

STATE OF TEXAS §
COUNTY OF TRAVIS §

Division		Program Name:	
Org Code:	211/211P	Production of Digitally Recorded Instructional Materials for Texas Public Schools	
Speed Chart:		Contract #:	3741
Payee Name:	Learning Ally	PO #:	n/a - EMAT
Payee ID:	1131659345		
Statutory Authority:	Individuals with Disabilities Education Act Part B, PL 108-446; TEC §31.028; TX Legislature 85 th GAA, Rider for Instructional Materials and Technology		

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 Learning Ally ("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 on the date TEA executes this contract, or July 21, 2017, whichever is first and ending August 31, 2025, an eight-year term with the option to renew as required by the commissioner, in the same or different terms, and subject to appropriation of funds by the Texas Legislature and Special Education grants to states federal funding, Individuals with Disabilities Education Act Part B, for this project.

ARTICLE III. PURPOSES OF CONTRACT

Contractor shall produce digitally recorded instructional materials for Texas public schools. Additionally, the Contractor shall perform all of the functions and duties set described in the Description of Services, Appendix One in addition to the Special Provisions – A, 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), not to exceed \$389,199.85.00, for the performance of services on as-needed-basis in accordance with Attachment 1, Package A, Career and Technical Education (CTE) Subchapters B, C, K, M, O, and Career Development for middle school and high school; Package B, CTE Subchapters D, E, F, I, J, and Algebraic Reasoning; Package C, CTE Subchapters A, G, H, L, N, and P, Package D, languages other than English (LOTE) Chinese and Japanese; Package E, languages other than English (LOTE) French, German, Latin; and Package F, LOTE Spanish, which is attached hereto and incorporated herein by reference. TEA's payment to Contractor will be made in accordance with the Price Worksheets, see Attachment 1, for Package A, B, C, D, E & F, satisfactory to the TEA.

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)

Texas Government Code §2252.901 prohibits the agency into entering into an employment contract, a professional services contract, or a consulting services contract with a former or retired TEA employee before the first anniversary of their last date of regular employment. If TEA enters into a "professional services" contract with a corporation, firm, or other business entity that employs a former or retired employee during the first year of the past employee's departure from the agency, the former or retired employee is restricted from performing services on projects that the employee worked on while employed at TEA.

Texas Government Code §572.069. CERTAIN EMPLOYMENT FOR FORMER STATE OFFICER OR EMPLOYEE RESTRICTED. A former state officer or employee of a state agency who during the period of state service or employment participated on behalf of a state agency in a procurement or contract negotiation involving a person may

not accept employment from that person before the second anniversary of the date the officer's or employee's service or employment with the state agency ceased.

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.

Name: Tim Wilson
Learning Ally CFO


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 14th / August 2017 (month/day/year) by a person authorized to bind Agency.

Return electronically:
Norma.Barrera@tea.texas.gov
Norma Barrera
Texas Education Agency
Purchasing, Contracts and Agency Services Division
1701 North Congress Avenue Rm. 2-125
Austin, Texas 78701-1494


Kara Belew
Deputy Commissioner Finance Administration

APPENDIX ONE

- A. The definitions in the Terms and Conditions are incorporated herein.
- B. The attached proposal entitled Request for Proposal #701-17-038, Production of Digitally Recorded Instructional Materials for Texas Public Schools and its addendums are incorporated herein by reference and is therefore made a part of this contract.
- C. 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:
- Special Provisions A – Program Specific
 - Texas Education Agency Terms and Conditions of the Standard Contract;
 - The Standard Contract, inclusive of all appendices;
 - **Attachment 1** - Contractor's Price Worksheet for all Packages;
 - **Attachment 2** - Contractor's Proposal to the Texas Education Agency entitled Production of Digitally Recorded Instructional Materials for Texas Public Schools submitted June 13, 2017; and
 - **Attachment 3** - The Request for Proposal entitled "Production of Digitally Recorded Instructional Materials for Texas Public Schools" released May 23, 2017 and due June 13, 2017.

E. Description of Services/Activities:

Contractor will produce digitally recorded instructional materials to Texas public schools adopted by the State Board of Education (SBOE) in November 2016 under Proclamation 2017 as well as additional subject areas adopted by SBOE in subsequent years, at TEA's sole discretion. Proclamation 2017 is posted on the Instructional Materials website at http://tea.texas.gov/Academics/Instructional_Materials/Review_and_Adoption_Process/Proclamation_2017/.

Refer to RFP document, for additional description of services.

E. Budget:

The total contract amount is based on the Price Worksheets on an "as needed basis" and cannot be exceeded. Payment shall be based on completion of designated "as needed" deliverables as identified in Attachment 1 of this contract. Price worksheet total for each package is an estimated total and may be exceeded with prior approval from TEA and as long as the total contract amount is not exceeded.

F. Payment:

Payment is contingent upon submission of properly prepared and certified invoices. The information provided on each invoice must coincide with the tasks outlined in the Price Worksheet(s) for the respective package(s) included in this Contract. Instructional Materials Education Technology staff will process and approve invoices entered into the Educational Materials/Accessible Educational Materials (EMAT/AEM) System based upon project progress, task completion, reasonable use of project funds, and satisfactory performance of services.

When an audio instructional material is shipped to an ordering school district, the producer should promptly enter the shipping details in EMAT. This information will be used to generate payments to the producer. Payments will be made by direct deposit. Any discrepancies will be reconciled on future payments to the producer.

SPECIAL PROVISIONS - A

Program Specific

- A. Contractor may not charge Texas based school entities additional fees in the event of producing replacement volume/s. However, the Contractor may charge Texas-based school entities for the cost of the material itself and any necessary shipping costs.
- B. Contractor must report potential problems to TEA staff such as mistakes with master files, files or materials not received by a publisher, or technical equipment issues which may impact the quality of a deliverable and/or time frame as soon as possible.
- C. Contractor must report observations to TEA staff which may lead to a deficiency in the quality of a deliverable as soon as possible.
- D. Contractor must provide a quarterly report to include the number of Audio orders completed, not completed, and the reason for not completing the order within the timeframe specified.
- E. An independent contractor may be hired by the Agency as a quality monitor. The quality monitor may assess the quality of Audio delivered to the school districts by the contractors and make periodic reports to the Agency.
- F. Contractor's delivery time frame will be allowed in installments for orders placed for Chinese, German and Latin subjects.
- G. The Copyright Amendment 1996, PL 104-107, Chafee Amendment, Section 121 states "The amendment allows authorized entities to reproduce or distribute copies or phonorecords of previously published nondramatic literary works in specialized formats exclusively for use by blind or other persons with disabilities.

Both TEA and Learning Ally are provided the same authorization under the Copyright Amendment.

**PACKAGE A - CAREER DEVELOPMENT, CAREER AND TECHNICAL EDUCATION (CTE)
SUBCHAPTERS B, C, K, M, O**

Course/Publisher	ISBN	Product Title	Estimated # of Pages	# of Orders During Previous Adoption Period
Career Development, Middle School and High School				
College and Career Readiness				N/A
Pearson Education, Inc., publishing as Prentice Hall	9780134428031	College and Career Readiness - Texas Student Edition (Print) with Digital eText	448	
Investigating Careers				85
Goodheart-Willcox Company	9781631266058	Discovering Careers	448	
Pearson Education, Inc., publishing as Prentice Hall	9780134428048	Investigating Careers - Texas Student Edition (Print) with Digital eText	832	
Career Preparation I				5
Goodheart-Willcox Company	9781631266157	School to Career	752	(Career Studies)
Career Preparation II				16
Goodheart-Willcox Company	9781631266157	School to Career	752	(Career Connections)
CTE, Subchapter B. Architecture and Construction				
Architectural Design I				7
Goodheart-Willcox Company	9781631263156	Architecture: Residential Drafting and Design	896	
Construction Technology I				4
Goodheart-Willcox Company	9781631260834	Modern Carpentry	976	
Pearson Education, Inc., publishing as Prentice Hall	9781323351215	NCCER Construction Technology - Texas Student Edition (Print) with Digital Courseware	1,156	
Interior Design I				15
Goodheart-Willcox Company	9781631265679	Housing and Interior Design	768	
Interior Design II				N/A
Goodheart-Willcox Company	9781619602427	Interior Design	550	
CTE, Subchapter C. Arts, Audio/Video Technology, and Communication				
Audio/Video Production I				4
Goodheart-Willcox Company	9781631262753	Television Production & Broadcast Journalism	539	(Video Technology)
Pearson Education, Inc., publishing as Prentice Hall	9780134427508	Learning Audio and Video Production - Student Edition (Print) with Digital eText	544	
Commercial Photography I				N/A
Goodheart-Willcox Company	9781631263057	Photography: Portfolio to Profession	550	
Fashion Design I				19
Goodheart-Willcox Company	9781631265587	Apparel: Design, Textiles & Construction	606	(Apparel, HS)

