions of the Elementary and Secondary Education Act, as amended; and
 9. General Education Provisions Act, as amended.
- T. **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.
- U. **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.
- V. **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.

- W. **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.
- X. **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.
- Y. **Interpretation:** In the case of conflicts arising in the interpretation of wording and/or meaning of various sections, parts, Appendices, General Provisions, Special Provisions, Exhibits, and Attachments or other documents, the TEA Contract and its General Provisions, Appendices and Special Provisions shall take precedence over all other documents which are a part of this contract.
- Z. **Education Service Center:** No funds transferred to Regional Education Service Centers or to school districts may be used to hire a registered lobbyist.
- AA. **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.
- BB. **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 excepted 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.
- CC. **Gratuities:** By signing this Contract, Contractor represents and warrants that the Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response.
- DD. **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.
- EE. **Protests:** Any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation, evaluation, or award of this or any other contract by the Texas Education Agency 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 protest is submitted timely, in a sworn written protest petition, and in strict compliance with all requirements in applicable law and Agency's rules (Title 19 of the Texas Administrative Code, at § 30.2002, or any amendment or successor rules).

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.

- FF. **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.
- GG. **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.
- HH. **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, respondent warrants that goods and services are suitable for and will perform in accordance with the purposes for which they are intended.
- II. **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.
- JJ. **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.
- KK. **Assignment of Contract:** This Contract may not be assigned, sold, or transferred without the express written consent of the TEA Purchasing and Contracts Division. An attempted assignment after Contract award without the TEA approval will constitute a material breach of contract.
- LL. **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.
- MM. **Excluded Parties List System:** The Texas Education Agency is federally mandated to adhere to the directions provided in the President's Executive Order (EO) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism and any subsequent changes made to it via cross-referencing respondents/vendors with the Federal General Services Administration's Excluded Parties List System (EPLS, <http://www.epls.gov>), which is inclusive of the United States Treasury's Office of Foreign Assets Control (OFAC) Specially Designated National (SDN) list. Contractor certifies that they are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.
- NN. **Suspension and Debarment:** Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this

transaction by any federal, state or local government entity. If Contractor is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this contract.

- OO. **Web Accessibility Policy:** State law requires State Agencies and institutions of higher education to provide persons and employees with disabilities access comparable to access and use provided to the public and State employees without disabilities for the following: telephones and other telecommunications products, information kiosks, transaction machines, internet websites, and multimedia resources. TEA adheres to the standards set forth in TAC §206 State Web Sites, TAC §213 Electronic and Information Resources, and the Federal 508 requirements which may be viewed at <http://www.governor.state.tx.us/disabilities/resources/keylaws/access>. This policy is applicable to all TEA contractors who develop or provide any of the services or products listed above as a result of a TEA contract award or approved vendor list. All documents created or developed under this Contract must also be compliant with all state and federal regulations for web accessibility (i.e., Americans with Disabilities Act (ADA) compliance, http://www.dir.state.tx.us/general_info/accessibility.htm).

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://info.sos.state.tx.us/pls/pub/readtac\\$ext.viewtac](http://info.sos.state.tx.us/pls/pub/readtac$ext.viewtac)

- PP. **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 respondent'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.
- QQ. **Social Security Numbers Withheld:** TEA will not provide Social Security Numbers (SSNs) to any Contractor under this contract. TEA, its contractors and their subcontractors, will not require or request school districts to provide SSNs under this contract.
- RR. **Proprietary or Confidential Information:** 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.
- SS. **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. 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 respondent. The defaulting contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work significantly changed. The period of suspension will be determined by the agency based on the seriousness of the default.
- TT. **Vendor Performance:** All state agencies must report unsatisfactory vendor performance on purchases over \$25,000. Agencies report satisfactory and exceptional vendor performance to assist in determining best value. In accordance with Texas Government Code, §2155.074 and §2155.75, vendor performance may be used as a factor in future contract awards.
- UU. **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.
- VV. **Amendments:**
1. All amendments to this Contract will be in a manner as prescribed by the Project Administrator of TEA, subject to Paragraph B of the General Provisions and will be made on AMENDMENT TO TEXAS EDUCATION AGENCY STANDARD CONTRACT form supplied by TEA. Amendments must be mailed to the Purchasing and Contracts Division, Room 2-125, Texas Education Agency, William B. Travis Building, 1701 North Congress, Austin, Texas 78701. An amendment to this Contract will become effective on the date of signature of TEA.

