

STATE OF TEXAS §  
COUNTY OF TRAVIS §

<b>Division Number:</b> <u>211</u>	<b>Program Name:</b> <u>Large-Type Textbooks</u>
<b>Org. Code:</b> <u>211P</u>	<b>Legal/Funding Authority:</b> <u>TEC §31.028</u>
<b>Speed Chart:</b> _____	RFP 701-11-003; IDEA Part B, PL 108-446; TX GAA 85 <sup>th</sup> Legislature Rider 8
<b>Payee Name:</b> <u>Braille Jymico</u>	<b>Payee ID:</b> <u>1980463363</u>
<b>Contract #:</b> <u>2715</u>	<b>PO #:</b> <u>n/a EMAT</u>

Amendment: 2

**AMENDMENT TO  
STANDARD CONTRACT  
BETWEEN  
TEXAS EDUCATION AGENCY  
AND**

Braille Jymico

It is mutually understood and agreed by and between the undersigned contracting parties of the above numbered contract to amend said Contract effective **September 1, 2017** as follows:

**ARTICLE II. PERIOD OF CONTRACT**

TEA is exercising the option to renew the contract for three (3) additional fiscal years from September 1, 2017 through August 31, 2020. A renewal option of three (3) additional fiscal year terms will remain under the same or different terms subject to the appropriation of funds by the United States Department of Education, and the Texas Legislature.

**ARTICLE III. PURPOSE OF CONTRACT**

Contractor will produce large-type textbooks and other functions stated in the original contract.

**ARTICLE IV. PAYMENT UNDER CONTRACT**

Reference the revised price worksheet attached, Attachment A.

Contract Amount	\$1,055,808.00
Amendment Amount	<u>\$527,904.00</u>
<b>New Contract Total</b>	<b>\$1,583,712.00</b>

[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.

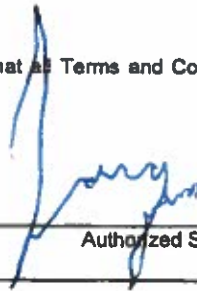
Effective 01/01/17, the mileage reimbursement rate is 53.5¢ and the previous rate 1/1/16- 12/31/16 was .54¢. The Comptroller's website for travel rules and regulations – textravel: <https://fm.xcpa.state.tx.us/fmx/travel/textravel/index.php>. Receipts must be made available for programmatic or financial audit, by TEA and by others authorized by law or regulation to make such an audit, for a period of not less than seven years.


Updated Contract Terms and Conditions dated May 22, 2017 are attached and incorporated herein.

All other terms and conditions of the original contract and amendments remain the same and are incorporated herein as if specifically written.

It is agreed and accepted by a person authorized to bind Contractor that all Terms and Conditions of this Amendment are effective commencing on the above date.

Jacques Cote  
President-Chief Executive Officer

  
Authorized Signature

<p><b>This section reserved for Agency use.</b> I, an authorized official of 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 this <u>28</u> day of <u>August 2017</u> (month/year) by a person authorized to bind Agency.</p>	<p> Mike Morath Commissioner of Education</p>
<p><b>Return electronic copy to:</b> <a href="mailto:TEAContracts@tea.texas.gov">TEAContracts@tea.texas.gov</a> Norma Barrera, Purchasing and Contracts Texas Education Agency 1701 North Congress Avenue, Room 2-125 Austin, Texas 78701-1494</p>	

Revised

## Large-Type Textbook Price Worksheet

Contract# 2715  
 FY17 FY18 FY19

I	II	III	IV
Estimated Books Needed	Avg # Pages	Avg # Volumes	Price Per Page
5,616	550	2	\$.155

Price Per Page: \$	.155
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Binding Cost:	\$22.25
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*The rates in this fee schedule are for the number of pages and binding cost.  
 The amount specified in the contract is an estimated total based on estimated books needed,  
 estimated of pages in those books and estimated volumes for each book.*

## Texas Education Agency Contract Terms and Conditions

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

1. *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.
2. *TEA, Receiving Agency, or Owner* means the Texas Education Agency.
3. *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.
4. *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;
5. *Contractor or Performing Agency* means the party to this Contract who is providing the contracted goods or services to TEA, the Receiving Agency.
6. *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.
7. *Contract Project* means the purpose intended to be achieved through the Contract.
8. *Amendment* means a contract document used to formalize additions or changes to the Contract mutually agreed to by both Parties.
9. *Major Contract* means any contract that has a value of at least \$1 million pursuant to Texas Government Code Section 2262.001(4).
10. *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.
11. *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.
12. *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; (e) 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); (f) biometric identifiers such as fingerprints; (g) information about security vulnerabilities in TEA systems; and (h) 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

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 2<sup>nd</sup> and 3<sup>rd</sup> Tier subcontracting in the monthly PAR. PAR's are due no later than the 10<sup>th</sup> 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](mailto: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

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

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.

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:

1. It is technically difficult and expensive to bring these websites/applications to WCAG 2.0 AA later.
2. 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.



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://fm.xcpa.state.tx.us/fm/payment/index.php> Invoices must be submitted to [TEAAccountsPayable@tea.texas.gov](mailto: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.

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.