Attachment 1 Packages A, B, C, D, E & F				
Fashion Design I Lab				N/A
Goodheart-Willcox Company	9781631265587	Apparel: Design, Textiles & Construction	606	
Graphic Design And Illustration I				N/A
Pearson Education, Inc., publishing as Prentice Hall	9780134405520	Learning Graphic Design and Illustration - Student Edition (Print) with Digital eText	1,088	
Principles Of Arts, Audio/Video Technology, And Communications				N/A
Pearson Education, Inc., publishing as Prentice Hall	9780134427478	Principles of Arts, Audio and Video Technology and Communication - Texas Student Edition (Print) with Digital eText	1,344	
Professional Communications				118
Goodheart-Willcox Company	9781631261282	Professional Communication	512	(Speech Communication)
McGraw-Hill School Division (Contract Vendor)	9780076758296	Business and Professional Communication	2,304	
Pearson Education, Inc., publishing as Prentice Hall	9781323395028	Professional Communications - Student Edition (Print) with Digital eText Access	1,248	
Perfection Learning Corporation	9781682407561	Projects in Professional Communications	450	
Video Game Design				N/A
Goodheart-Willcox Company	9781619602786	Video Game Design Foundations	400	
CTE, Subchapter K. Information Technology				
Computer Programming I				18
Pearson Education, Inc., publishing as Prentice Hall	9780134444345	Computer Programming - Student Edition (Print) with Digital eText	1,088	(Computer Science 1)
Digital Media				N/A
Pearson Education, Inc., publishing as Prentice Hall	9780134427430	Learning Digital Media - Student Edition (Print) with Digital eText	1,216	
Principles Of Information Technology				N/A
Goodheart-Willcox Company	9781631264641	Principles of Information Technology	736	
Pearson Education, Inc., publishing as Prentice Hall	9780134446547	Principles of Information Technology - Texas Student Edition (Print) with Digital eText	1,344	
Web Technologies				18
Pearson Education, Inc., publishing as Prentice Hall	9780134427447	Learning Web Technologies - Student Edition (Print) with Digital eText	1,120	(Web Mastering)
CTE, Subchapter M. Manufacturing				
Welding I				2
Goodheart-Willcox Company	9781631263286	Welding Fundamentals	464	

Attachment 1 Packages A, B, C, D, E & F				
Pearson Education, Inc., publishing as Prentice Hall	9781323351253	NCCER Welding - Texas Student Edition (Print) with Digital Courseware	2,541	
CTE, Subchapter O. Science, Technology, Engineering, and Mathematics				
Engineering Design And Presentation I				8
Goodheart-Willcox Company	9781631262654	Exploring Drafting	592	(Engineering Graphics)
Principles Of Applied Engineering				N/A
Goodheart-Willcox Company	9781631262852	Engineering Fundamentals	384	
Pearson Education, Inc., publishing as Prentice Hall	9780134428017	Principles of Applied Engineering - Texas Student Edition (Print) with Digital eText	544	
TOTAL			27,798	319
Note - N/A indicates a new course				
Price Per Page			\$2.90	
Estimated Shipping and Handling if Out-of-State			N/A	
Estimated Package Price ((Page Total x Price Per Page) + Shipping and Handling)			\$80,614.20	

PACKAGE B - MATHEMATICS, CTE SUBCHAPTERS D, E, F, I, J

Course/Publisher	ISBN	Product Title	Estimated # of Pages	# of Orders During Previous Adoption Period
Mathematics, High School				
Algebraic Reasoning, High School				N/A
Cosenza & Associates, LLC	9780988679696	Algebraic Reasoning	1,000	
CTE, Subchapter D. Business Management and Administration				
Business Information Management I				154
B.E. Publishing, Inc.	9781626891180	Business Information Management	300	BCIS 1
Pearson Education, Inc., publishing as Prentice Hall	9780134457178	Business Information Management I (Office 2013) - Texas Student Edition (Print) with Digital Courseware	1,080	
Pearson Education, Inc., publishing as Prentice Hall	9780134446561	Business Information Management I (Office 2016) - Texas Student Edition (Print) with Digital Courseware	1,080	
Business Information Management II				27
Pearson Education, Inc., publishing as Prentice Hall	9780134446820	Business Information Management II (Office 2013) - Texas Student Edition (Print) with Digital Courseware	920	BCIS 2
Principles Of Business, Marketing, And Finance				8
Goodheart-Willcox Company	9781631264559	Principles of Business, Marketing, and Finance	560	Principles of Marketing
CTE, Subchapter E. Education and Training				
Human Growth And Development				N/A
Goodheart-Willcox Company	9781631265402	Lifespan Development	480	
Principles Of Education And Training				N/A
Goodheart-Willcox Company	9781631260094	Teaching	400	
CTE, Subchapter F. Finance				
Accounting I				35
McGraw-Hill School Division (Contract Vendor)	9780021400881	Glencoe Accounting	960	
Money Matters				N/A
Goodheart-Willcox Company	9781631261374	Foundations of Financial Literacy	720	
The Lampo Group, Inc	9781936948147	Foundations in Personal Finance High School Edition	284	
CTE, Subchapter I. Hospitality and Tourism				
Culinary Arts				N/A
Goodheart-Willcox Company	9781631264375	The Culinary Professional	912	
Food Science				50
Goodheart-Willcox Company	9781619604360	Principles of Food Science	842	Food Science & Nutrition

Attachment 1 Packages A, B, C, D, E & F				
Introduction to Culinary Arts				N/A
Pearson Education, Inc., publishing as Prentice Hall	9780134480633	Introduction to Culinary Arts - Student Edition (Print) with Digital eText	916	
Principles Of Hospitality And Tourism				10
Goodheart-Willcox Company	9781631265495	Hospitality Services	575	
CTE, Subchapter J. Human Services				
Child Development				45
Goodheart-Willcox Company	9781631260384	Child Development	832	
McGraw-Hill School Division (Contract Vendor)	9780021399994	The Developing Child	736	
Child Guidance				6
Goodheart-Willcox Company	9781631260247	Working with Young Children	770	
Dollars and Sense				N/A
Goodheart-Willcox Company	9781631261374	Foundations of Financial Literacy	720	
Pearson Education, Inc., publishing as Prentice Hall	9780134428055	Dollars and Sense - Texas Student Edition (Print) with Digital eText	384	
Interpersonal Studies				N/A
Goodheart-Willcox Company	9781631265761	Interpersonal Relationships	640	
Pearson Education, Inc., publishing as Prentice Hall	9780134513683	Interpersonal Studies -- Texas Student Edition (Print) with Digital eText	408	
Lifetime Nutrition And Wellness				68
Goodheart-Willcox Company	9781631262258	Guide to Good Food	762	Nutrition & Food Science
McGraw-Hill School Division (Contract Vendor)	9780021402564	Food, Nutrition and Wellness	600	
Pearson Education, Inc., publishing as Prentice Hall	9780134458762	Food and Nutrition for You - Student Edition (Print) with Digital eText	624	
Principles Of Human Services				N/A
Goodheart-Willcox Company	9781631265310	Principles of Human Services	416	
Pearson Education, Inc., publishing as Prentice Hall	9780134513676	Principles of Human Services -- Texas Student Edition (Print) with Digital eText	512	
TOTAL			18,433	403
Note - N/A indicates a new course				
Price Per Page			\$2.90	
Estimated Shipping and Handling if Out-of-State			N/A	
Estimated Package Price ((Page Total x Price Per Page) + Shipping and Handling)			\$53,455.70	