2. The Contractor is permitted to rebudget among direct cost categories within the approved budget to meet unanticipated requirements and to make limited changes to the approved budget without submitting an amendment. However, certain types of changes require the prior written approval of TEA through an amendment. Contractor shall submit a request and obtain prior written approval from TEA whenever any of the following changes are anticipated:

For all Contracts.

- a. any revision which would result in the need for additional funding;
- b. any revision to the scope or objectives of the Contract (regardless of whether there is an associated budget revision requiring prior approval);
- c. a request to extend the period of the Contract;

For Cost Reimbursement Contracts.

- d. cumulative transfers among direct cost categories which exceed or are expected to exceed (at any time during the Contract period) ten percent of the current total approved budget. Cumulative transfers are defined as the total amount of additions to all class/object codes and does not include deletions;
- e. any reduction of funds allotted for training costs (primarily travel and lodging for trainees, workshop/conference registration fees, tuition, books, and related fees);
- f. whenever a line item within a class/object code is added;
- g. an increase in the quantity of capital outlay item(s) requested; and
- h. an increase or decrease in the number of positions charged to Contract.

All amendments shall be initiated and routed for approval by the Contract Manager.

WW. Payment:

1. Payment for goods or services purchased with State-appropriated funds is made by warrants or by Direct Deposit from the State Treasury. Direct Deposit is the preferred method of payment. No penalty for late payment will be incurred by TEA if payment is made in thirty (30) days or less from receipt of goods/service or a correct invoice, whichever is later.

Additional information and a Direct Deposit Authorization application may be found at: <https://fm.xcpa.state.tx.us/fm/payment/index.php>.

2. Payment for service(s) described in this Contract is contingent upon satisfactory completion of the service(s). Satisfaction will be determined by TEA's Project Administrator, in his sole discretion but in accordance with reasonable standards and upon advice of his superiors in TEA, if necessary. 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.
3. 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.
4. 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: <http://ecpa.cpa.state.tx.us/vendor/tpsearch1.html>. If the account status message is "on vendor hold," the contractor is advised to contact the Comptroller's Warrant Hold Section in the Division of Revenue Accounting at 1-800-531-5441 ext. 3-4561 for assistance in resolving the issue.

Special Provisions - B

Debarment and Suspension Certification
(Required for all federally-funded contracts)

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, §85.510, Participants' Responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19,160-19,211). Copies of the regulations may be obtained by contacting the Division of Grants Administration of the Texas Education Agency at (512) 463-9269.

READ INSTRUCTIONS ON NEXT PAGE BEFORE COMPLETING CERTIFICATION

CERTIFYING STATEMENT

- (1) The prospective lower tier participant certifies, by submission of this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Contract.

Education Service Center, Region 20

Organization Name

Terry W. Smith, Executive Director

Name and Title of Authorized Representative

Signature

Dept. of Education Form ED GCS-009

Date

12/88

GENERAL INSTRUCTIONS FOR SPECIAL PROVISIONS - B DEBARMENT AND SUSPENSION CERTIFICATION

Definitions:

Lower Tier Participant - Any organization or person receiving a grant or contract. This also includes subsequent subgrants and subcontracts.

Covered Transaction - The act of applying for federal funds or submitting a contract for federal funds.

Lower Tier Transaction - The making of a (1) subgrant to another entity or person or (2) procurement contract by a Lower Tier Participant to some other entity or person for goods or services, regardless of type, expected to equal or exceed a cumulative value of \$25,000.

Principals - An administration head, key project/grant management person, officer, director within the Lower Tier Participant's organization or within a suborganization or subcontractor (i.e., superintendents and the key person in the school district who will exert control or management influence over this project. At a university, it would be the president and principal investigator).

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this Contract, the prospective lower tier participant is stating that it is neither debarred nor suspended.
2. This certification is a material representation of fact upon which reliance was placed when this certification was signed. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment from federal funds participation.
3. The prospective lower tier participant shall provide immediate written notice to the organization to which this Contract is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "contract," and "voluntarily excluded," as used in this certification, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the organization to which this Contract is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this Contract that it will include the two-paragraph "CERTIFYING STATEMENT" without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Special Provisions - C
Part A

Lobbying Certification
(Required for all federally-funded contracts greater than \$100,000)

Submission of this certification is required by the U.S. Department of Education and Section 1352, Title 31 of the United States Code. It is a prerequisite for making or entering into a subgrant or subcontract over \$100,000 with any organization. (See next page of this schedule for further instructions.)