PACKAGE C - CTE, SUBCHAPTERS A, H, L, N, P

Course/Publisher	ISBN	Product Title	Estimated # of Pages	# of Orders During Previous Adoption Period
CTE, Subchapter A. Agriculture, Food, and Natural Resources				
Agricultural Mechanics And Metal Technologies				16
Goodheart-Willcox Company	9781631262555	Agricultural Mechanics and Technology Systems	1,000	
Pearson Education, Inc., publishing as Prentice Hall	9781323351246	NCCER Agricultural Mechanics and Metal Technologies - Texas Student Edition (Print) with Digital Courseware	2,278	
Floral Design				5
Goodheart-Willcox Company	9781619608894	Principles of Floral Design: An Illustrated Guide	624	
Horticultural Science				13
Goodheart-Willcox Company	9781631262456	Horticulture Today	1,050	
Livestock Production				19
Pearson Education, Inc., publishing as Prentice Hall	9780134513171	Introduction to Livestock and Companion Animals - Student Edition (Print) with Digital eText	760	
Principles Of Agriculture, Food, And Natural Resources				0
Goodheart-Willcox Company	9781631262357	Principles of Agriculture, Food, and Natural Resources	1,156	
Pearson Education, Inc., publishing as Prentice Hall	9780134480619	Principles of Agriculture, Food & Natural Resources -- Texas Student Edition (Print) with Digital eText	984	
Small Animal Management				N/A
Pearson Education, Inc., publishing as Prentice Hall	9780134513171	Introduction to Livestock and Companion Animals - Student Edition (Print) with Digital eText	760	
CTE, Subchapter H. Health Science				
Anatomy and Physiology				37
B.E. Publishing, Inc.	9780803643734	Understanding Anatomy and Physiology	544	
Goodheart-Willcox Company	9781619604124	Introduction to Anatomy and Physiology	640	
McGraw-Hill School Division (Contract Vendor)	9780076758364	Hole's Human Anatomy & Physiology, Texas - Workbook	366	
McGraw-Hill School Division (Contract Vendor)	9780076758326	Hole's Human Anatomy & Physiology, Texas - Textbook and Workbook	1,056	
Pearson Education, Inc., publishing as Prentice Hall	9780134570075	Anatomy, Physiology, and Disease - Student Edition (Print) with Digital eText	928	
Health Science Theory				N/A
Goodheart-Willcox Company	9781631265853	Health Science: Concepts and Applications	500	
Medical Terminology				19
Goodheart-Willcox Company	9781619606166	Introduction to Medical Terminology	450	
Pearson Education, Inc., publishing as Prentice Hall	9780134480664	Medical Terminology - Student Edition (Print) with Digital eText	872	
B.E. Publishing, Inc.	9780803640320	Medical Terminology Express	384	
B.E. Publishing, Inc.	9780803639713	Medical Terminology Simplified	629	
B.E. Publishing, Inc.	9780803643680	Medical Terminology in A Flash!	640	

Attachment 1 Packages A, B, C, D, E & F				
B.E. Publishing, Inc.	9780803629547	Medical Terminology Systems	624	
Pharmacology				N/A
B.E. Publishing, Inc.	9780803625884	Pharmacology Clear & Simple	300	
Practicum In Health Science				N/A
B.E. Publishing, Inc.	9780803644656	Today's Health Professions	560	
Principles Of Health Science				17
B.E. Publishing, Inc.	9780803644656	Today's Health Professions	560	Health Science Technology
B.E. Publishing, Inc.	9780803625860	Introduction to Health Care in a Flash!	320	
Goodheart-Willcox Company	9781619606050	Introduction to Health Science: Pathways to Your Future	816	
Pearson Education, Inc., publishing as Prentice Hall	9780134428024	Principles of Health Science - Texas Student Edition (Print) with Digital eText	916	
CTE, Subchapter L. Law, Public Safety, Corrections, and Security				
Criminal Investigation				N/A
TPS Publishing, Inc.	9781847001320	TPS Publishing Criminal Investigation CTE - Printed Student Edition and Teacher Edition	600	
TPS Publishing, Inc.	9781847001375	TPS Publishing Criminal Investigation CTE Printed Student Edition and Teacher Edition plus Assessment Database	600	
Forensic Science				4
Pearson Education, Inc., publishing as Prentice Hall	9780134526065	Forensic Science - Student Edition (Print) with Digital eText	816	
TPS Publishing, Inc.	9781847001184	TPS Publishing Forensic Science CTE - Student Edition and Teacher Edition in Print	800	
Law Enforcement I				19
TPS Publishing, Inc.	9781847001412	TPS Publishing Law Enforcement I CTE - Printed Student Edition and Teacher Edition	610	Protective Services
Principles Of Law, Public Safety, Corrections, And Security				0
TPS Publishing, Inc.	9781847001399	TPS Publishing Principles Of Law, Public Safety, Corrections, And Security CTE - Printed Student Edition and Teacher Edition	575	
CTE, Subchapter N. Marketing				
Entrepreneurship				12
Goodheart-Willcox Company	9781631266355	Entrepreneurship	560	
Pearson Education, Inc., publishing as Prentice Hall	9780134571171	Entrepreneurship: Owning Your Future - Student Edition (Print) with Digital eText Access	944	
Practicum In Marketing				20
Goodheart-Willcox Company	9781619603431	Marketing Dynamics	784	
CTE, Subchapter P. Transportation, Distribution, and Logistics				
Automotive Basics				N/A
Goodheart-Willcox Company	9781631263750	Modern Automotive Technology	1,900	
Automotive Technology I: Maintenance And Light Repair				15
Goodheart-Willcox Company	9781631263750	Modern Automotive Technology	1,900	
Jones & Bartlett Learning	9781284056730	Fundamentals of Automotive Maintenance and Light Repair	1,528	

Attachment 1 Packages A, B, C, D, E & F				
Pearson Education, Inc., publishing as Prentice Hall	9780134133423	Automotive Technology - Student Edition (Print) with Digital eText	1,500	
Automotive Technology II: Automotive Service				N/A
Jones & Bartlett Learning	9781449671082	Fundamentals of Automotive Technology	2,026	
Basic Collision Repair And Refinishing				2
Goodheart-Willcox Company	9781631264009	Auto Collision Repair and Refinishing	950	
Collision Repair				1
Goodheart-Willcox Company	9781631264009	Auto Collision Repair and Refinishing	950	
Diesel Equipment Technology I				N/A
Jones & Bartlett Learning	9781284041163	Fundamentals of Medium/Heavy Duty Commercial Truck Systems	1,980	
Small Engine Technology I				N/A
Goodheart-Willcox Company	9781631263903	Small Gas Engines	550	
TOTAL			28,072	199
Note - N/A indicates a new course				
Price Per Page				\$2.80
Estimated Shipping and Handling if Out-of-State				N/A
Estimated Package Price ((Page Total x Price Per Page) + Shipping and Handling)				\$78,601.60

Package D, LOTE: Chinese and Japanese

Course/Publisher	ISBN	Product Title	Estimated # of Pages	# of Orders During Previous Adoption Period
Languages Other Than English, Elementary				
Chinese, Level I, Elementary				0
Global Classroom Alliance/Sinolingua	9787802004023	Chinese for Elementary School Book 1 (1 Textbook, Exercise Book A&B)	66	
Phoenix Tree Publishing Inc.	9787561930496	Easy Steps to Chinese for Kids Txtbk. Vol. 1AB	284	
Chinese, Level II, Elementary				0
Global Classroom Alliance/Sinolingua	9787802004092	Chinese for Elementary School Book 4 (1 Textbook, Exercise Book A&B)	100	
Chinese, Level IV, Elementary				0
Global Classroom Alliance/Sinolingua	9787802005532	Chinese for Elementary School Book 10 (1 Textbook, Exercise Book A&B)	312	
Languages Other Than English, Middle School				
Chinese, Level I, Middle School				0
Global Classroom Alliance/Sinolingua	9787513800044	Voyages in Chinese for Middle School Students, Student's Book 1	359	
Chinese, Level II, Middle School				0
Global Classroom Alliance/Sinolingua	9787513801386	Voyages in Chinese for Middle School Students, Student's Book 2	567	
Phoenix Tree Publishing Inc.	9787561918104	Easy Steps to Chinese Txtbk. Vol. 2	727	
Chinese, Level III, Middle School				0
Global Classroom Alliance/Sinolingua	9787513804585	Voyages in Chinese for Middle School Students, Student's Book 3	331	
Phoenix Tree Publishing Inc.	9787561918890	Easy Steps to Chinese Txtbk. Vol. 3	732	
Chinese, Level IV, Middle School				0
Global Classroom Alliance/Sinolingua	9787513804585	Voyages in Chinese for Middle School Students, Student's Book 3	331	
Phoenix Tree Publishing Inc.	9787561919965	Easy Steps to Chinese Txtbk. Vol. 4	732	
Languages Other Than English, High School				
Chinese, Level I, High School				0
Cheng & Tsui Co., Inc.	9780887276620	Huanying: An Invitation to Chinese	919	

				Attachment 1
				Packages A, B, C, D, E & F
Cheng & Tsui Co., Inc.	9780887276446	Integrated Chinese Level 1 Part 1	633	
Global Classroom Alliance/Sinolingua	9787513805605	Feiyue Basic Chinese Student's Book 1	257	
Chinese, Level II, High School				0
Cheng & Tsui Co., Inc.	9780887277252	Huanying An Invitation to Chinese	947	
Cheng & Tsui Co., Inc.	9780887276702	Integrated Chinese Level 1 Part 2	633	
Global Classroom Alliance/Sinolingua	9787513805605	Feiyue Basic Chinese Student's Book 1	257	
Phoenix Tree Publishing Inc.	9787561918104	Easy Steps to Chinese Txbk. Vol. 2	727	
Chinese, Level III, High School				0
Cheng & Tsui Co., Inc.	9780887277405	Huanying An Invitation to Chinese 3	616	
Cheng & Tsui Co., Inc.	9780887276804	Integrated Chinese Level 2 Part 1	625	
Global Classroom Alliance/Sinolingua	9787513805612	Feiyue Basic Chinese Student's Book 2	276	
Phoenix Tree Publishing Inc.	9787561918890	Easy Steps to Chinese Txbk. Vol. 3	732	
Chinese, Level IV, High School				0
Global Classroom Alliance/Sinolingua	9787513805612	Feiyue Basic Chinese Student's Book 2	276	
Phoenix Tree Publishing Inc.	9787561919965	Easy Steps to Chinese Txbk. Vol. 4	727	
Chinese, Level V, High School				0
Global Classroom Alliance/Sinolingua	9787513801362	Feiyue Intermediate Chinese Student's Book 1	309	
Phoenix Tree Publishing Inc.	9787561921036	Easy Steps to Chinese Txbk. Vol. 5	732	
Chinese, Level VI, High School				0
Global Classroom Alliance/Sinolingua	9787513801362	Feiyue Intermediate Chinese Student's Book 1	309	
Phoenix Tree Publishing Inc.	9787561923818	Easy Steps to Chinese Txbk. Vol. 6	233	
Chinese, Level VII, High School				0
Global Classroom Alliance/Sinolingua	9787513801355	Feiyue Intermediate Chinese Student's Book 2	324	
Phoenix Tree Publishing Inc.	9787561927915	Easy Steps to Chinese Txbk. Vol. 7	233	
Japanese, Level I, High School				2
Cheng & Tsui Co., Inc.	9781622910564	Adventures in Japanese 1 4th Edition	718	
Japanese, Level II, High School				2
Cheng & Tsui Co., Inc.	9781622910663	Adventures in Japanese 2 4th edition	727	
TOTAL			15,751	4
Note - N/A indicates a new course			Price Per Page	\$4.35
Estimated Shipping and Handling if Out-of-State			N/A	
Estimated Package Price ((Page Total x Price Per Page) + Shipping and Handling)			\$68,516.85	

Package E, LOTE: French, German, Latin

Course/Publisher	ISBN	Product Title	Estimated # of Pages	# of Orders During Previous Adoption Period
Languages Other Than English, Middle School				
French, Level I, Middle School				4
EMC Publishing, LLC	9780821966662	T'es branche? Level 1A Textbook	320	
EMC Publishing, LLC	9780821966679	T'es branche? Level 1B Textbook	408	
Houghton Mifflin Harcourt Depository	9780544854543	Holt McDougal Bien dit! Texas Hybrid Classroom Package (Print/8-Year Digital) Level 1A/1B	576	
Houghton Mifflin Harcourt Depository	9780544854888	Holt McDougal Bien dit! Texas Hybrid Classroom Package (Print/8-Year Digital) Level 1	464	
French, Level II, Middle School				N/A
Houghton Mifflin Harcourt Depository	9780544855557	Holt McDougal Bien dit! Texas Hybrid Classroom Package (Print/8-Year Digital) Level 2	512	
German, Level I, Middle School				N/A
Klett-Langenscheidt	9783126052313	Portfolio Deutsch Level 1	360	
Klett-Langenscheidt	9783126063135	geni@I klick A1	344	
German, Level II, Middle School				N/A
Klett-Langenscheidt	9783126063463	Portfolio Deutsch Level 2	360	
Klett-Langenscheidt	9783126063173	geni@I klick A2	216	
German, Level III, Middle School				N/A
Klett-Langenscheidt	9783126063524	Portfolio Deutsch Level 3	232	
Klett-Langenscheidt	9783126051545	geni@I klick B1	216	
Languages Other Than English, High School				
French, Level I, High School				88
EMC Publishing, LLC	9780821958520	T'es branche? Level 1 Textbook	624	
Houghton Mifflin Harcourt Depository	9780544854888	Holt McDougal Bien dit! Texas Hybrid Classroom Package (Print/8-Year Digital) Level 1	464	
French, Level II, High School				59
EMC Publishing, LLC	9780821959978	T'es branche? Level 2 Textbook	672	
Houghton Mifflin Harcourt Depository	9780544855557	Holt McDougal Bien dit! Texas Hybrid Classroom Package (Print/8-Year Digital) Level 2	512	
French, Level III, High School				20
Houghton Mifflin Harcourt Depository	9780544855564	Holt McDougal Bien dit! Texas Hybrid Classroom Package (Print/8-Year Digital) Level 3	484	
French, Level IV, High School				4
EMC Publishing, LLC	9780821966600	T'es branche? Level 4 Textbook	640	
German, Level I, High School				41
Klett-Langenscheidt	9783126052313	Portfolio Deutsch Level 1	288	
Klett-Langenscheidt	9783126063135	geni@I klick A1	152	

Attachment 1
Packages A, B, C, D, E & F

German, Level II, High School				29
Klett-Langenscheidt	9783126063463	Portfolio Deutsch Level 2	288	
Klett-Langenscheidt	9783126063173	geni@I klick A2	151	
German, Level III, High School				8
Klett-Langenscheidt	9783126063524	Portfolio Deutsch Level 3	184	
Klett-Langenscheidt	9783126051545	geni@I klick B1	216	
German, Level IV, High School				0
Klett-Langenscheidt	9783126063555	Portfolio Deutsch Level 4	184	
Latin, Level I, High School				26
Bolchazy-Carducci Publishers, Inc.	9780865168077	Latin for the New Millennium, Level 1	672	
Cambridge University Press	9781107484900	Cambridge Latin Course Unit 1 and Unit 2 Student Book (Hardcover) with 1-year Website Access	419	
Latin, Level II, High School				22
Bolchazy-Carducci Publishers, Inc.	9780865168114	Latin for the New Millennium, Level 2	767	
Cambridge University Press	9781107098220	Cambridge Latin Course Unit 3 Student Book (Hardcover) with 1-year Website Access	336	
Latin, Level III, High School				3
Bolchazy-Carducci Publishers, Inc.	9780865167605	Latin for the New Millennium, Level 3	664	
Bolchazy-Carducci Publishers, Inc.	9780865167650	Vergil's Aeneid: Selected Readings from Books 1, 2, 4, and 6	200	
Bolchazy-Carducci Publishers, Inc.	9780865167780	Caesar: Selections from his Commentarii De Bello Gallico	416	
Bolchazy-Carducci Publishers, Inc.	9780865168336	Latin of New Spain	304	
Bolchazy-Carducci Publishers, Inc.	9780865167841	Ovid: Amores, Metamorphoses Selections 3rd Edition	248	
Bolchazy-Carducci Publishers, Inc.	9780865168053	Cicero: Pro Archia Poeta Oratio 3rd Edition	192	
Cambridge University Press	9781107098305	Cambridge Latin Course Unit 4 Student Book (Hardcover) with 1-year Website Access	366	
Latin, Level IV, High School				0
Bolchazy-Carducci Publishers, Inc.	9780865167650	Vergil's Aeneid: Selected Readings from Books 1, 2, 4, and 6	200	
Bolchazy-Carducci Publishers, Inc.	9780865167780	Caesar: Selections from his Commentarii De Bello Gallico	416	
Bolchazy-Carducci Publishers, Inc.	9780865168336	Latin of New Spain	304	
Bolchazy-Carducci Publishers, Inc.	9780865167841	Ovid: Amores, Metamorphoses Selections 3rd Edition	248	
Bolchazy-Carducci Publishers, Inc.	9780865168053	Cicero: Pro Archia Poeta Oratio 3rd Edition	192	
Latin, Level V, High School				0
Bolchazy-Carducci Publishers, Inc.	9780865167650	Vergil's Aeneid: Selected Readings from Books 1, 2, 4, and 6	200	
Bolchazy-Carducci Publishers, Inc.	9780865167780	Caesar: Selections from his Commentarii De Bello Gallico	416	
Bolchazy-Carducci Publishers, Inc.	9780865168336	Latin of New Spain	604	
Bolchazy-Carducci Publishers, Inc.	9780865167841	Ovid: Amores, Metamorphoses Selections 3rd Edition	248	