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, Special Provisions D Part B "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact on which the U.S. Department of Education and the Texas Education Agency relied when it made or entered into this grant or Contract. Any organization that fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Education Service Center, Region 20

Organization Name

Terry W. Smith, Executive Director

Name and Title of Authorized Representative

Signature

Dept. of Education Form ED 80-0008

Date

11/89

GENERAL INSTRUCTIONS FOR SPECIAL PROVISIONS - C
PART A
LOBBYING CERTIFICATION

This is a Congress of the United States and the U. S. Department of Education requirement. The Contractor must submit this schedule to TEA for a federal-funded contract(s) with an approved amount in excess of \$100,000. TEA will be unable to pay for any obligations established by the Contractor unless this schedule is submitted.

In addition, if the Contractor makes a subgrant or subcontract in excess of \$100,000 to another organization of any type, then the Contractor shall require this form to be filed with and retained by the Contractor. According to federal law, failure to obtain the certification subjects the Contractor to civil penalties.

- (1) This certification states that the Contractor is prohibited from using federal funds for influencing or attempting to influence any member of Congress or its employees or any federal agency employee concerning the making or awarding of a federal grant.
- (2) This certification states that the Contractor is prohibited from using federal funds for influencing or attempting to influence any member of Congress or its employees or any federal agency employee concerning the making or awarding of a federal grant.
- (3) This certification also states that if the Contractor pays or has paid any funds other than federal funds to any one person or organization for influencing or attempting to influence any member of Congress or its employees, or any federal agency employee concerning the making or awarding of a federal grant, that the Contractor will disclose to whom payments were made, how much money was involved and the type of work involved. The Contractors must use Special Provisions D Part B, Disclosure of Lobbying Activities for complying with this disclosure requirement. The Contractor shall require this form to be filed with the Contractor on any subgrants or subcontracts it makes in excess of \$100,000 if funds have been spent as stipulated in this paragraph. The Contractor will then forward a legible copy of Special Provisions D Part B, Disclosure of Lobbying Activities to the Texas Education Agency.

Additionally, this certification requires the Contractor to incorporate the language of this certification into any award or Contract documents for awarding subgrants or subcontracts that exceed \$100,000 and that subgrantees and subcontractors shall certify and disclose accordingly.

TEXAS EDUCATION AGENCY

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities for lobbying services procured (pursuant to Title 31 U.S.C. §1352). This disclosure form is required for any federal grant/contract received in excess of \$100,000 and on any subgrant/subcontract made by the grantee/contractor. (Read the instructions for this schedule for further information.) **Do not complete and sign this disclosure form unless lobbying activities are being disclosed.**

Federal Program Name: _____

1. Type of Federal Action: <input type="checkbox"/> Contract <input type="checkbox"/> Grant	2. Status of Federal Action <input type="checkbox"/> Bid/Offer/Application <input type="checkbox"/> Initial Award <input type="checkbox"/> Post-award	3. Report Type <input type="checkbox"/> Initial Filing <input type="checkbox"/> Material Change For Material Change Only: Year _____ Quarter _____ Date of Last Report: _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Texas Education Agency 1701 N. Congress Avenue Austin, Texas 78701 Congressional District: 10
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$	
10. A) Name and Address of Lobbying Registrant <i>(If individual, Last name, First name, MI):</i>	B) Individuals Performing Services (include address, if different from 10 A) <i>(Last name, First name, MI):</i>	
11. Information requested through this form is authorized by Title 31 U.S.C. §1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to Title 31 U.S.C. §1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No: _____ Date: _____
Federal Use Only:		Authorized for Local Reproduction Standard Form—LLL

(STCONT)

GENERAL INSTRUCTIONS FOR SPECIAL PROVISIONS - C
PART B
DISCLOSURE OF LOBBYING ACTIVITIES

The filing of this form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

Each organization shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such organization. An event that materially affects the accuracy of the information reported includes:

- (a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - (b) A change in the organization(s) or individual(s) influencing or attempting to influence a covered Federal action; or
 - (c) A change in the officer(s), employee(s), or Member(s) of Congress contacted to influence or attempt to influence a covered Federal action.
4. Enter the full name, address, city, state, and zip code of the reporting entity. Include congressional district, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards, include but are not limited to, subcontracts, subgrants and contract awards under grants.
 5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, state and zip code of the prime Federal recipient. Include congressional district, if known.
 6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
 7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
 8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
 9. For a covered Federal action where there has been an award by the Federal agency, enter the Federal amount of the award for the prime entity identified in item 4 or 5.
 10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
 11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

SPECIAL PROVISIONS - D
Historically Underutilized Business Subcontracting Plan (HSP)
(insert HSP here)

- A. Contractor's HSP is attached and incorporated herein.
- B. Any changes to the HUB Subcontracting Plan (HSP) must be approved by the Agency HUB Coordinator before staffing changes are initiated.
- C. Contractor must submit monthly compliance reports (Prime Contractor Progress Assessment Report (PAR) to the TEA HUB Coordinator, verifying their compliance with the HSP, including the use/expenditures they have made to all subcontractors. (The PAR is available at <http://www.tea.state.tx.us/tea/hub/index.html>)

Texas Education Agency Historically Underutilized Business Subcontracting Plan (HSP)

In accordance with Texas Government Code § 2161.252, Texas Education Agency (TEA) has determined that subcontracting opportunities are probable under this contract. Therefore, respondents including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit a State of Texas HUB Subcontracting Plan (HSP) with their solicitation response.

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to TGC § 2161.252 (b)

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the State of Texas Disparity Study. The HUB goals defined in 1 TAC §111.13, are: 11.3% - for Heavy Construction other than building contracts, 26.1% - for all Building Construction, including general contractors and operative builders contracts, 57.2% - for all Special Trade Construction contracts, 20% - for Professional Services contracts, 33% - for all Other Service contracts and 12.6% - for Commodities contracts.

-- Agency Special Instructions/Additional Requirements --

SECTION 1 - RESPONDENT AND SOLICITATION INFORMATION

a. Respondent (Company) Name: Education Service Center, Region 20 State of Texas VID #: 74-1537461
Point of Contact: Vivian J. Seki, Coordinator Phone #: 210-370-5678

b. Is your Company a State of Texas certified HUB? ☐ - Yes ☒ - No

c. Solicitation #: RFP 701-10-004

SECTION 2 - SUBCONTRACTING OPPORTUNITIES

TEA has identified probable subcontracting opportunities by NIGP Class and Item codes in the table below. However, TEA acknowledges there may be additional subcontracting opportunities. After having divided the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, the respondent must identify what portion(s) of work, including goods or services, will be subcontracted.

Note: In accordance with 1 TAC §111.12, a "Subcontractor" means a person who contracts with a vendor to work, to supply commodities, or contribute toward completing work for a governmental entity.

Check the appropriate box regarding the subcontracting opportunity(s):

☐ - Yes, I will be subcontracting portion(s) of the contract.

(If Yes, in the spaces provided below, list any additional portions of work, not identified by TEA, that you will be subcontracting, and go to SECTION 3)

☒ - No, I will not be subcontracting any portion of the contract, and will be fulfilling the entire contract with my own resources. (If No, complete SECTION 9 and 10)

Line Item # - Subcontracting Opportunity Description

Line Item # - Subcontracting Opportunity Description

(1)-

(6)-

(2)-

(7)-

(3)-

(8)-

(4)-

(9)-

(5)-

(10)-

*To list additional subcontracting opportunities, a continuation page is available at <http://www.tea.state.tx.us/tea/hub/index.html>

¹ NOTE: Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc demonstrating evidence of the Good Faith Effort performed.

IMPORTANT: You must complete a copy of this page for each portion of the contract that you will be subcontracting. You may photocopy this page or download copies at <http://www.tea.state.tx.us/tea/hub/index.html>.

SECTION 3 - RESPONDENT SUBCONTRACTING OPPORTUNITIES

Enter the line item number and description for the portion of work listed in SECTION 2, which you will be subcontracting.

Line Item # 1 Description:

SECTION 4 - MENTOR-PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor-Protégé Program, submitting their Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the portion of work (subcontracting opportunity) listed in SECTION 3, constitutes a Good Faith Effort towards that specific portion of work.