Attachment 1
Packages A, B, C, D, E & F

Bolchazy-Carducci Publishers, Inc.	9780865168053	Cicero: Pro Archia Poeta Oratio 3rd Edition	192	
TOTAL			13,487	304
Note - N/A indicates a new course				
Price Per Page				\$3.50
Estimated Shipping and Handling if Out-of-State				N/A
Estimated Package Price ((Page Total x Price Per Page) + Shipping and Handling)				\$47,204.50

Package F, LOTE: Spanish

Course/Publisher	ISBN	Product Title	Estimated # of Pages	# of Orders During Previous Adoption Period
Languages Other Than English, Elementary				
Spanish, Level I, Elementary				18
Santillana Publishing Company	9781631139833	Descubre el Español A, Grades K, Texas Edition	304	
Santillana Publishing Company	9781631139840	Descubre el Español B, Grade 1, Texas Edition	304	
Santillana Publishing Company	9781631139857	Descubre el Español C, Grade 2, Texas Edition	304	
Spanish, Level II, Elementary				N/A
Santillana Publishing Company	9781631139864	Descubre el Español D, Grade 3, Texas Edition	304	
Santillana Publishing Company	9781631139871	Descubre el Español E, Grade 4, Texas Edition	304	
Santillana Publishing Company	9781631139888	Descubre el Español F, Grade 5, Texas Edition	304	
Languages Other Than English, Middle School				
Spanish, Level I, Middle School				52
EMC Publishing, LLC	9780821977514	Que chevere! Level 1A Textbook	312	
EMC Publishing, LLC	9780821977521	Que chevere! Level 1B Textbook	288	
McGraw-Hill School Division (Contract Vendor)	9780076706938	TEXAS ¡Así se dice! LEVEL 1	1,264	
Pearson Education, Inc., publishing as Prentice Hall	9780328911912	Autentico A - Texas Student Edition (Print) with Digital Courseware	752	
Pearson Education, Inc., publishing as Prentice Hall	9780328911929	Autentico B - Texas Student Edition (Print) with Digital Courseware	912	
Santillana Publishing Company	9781631137983	Español Santillana, Middle 1B, Texas Edition	336	
Santillana Publishing Company	9781631137891	Español Santillana, Middle Level 1A, Texas Edition	336	
Spanish, Level II, Middle School				5
Houghton Mifflin Harcourt Depository	9780544854581	Holt McDougal Avancemos! Texas Hybrid Classroom Package (Print/8-Year Digital) Level 2	656	
Languages Other Than English, High School				
Discovering Languages and Cultures, High School				N/A
EMC Publishing LLC	9780821992944	Exploring Spanish Textbook + Workbook	408	

Attachment 1
Packages A, B, C, D, E & F

Attachment 1 Packages A, B, C, D, E & F				
Spanish, Level I, High School				615
Cambridge University Press	9781107472587	Mundo Real Level 1 Value Pack	271	
EMC Publishing, LLC	9780821969229	Que chevere! Level 1 Textbook	544	
Houghton Mifflin Harcourt Depository	9780544854574	Holt McDougal Avancemos! Texas Hybrid Classroom Package (Print/8-Year Digital) Level 1	608	
McGraw-Hill School Division (Contract Vendor)	9780076706938	TEXAS ¡Así se dice! LEVEL 1	576	
Pearson Education, Inc., publishing as Prentice Hall	9780328911943	Autentico 1 - Texas Student Edition (Print) with Digital Courseware	552	
Santillana Publishing Company	9781631138072	Español Santillana High School 1, Texas Edition	568	
Yetter's Learn Spanish	9781495193651	Yetter's Better Spanish Guide Student's Edition	519	
Spanish, Level II, High School				417
Cambridge University Press	9781107473553	Mundo Real Level 2 Value Pack	271	
EMC Publishing, LLC	9780821969403	Que chevere! Level 2 Textbook	576	
Houghton Mifflin Harcourt Depository	9780544854581	Holt McDougal Avancemos! Texas Hybrid Classroom Package (Print/8-Year Digital) Level 2	656	
McGraw-Hill School Division (Contract Vendor)	9780076757848	TEXAS ¡Así se dice! LEVEL 2	624	
Pearson Education, Inc., publishing as Prentice Hall	9780328911936	Autentico 2 - Texas Student Edition (Print) with Digital Courseware	608	
Santillana Publishing Company	9781631138164	Español Santillana High School 2, Texas Edition	560	
Spanish, Level III, High School				122
Cambridge University Press	9781107473737	Mundo Real Level 3 Value Pack	272	
EMC Publishing, LLC	9780821969571	Que chevere! Level 3 Textbook	600	
Houghton Mifflin Harcourt Depository	9780544854857	Holt McDougal Avancemos! Texas Hybrid Classroom Package (Print/8-Year Digital) Level 3	720	
McGraw-Hill School Division (Contract Vendor)	9780076757855	TEXAS ¡Así se dice! LEVEL 3	600	
Pearson Education, Inc., publishing as Prentice Hall	9780328911950	Autentico 3 - Texas Student Edition (Print) with Digital Courseware	616	
Santillana Publishing Company	9781631138256	Español Santillana High School 3, Texas Edition	576	
Spanish, Level IV, High School				43
Cambridge University Press	9781316502600	Mundo Real Level 4 Value Pack	572	
EMC Publishing, LLC	9780821976814	Que chevere! Level 4 Textbook	496	
Houghton Mifflin Harcourt Depository	9780544854864	Holt McDougal Avancemos! Texas Hybrid Classroom Package (Print/8-Year Digital) Level 4	492	
Santillana Publishing Company	9781631138355	Español Santillana High School 4, Texas Edition	496	

Attachment 1
Packages A, B, C, D, E & F

Attachment 1				
Packages A, B, C, D, E & F				
Spanish, Level V, High School				18
EMC Publishing, LLC	9780821976913	Espanol avanzado Textbook	400	
EMC Publishing LLC	9780821992944	Exploring Spanish Textbook + Workbook	408	
TOTAL			20,269	1,290
Note - N/A indicates a new course				
Price Per Page				\$3.00
Estimated Shipping and Handling if Out-of-State				N/A
Estimated Package Price ((Page Total x Price Per Page) + Shipping and Handling)				\$60,807.00

Texas Education Agency Contract Terms and Conditions

A. Definitions as used in these Contract Terms and Conditions:

- *Contract* means the document entered into between TEA and Contractor or Performing Agency, including 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 Contract.
- *TEA, Receiving Agency, or Owner* means the Texas Education Agency.
- *Proposer, Respondent, or Bidder* identifies a person or entity who responds to the following specific competitive solicitations; Proposer or Respondent (may be used interchangeably) responds to a Request for Proposal; Respondent responds to a Request for Qualifications, Bidder responds to an Invitation for Bid. Proposer, Respondent, and Bidder infer pre-solicitation award status and Contractor infers post-award status.
- *Proposal, or Response, or Bid Package*, is what a Proposer, or Respondent, or Bidder submits in response to the following specific competitive solicitations: a Proposal or Response (may be used interchangeably) is submitted for a Request for Proposal; a Response is submitted for a Request for Qualifications; a Bid Package is submitted for an Invitation for Bid;
- *Contractor or Performing Agency* means the party to this Contract who is providing the contracted goods or services to TEA, the Receiving Agency.
- *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 document used to formalize additions or changes to the Contract mutually agreed to by both Parties.
- *Major Contract* means any contract that has a value of at least \$1 million pursuant to Texas Government Code Section 2262.001(4).
- *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. "Works" 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.
- *TEA Confidential Information* means information that is confidential under the provisions of the Family Educational Rights and Privacy Act (FERPA), the Texas Public Information Act, or other applicable state or federal laws. Examples of TEA Confidential Information include: (a) personally identifiable student information; (b) social security numbers; (c) driver's license numbers; (d) criminal background checks; (e) e-mail address of a member of the public, unless the individual waives his or her right to e-mail confidentiality by affirmatively consenting to disclose the e-mail address or the individual seeks to contract or has a contract with TEA; (f) certain personnel information concerning a TEA employee including home address, home telephone number, emergency contact information, and family member information (if the employee elects in writing to keep this information confidential), personal medical information, and information reflecting personal financial decisions such as the employee's choice of insurance carrier or choice to contribute money to a 401(k); (g) biometric identifiers such as fingerprints; (h) information about security vulnerabilities in TEA systems; and (i) SAS data sets.