Will you be subcontracting the portion of work listed in SECTION 3 to your Protégé?

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

SECTION 5 - PROFESSIONAL SERVICES CONTRACTS ONLY

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

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

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

In accordance with TGC §2254.002, "Professional Services" means services: (A) within the scope of the practice, as defined by state law of accounting; architecture; landscape architecture; land surveying; medicine; optometry; professional engineering; real estate appraising; or professional nursing; or (B) provided in connection with the professional employment or practice of a person who is licensed or registered as a certified public accountant; an architect; a landscape architect; a land surveyor; a physician, including a surgeon; an optometrist; a professional engineer; a state certified or state licensed real estate appraiser; or a registered nurse.

SECTION 6 - NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

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

- Provide written notification of the subcontracting opportunity listed in SECTION 3 to three (3) or more HUBs. Use the State of Texas' Centralized Master Bidders List (CMBL), found at <http://www.window.state.tx.us/procurement/> and its HUB Directory, found at <http://www.window.state.tx.us/procurement/> to identify available HUBs. Website: <http://www.window.state.tx.us/procurement/>
- Provide written notification of the subcontracting opportunity listed in SECTION 3 to a minority or women trade organization or development center to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. A list of trade organizations and development centers.
- Written notifications 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. Unless TEA has specified a different time period, you must allow the HUBs no less than five (5) working days from their receipt of notice to respond and provide notice of your subcontracting opportunity to a minority or women trade organization or development center no less than five (5) working days prior to the submission of your response to TEA.

SECTION 7 - HUB FIRMS CONTACTED FOR SUBCONTRACTING OPPORTUNITY

List three (3) State of Texas certified HUBs you notified regarding the portion of work (subcontracting opportunity) listed in SECTION 3. Specify the vendor ID number, date you provided notice and if you received a response.¹

Company Name	VID #	Notice Date	Was Response Received
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

SECTION 8 - SUBCONTRACTOR SELECTION

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

Company Name	VID #	Expected % of Contract	Approximate Dollar Amount	Texas Certified HUB
				<input type="checkbox"/> - Yes <input type="checkbox"/> - No*
				<input type="checkbox"/> - Yes <input type="checkbox"/> - No*

¹ NOTE: Attach supporting documentation (letters, phone logs, fax transmittals, electronic mail, etc demonstrating evidence of the Good Faith Effort performed.

SECTION 8 (CONT.) - SUBCONTRACTOR SELECTION

*If the subcontractor(s) you selected is a non HUB, provide written justification of your selection process below:

SECTION 9 - SELF PERFORMANCE JUSTIFICATION

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


Provide justification, in the space provided below, on how you intend to complete the entire contract using your own employees, materials, supplies and equipment. Attach any supporting documentation.

ESC-20 Braille Services will furnish the following to fulfill RFP 701-10-004: 3,159 square feet of Braille embossing, bursting of Braille pages, Thermoforming of tactile graphics masters, collating, covering, binding, printing, labeling and packaging; 4,974 square feet of warehouse space allocated for supplies storage: Braille paper, comb binders, Braille covers, Braille label paper, and address labels (See Attachment 1 of the Appendix); 5 full-time NLS Literary certified staff to perform quality control at all phases of the production process; 5-10 temporary assembly workers trained and supervised by our certified staff; 3 high-speed Braille embossers (3,600 Braille pages per hour, total capacity of 34,560,000 Braille pages per year), 2 mid-level embossers (1,800 Braille pages per hour, total capacity of 11,520,000 Braille pages per year), and 2 other embossers primarily used for producing Braille labels (See a comprehensive list of all production equipment, software and supplies in Attachment 3 of the Appendix).

SECTION 10 - AFFIRMATION

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

- The respondent must submit monthly compliance reports - Prime Contractor Progress Assessment Report (PAR) to the TEA HUB Coordinator, verifying their compliance with the HSP, including the use/expenditures they have made to all subcontractors. (The PAR is available at <http://www.tea.state.tx.us/tea/hub/index.html>)
- The respondent must seek approval from TEA prior to making any modifications to their HSP. If the HSP is modified without TEA's prior approval, respondent may be subject to debarment pursuant to TGC § 2161.253(d).

	Terry W. Smith	Executive Director	Aug. 31, 2009
Signature	Printed Name	Title	Date