- B. Funding Out Clause:** This Contract is contingent upon the availability of funding. If funds become unavailable through lack of appropriations, legislative or executive budget cuts, amendment of the Appropriations Act, state agency consolidations, or any other disruptions of current appropriations, 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 TEA, 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 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 TEA, 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.
- 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 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.

Taxes/Workers' Compensation/Unemployment Insurance – Including Indemnity

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. TEA AND/OR THE STATE SHALL NOT BE LIABLE TO 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.

For local educational agencies (LEAs), regional education service centers (ESCs), public institutions of higher education (IHEs), and state agencies: Contractor or Performing Agency, 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 or Performing Agency in performance of the Contract.

- D. **Assignments, Transfers, Subcontracting and Substitutions:** Contractor shall not assign, transfer, subcontract or substitute 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 TEA HUB Coordinator before staffing changes are initiated. Substitutions are not permitted without written approval of TEA Project Manager. The awarded Contractor will be responsible for maintaining business records documenting compliance with HUB Program requirements. Contractor shall submit a Progress Assessment Report (PAR) monthly documenting all subcontractor payments made in the preceding month. 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. PAR's are due no later than the 10th day of the following 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. In addition to the PAR, Contractor shall also create and maintain a monitoring report to document that it is diligently monitoring and enforcing subcontractor compliance with the Contract. When requested by TEA, Contractor shall furnish TEA with satisfactory proof of its compliance with this provision.
- 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 the competitive solicitation (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 competitive solicitation, in response to which Contractor submitted a Proposal, Response or Bid Package, are incorporated herein by reference for all purposes, although the current General Provisions 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 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.

Pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of 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 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, 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 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 (a) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such preexisting rights and any derivative works thereof and (b) 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 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's Office of Legal Services.

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's Office of Deputy Commissioner for Finance.

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.

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, Proprietary, FERPA, and Confidential Information:

Access to TEA Confidential 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 TEA Confidential 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 TEA Confidential Information only for the purposes for which it is

authorized. TEA reserves the right to review Contractor's security policy to ensure that any data that is on 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 TEA Confidential 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 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:

1. Date and time of sanitization/destruction;
2. Description of the item(s) and serial number(s) if applicable;
3. Inventory number(s); and
4. Procedures and tools used for sanitization/destruction.

No later than 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 TEA documentation that the sanitization has been completed. The documents must be certified by an authorized agent of the company.

FERPA

Contractor, its employees and subcontractor's, 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 60 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.

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 TEA Confidential Information ("Security Incident"). Within 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:

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; and
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;
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; and
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 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 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. Governing Law, Venue, and Jurisdiction:** Subject to and without waiving any of TEA'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 the solicitation, this Contract, and any resulting contract or purchase order shall be in a court of competent jurisdiction in Travis County, Texas.
- P. Point of Contact and Escalation:** All notices, reports and correspondence required by this Contract shall be in writing and delivered to TEA Project Manager listed below or their successors in office. Within 30 days of execution of this 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	CONTRACTOR
Debbie Gonzales	Cheri Nightingale
Instructional Materials Coordinator	Project Director, Operations
Texas Education Agency	Learning Ally
1701 N. Congress Ave	1314 W. 45th Street
Austin, Texas 78701	Austin, TX 78756
debbie.gonzales@tea.texas.gov	cNightingale@LearningAlly.org

- 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:
- (2) 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;
 - (3) 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;
 - (4) 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;
 - (5) 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;
 - (6) 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;
 - (7) 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;
 - (8) 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);
 - (9) 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
 - (10) General Education Provisions Act, as amended.

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

- R. 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 Texas Government Code, Chapter 2161, Contractors shall maintain business records documenting compliance with the HUB subcontracting plan (HSP) and shall submit a compliance report to TEA monthly, in the format required by TEA. The compliance report submission shall be required as a condition for payment. If Contractor subcontracts any part of the Contract in a manner that is not consistent with its HSP, the selected respondent must submit a revised HSP before subcontracting any of the work under the Contract. If Contractor subcontracts any of the work without prior authorization and without complying with this section, 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.
- S. 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.
- T. 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 Texas Business and Commerce 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.
- U. Family Code Applicability:** By signing this Contract, Contractor, if other than a state party, certifies that in Section 231.006 of the 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.
- V. 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 TEA 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 TEA 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. TEA's participation in mediation or any other dispute resolution process shall not waive any of TEA's contractual or legal rights and remedies, including but not limited to sovereign immunity.
- W. 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; this Contract and its General Provisions, Appendices and Special Provisions shall take precedence over all other documents which are a part of this Contract.
- X. 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 TEA, Contractor shall furnish TEA with satisfactory proof of its compliance with this provision.

- Y. Public Information:** 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 TEA under this Contract constituting a record under the Act is received by TEA, the information must qualify for an exception provided by the Act in order to be withheld from public disclosure. Contractor authorizes 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 TEA does not have a good faith belief that information may be subject to an exception to disclosure, TEA is not obligating itself by this Contract to submit the information to the Attorney General. It shall be the responsibility of 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. Contractor waives any claim against and releases from liability 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 Contractor and determined by the Attorney General or a court of law to be subject to disclosure under the Act.

Under Section 2252.907 of the Texas Government Code, a contract between a state governmental entity and a non-governmental contractor involving the exchange or creation of public information, as defined by the Texas Government Code Section 552.002, must require the non-governmental contractor 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. TEA Project Manager will provide the specific format by which Contractor is required to make the information accessible by the public.

- Z. Gratuities:** By signing this Contract, Contractor represents and warrants that 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.

- AA. Protests:** Any actual or prospective Respondent, Proposer, Bidder, or Contractor who is aggrieved in connection with the solicitation, evaluation, or award of this Contract by TEA may submit a formal protest to the Director of TEA's Contracts, Purchasing and Agency Services (PCAS) Division. This protest procedure shall be the exclusive method by which anyone may make a challenge to any aspect of TEA's contracting process. TEA will not be required to consider the merits of any protest unless the written protest is submitted within 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 TEA's rules (19 TAC Section 30.2002) <http://ritter.tea.state.tx.us/rules/tac/index.html>.

If the protest procedure results in a final determination by TEA that a violation of law has occurred in its contracting process in a case in which a contract has been awarded, then TEA 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 TEA.

- BB. 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.
- CC. 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.
- DD. Conformance:** 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.
- EE. 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.
- FF. 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 TEA before serving in assignments on behalf of TEA. This requirement applies to all individuals who currently serve or will serve in TEA assignments that have the possibility of direct contact with students. Assignments are contingent upon meeting TEA 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.

GG. Assignment of Contract: This Contract may not be assigned, sold, or transferred without the express written consent of TEA Purchasing, Contracts, and Agency Services (PCAS) Division. An attempted assignment after Contract award without TEA approval will constitute a material breach of Contract.

HH. 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.

II. Excluded Parties List System: TEA and 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>.

JJ. 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 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.

KK. Electronic and Information Resources Accessibility Standards: State agencies shall procure products which comply with the State of Texas Accessibility requirements for Electronic Information Resources specified in 1 TAC Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.

Regulations updating the accessibility requirements for entities covered by Section 508 of the Rehabilitation Act of 1973 have been adopted in FY 2015. Therefore, all current and potential contractors are hereby notified of the changes. The current technical requirements for accessibility contained within this regulation form the basis for our Texas TAC rules on EIR Accessibility.

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 required to meet when procuring products and services. The Texas Department of Information Resources is modifying the TAC rules to align with it.

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

- (2) It is technically difficult and expensive to bring these websites/applications to WCAG 2.0 AA later.
- (3) WG 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](#)

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 vendor must contract with a third party with expertise and a proven track record in accessibility testing. This company must evaluate the site and produce a report that verifies the site is compliant to (WCAG) 2.0 AA.

The awarded Contractor must employ real users with disabilities for manual testing. Contractor must 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. Contractor shall validate, by title, if all accessibility requirements have been met.

- LL. 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 or Response is based and will not allow any person who prepared the respective specifications or solicitation to participate financially in any contract award.
- MM. 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 Contract 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 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 30 days of project completion. An authorized officer of Contractor must certify that ALL records have either been properly destroyed or returned to TEA in order to close out the Contract.
- NN. Nondisclosure; Press Releases:** All information gathered, produced, derived, obtained, analyzed, controlled or Accessed by Contractor in connection with this Contract shall be and remain confidential and shall not be released or disclosed by Contractor without the prior written consent of TEA.
- OO. Independent Contractor:** Contractor or Contractor's employees, representatives, agents and any subcontractors shall serve as an independent contractor in providing the services under any purchase order resulting from this Contract. Contractor or Contractor's employees, representatives, agents and any subcontractors shall not be employees of TEA. Should Contractor subcontract any of the services required in this Contract, Contractor expressly understands and acknowledges that in entering into such subcontract(s), TEA is in no manner liable to any subcontractor(s) of Contractor. In no event shall this provision relieve bidder of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with this Contract.
- PP. Contractor Performance and Past Performance:** TEA is required to submit Contractor Performance reports under Texas Government Code, §2262.055, and 34 Texas Administrative Code (TAC), §20.509 and §20.115. Govt. Code §2155.089 requires agencies to report contractor performance for purchases over \$25,000. Agencies are also encouraged to report contractor performance on purchases under \$25,000 and associated with contracts and purchase orders issued throughout the life of a contract or purchase order, not just at its conclusion. The Comptroller's Vendor Performance Tracking System (VPTS) provides the state procurement community with a comprehensive tool for evaluating vendor performance to reduce risk in the contract awarding process. Historic reports submitted prior to February 10th, 2017 were graded on a satisfactory or unsatisfactory scale. The score will be displayed as "Legacy Satisfactory" or "Legacy Unsatisfactory." The Contractor must have a score of "Legacy Satisfactory" or, for scores submitted after February 10, 2017, a Contractor must reflect a letter grade of 'A'."

TEA may conduct reference checks with other entities regarding past performance of Respondent or its subcontractors. In addition to evaluating performance through the VPTS, 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. Such sources of contractor performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government. Further, TEA may initiate such examinations of contractor performance based upon media reports. Any such investigations shall be at the sole discretion of TEA, and any negative findings, as determined by TEA, may result in a non-award to Respondent. The VPTS is located on Comptroller's website at: <https://www.comptroller.texas.gov/purchasing/programs/vendor-performance-tracking/>.

- QQ. 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 15 calendar days' advance written notice to Contractor. In the event of such a termination, 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 Contractor that are permitted, properly performed under this Contract and were incurred prior to the effective termination date.
 - 2. Termination for Cause/Default:** If 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 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 Contractor in writing prior to the exercise of such remedy.

Contractor shall remain liable for all covenants and indemnities under the Contract. 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 Contractor under the Contract.
5. **Survival of Terms:** Termination of the Contract for any reason shall not release 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, 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 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. 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 TEA Project Manager and the New Contractor.

- RR. Amendments:** All amendments to this Contract will be in a manner as prescribed by the TEA Contracting Process and are, subject to Paragraph B of the General Provisions and will be made on the AMENDMENT TO TEA STANDARD CONTRACT form. All amendments will be initiated by TEA Purchasing and 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. All Amendments must be signed by both parties.

If the solicitation documents and contract documents for a TEA contract submitted to the Texas Comptroller of Public Accounts' Contract Advisory Team (CAT) (contracts with a value of at least \$10 million pursuant to Texas Government Code Section 2262.101(1)) substantially changes, 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 20% 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. For all other contracts (excludes major contracts) the Contractor is permitted to re-budget among direct cost categories within the approved budget to meet unanticipated requirements and to make limited changes 25% or up to \$1,000 in a direct category in the approved budget without the issuance of a written Amendment as long as the total budget amount does not change. Contractors are required to report deviations from budget and request prior approvals from the TEA Project Manager. Additionally, a revised budget document must be submitted to TEA Project Manager for approval. Once approved, the documents must be submitted to the Contract staff 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. Revisions or additions to the scope of work, deliverables, or objectives of the Contract (regardless of whether there is an associated budget revision requiring prior approval). Increases of 20% or more for major contracts must be approved by the Texas Comptroller;
 - c. A request to extend the period of the Contract;
 - d. Any reduction of funds or reduction in the scope of work;
 - e. Whenever a line item within a class/object code is added;
 - f. An increase in the quantity of capital outlay item(s) requested; and
 - g. An increase or decrease in the number of positions charged to Contract.

SS. Payment: Payment for goods or services purchased with state-appropriated funds will be issued by electronic direct deposit from the State Treasury. Direct deposit is the preferred method of payment. Additional information and a Direct Deposit Authorization application may be found at: <https://fmxcpa.state.tx.us/fm/payment/index.php>. Invoices must be submitted to TEAAccountsPayable@tea.texas.gov and TEA Project Manager. Any payment owed by TEA must be transmitted electronically to Contractor no later than 30 days after the later of:

1. Day on which TEA received the goods;
2. Date the performance of the service under the Contract is completed; or
3. Day on which TEA received the complete and correct invoice for goods or services.

Payment for service(s) described in this Contract is contingent upon satisfactory completion of the deliverables or services. TEA project manager may also utilize a Deliverables and Services Review and Acceptance Process written procedures. When the formal procedures are to be utilized, the TEA project manager will provide to the selected Contractor a copy of the Handbook. 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 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 Contractor for quality and alignment to the deliverable definition agreed to under the "Deliverables and Services Definition Process". TEA will have 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 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" provided by the TEA Program Manager, located in the Service Level Agreement or the Contract Monitoring Tool. Contractor will have 10 working days to provide a Corrective Action Plan and address the quality or other compliance requirement and resubmit the deliverable. Additional costs incurred by Contractor that result from repeated submissions and revising of substandard deliverables will be borne solely by 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 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 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 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. 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.

Retainage: TEA may withhold 5% or less of each payment as retainage for certain projects. Retainage fees must be stated in the competitive solicitation and documented in the Contract. The fees may not be arbitrarily imposed after execution of the Contract. The release of retainage shall be requested in the final invoice.

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 45 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.

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 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.

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 its account status by accessing the Texas Comptroller's website at https://fm.xcpa.state.tx.us/fm/pubs/purchase/restricted/index.php?section=indebted&page=persons_indebted

TT. Prohibition of text messaging and emailing while driving during official federal grant business: Federal grant recipients and their grant personnel are prohibited from texting messaging while driving a government owned vehicle or while driving their own privately-owned vehicle during official grant 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.

UU. Insurance: Contractor represents and warrants that it will, within five business days of being requested by 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

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 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.

VV. Force Majeure: Neither Contractor nor TEA shall be liable to the other for any delay in, or failure of performance, of any requirement included in this Contract 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 business days of the existence of such force majeure, or otherwise waive this right as a defense.

WW. Drug Free Workplace Policy: 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 (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and Contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

XX. Abandonment or Default: If 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 Proposer. 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 TEA based on the seriousness of the default.

- YY. Applicable Law and Conforming Amendments:** Contractor must comply with all laws, regulations, requirements and guidelines applicable to a Contractor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. TEA reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for TEA or Contractor's compliance with all applicable State and federal laws, and regulations.
- ZZ. Education Service Center:** No funds transferred to Regional Education Service Centers or to school districts may be used to hire a registered lobbyist.

Special Provisions - B

Certification Regarding Debarment, Ineligibility and Voluntary Exclusion
(Required for all federally-funded contracts)

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). The regulations may be viewed and downloaded from the website: <http://www.sba.gov/sites/default/files/files/SBA%201624.pdf>

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.

Learning Ally
Business Name

8/9/17
Date

Tim Wilson, Chief Executive Officer
Name and Title of Authorized Representative


Signature of Authorized Representative

SPECIAL PROVISIONS - B

INSTRUCTIONS FOR CERTIFICATION

By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

1. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. 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.
2. The prospective lower tier participant shall provide immediate written notice to the contracting director 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.
3. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the agency's contracting office for assistance in obtaining a copy of those regulations (13CFR Part 145).
4. The prospective lower tier participant agrees by submitting this proposal 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.
5. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not aware that the certification is erroneous. A participant may decide the method and frequency by which it determines the ineligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
7. 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 by this clause. 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.
8. 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 pursuant to 31 U.S.C. 1352. It is a prerequisite for making or entering into a contract or subcontract over \$100,000 with any entity. (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.

Learning Ally
Organization Name

Tim Wilson, Chief Executive Officer
Name and Title of Authorized Representative

 8/16/17
Signature Date

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 this disclosure form unless lobbying activities are being disclosed.

1. Type of Federal Action: ☐ Contract ☐ Grant ☐ Cooperative Agreement	2. Status of Federal Action ☐ Bid/Offer/Application ☐ Initial Award ☐ Post-award	3. Report Type ☐ Initial Filing ☐ Material Change For Material Change Only: Year _____ Quarter _____ Date of Last Report: _____
4. Name and Address of Reporting Entity: ☐ 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 Entity (If individual, Last name, First name, MI):		B) Individual's Performing Services (include address, if different from 10 A) (Last name, First name, MI):
11. Amount of Payment \$ _____ 12. Form of Payment _____ 13. Type of Payment ☐ retainer ☐ one-time fee ☐ commission		14. Brief Description of Services Performed
15. 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 (Rev. 7-97)

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-701-16-XXX."
 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).

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) Instructions

- 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. Requests must be submitted to the HUB Office mailbox. If the Contractor decides to revise the HUB subcontracting plan (i.e. change subcontractors) in a manner that is not consistent with its HSP, the Contractor must notify the TEA HUB Office and 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, Contractor is deemed to have breached the contract and is subject to any remedial actions provided by Government Code, Chapter 2161, other applicable state law including nonperformance relative to its contracts to the comptroller in accordance §20.509 (relating to Performance Reporting).
- C. Contractor must submit monthly compliance reports, Prime Contractor Progress Assessment Report (PAR) to the TEA HUB Office, verifying their compliance with the HSP, including the use/expenditures they have made to all subcontractors. Contact the HUB Office for forms or visit our website at: http://tea.texas.gov/About_TEA/Agency_Finances/Procurement_and_Historically_Underutilized_Business_Program/ 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. Submission of the PAR is a condition for payment in accordance with 34 TAC §20.285.
- D. Contractor shall also report all 2nd and 3rd Tier subcontracting in the monthly PAR. PAR's are due no later than the 10th day of the following month. During the term of the contract, TEA staff will monitor the HSP monthly to determine if the value of the subcontracts to HUBs meets or exceeds the HUB subcontracting provisions specified in the contract. Accordingly, state agencies shall audit and require the Contractor to report the identity and the amount paid to its subcontractors in accordance with TAC §20.287(b). If the Contractor is meeting or exceeding the provisions, the state agency shall maintain documentation of the Contractor's efforts in the contract file. If the Contractor fails to meet the HUB subcontracting provisions specified in the contract, the state agency shall notify the Contractor of any deficiencies. TEA shall give the Contractor an opportunity to submit documentation and explain to the agency why the failure to fulfill the HUB subcontracting plan should not be attributed to a lack of good faith effort by the Contractor. Additionally, if the TEA is made aware that the Contractor is subcontracting any part of the work that is not consistent with the HSP, Contractor shall be deemed to have breached the contract and is subject to any remedial actions provided by Government Code, Chapter 2161, other applicable state laws.



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 do not have a continuous contract in place for more than five (5) years 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 do not have a continuous contract in place for more than five (5) years 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 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. - 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 (i.e., employees, supplies, materials and/or equipment), 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, to include 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 the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent does not have a continuous contract in place for more than five (5) years 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 INFORMATION

- a. Respondent (Company) Name: Learning Ally, Inc State of Texas VID #: _____
Point of Contact: Cheri Nightingale Phone #: 512-351-4876
E-mail Address: cNightingale@LearningAlly.org Fax #: N/A; email or phone only
- b. Is your company a State of Texas certified HUB? ☐ - Yes ☒ - No
- c. Requisition #: 701-17-038 Bid Open Date: 06/13/2017
(mm/dd/yyyy)

Enter your company's name here: Learning Ally, IncRequisition #: 701-17-038**SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS**

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 **contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.11, a "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, including employees, goods and services. (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 do not have a <u>continuous contract</u> * in place for more than five (5) years.	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract</u> * 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 <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

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 do not have a continuous contract* in place with for more than five (5) years, 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.

Enter your company's name here: Learning Ally, IncRequisition #: 701-17-038**SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)**

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 <u>do not</u> have a continuous contract* in place for more than five (5) years.	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.

Enter your company's name here: Learning Ally, IncRequisition #: 701-17-038

SECTION 3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below explain how your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

RFP Narrative (Understanding Project and Methodology, Management Plan, Task Activity Plan)
 Staff Resumes
 Production Equipment and Software
 Diagram of Studio Facility Layout
 Production Work Flow
 Evaluation Criteria
 Reader Evaluation and Checking Guidelines

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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.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.

Thomas G. Hetzel
 Signature

Thomas G. Hetzel
 Printed Name

Controller
 Title

06/12/2017
 Date
 (mm/dd/yyyy)

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.

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Requisition #: 701-17-038

SECTION A-1: SUBCONTRACTING OPPORTUNITY

Item Number: _____ Description: _____

[illegible]Page 1 of 1
(Attachment A)

HSP Good Faith Effort - Method B (Attachment B)

Rev 10/16

Enter your company's name here: Learning Ally, Inc

Requisition #: 701-17-038

IMPORTANT: If you responded "No" to SECTION 2, Items c and 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 <https://www.comptroller.texas.gov/purchasing/docs/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, 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 <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

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 you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/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 Texas Vendor Identification (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	Texas VID	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			☐ - Yes ☐ - No
			☐ - Yes ☐ - No
			☐ - Yes ☐ - 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 <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

- 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?
		☐ - Yes ☐ - No
		☐ - Yes ☐ - No

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

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Enter your company's name here: Learning Ally, Inc

Requisition #: 701-17-038

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 Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/passcmbldsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN (If you are a Texas certified HUB, provide your VID. If you are not a Texas certified HUB, provide your federal EIN.)	Approximate Dollar Amount	Expected Percentage of Contract
	☐ - Yes ☐ - No		\$	%
	☐ - Yes ☐ - No		\$	%
	☐ - Yes ☐ - No		\$	%
	☐ - Yes ☐ - No		\$	%
	☐ - Yes ☐ - No		\$	%
	☐ - Yes ☐ - No		\$	%
	☐ - Yes ☐ - No		\$	%
	☐ - Yes ☐ - No		\$	%
	☐ - Yes ☐ - No		\$	%
	☐ - Yes ☐ - 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.



HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in Section B has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.14 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.11(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in Section C, Item 2, reply no later than the date and time identified in Section C, Item 1. Submit your response to the point-of-contact referenced in Section A.

SECTION A: PRIME CONTRACTOR'S INFORMATION

Company Name: Learning Ally, Inc

State of Texas VID #: _____

Point-of-Contact: Cheri Nightingale

Phone #: 512-351-4876

E-mail Address: cNightingale@LearningAlly.org

Fax #: N/A; email or phone only

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: _____

Point-of-Contact: _____

Phone #: _____

Requisition #: 701-17-038

Bid Open Date: 06/13/2017

(mm/dd/yyyy)

SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION

1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2,

we must receive your bid response no later than _____ on _____
Central Time Date (mm/dd/yyyy)

In accordance with 34 TAC §20.14, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.11(19)(C).

(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.)

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:

☐ - Not Applicable

4. Bonding/Insurance Requirements:

☐ - Not Applicable

5. Location to review plans/specifications:

☐ - Not Applicable

Attachment 2
Proposal 701-17-038
Production of Digitally Recorded Instructional Materials for Texas Public Schools

Attachment 3
RFP 701-17-038
Production of Digitally Recorded Instructional Materials for Texas Public Schools