

STATE OF TEXAS §  
COUNTY OF TRAVIS §

Division Number: <u>215</u>	Program Name: <u>Best Buddies</u>
Org. Code: _____	Legal/Funding Authority: <u>GAA, Article III, Rider 56</u>
Speed Chart: <u>711P</u>	
Education Service	
Payee Name: <u>Center Region 10</u>	ISAS Contract #: <u>3424</u>
Payee ID: <u>17512491857</u>	PO #: <u>34852</u>

## COOPERATIVE AGREEMENT

### Section 1.0 PARTIES AND AUTHORITY:

This Cooperative Agreement (CA) is entered into by and between the Texas Education Agency (TEA) (Receiving Party) and Education Service Center (ESC) Region 10 (Performing Party) pursuant to the authority granted and in compliance with the Texas Education Code, Chapter 8 to carry out a public education initiatives authorized by law.

### Section 2.0 SERVICES TO BE PERFORMED:

ESC Region 10 will provide Texas middle school and high school students with intellectual and development disabilities support to create opportunities for one-to-one friendships, integrated employment, and leadership development.

ESC Region 10 will:

- a) Serve 31 or more Best Buddies chapters in Texas high schools
- b) Establish 500 or more successful one-to-one matches between regular high school students and students with IDD
- c) Support 180 or more group activities within each Best Buddies chapter to involve students with IDD
- d) Provide Ambassador and Leadership training to at least 155 students with IDD and all Chapter Leaders
- e) Provide outstanding support to Best Buddies chapters in Texas high schools by building participation and reaching at least 2,000 students
- f) Support all Chapter Leaders to actively participate in the Best Buddies International Leadership Conference

The detailed tasks and activities are incorporated herein and described in Appendix One.

### Section 3.0 TERM OF AGREEMENT:

This CA is to begin September 1, 2015 and shall terminate on August 31, 2016. This CA may be renewed for three (3) additional one-year (1) terms thereafter by mutual agreement of the Parties in the form of a written amendment. The renewal is contingent to the continued availability of funds appropriated by the Texas Legislature for this project.

### Section 4.0 AMOUNT:

The total amount for the original term of the CA is \$200,000.00. The total budget amount is detailed and incorporated herein in Appendix One.

### Section 5.0 PAYMENT FOR SERVICES:

TEA shall pay Performing Party in accordance with the approved budget for the services performed described in this CA. TEA shall pay for services received from the appropriation item or account from which TEA would ordinarily make expenditures for similar services or resources.

Performing Party may bill TEA no more than monthly for services rendered in accordance with the provisions of the CA.

Performing Party shall submit the TEA *Contract Expenditure Report/Invoice* form electronically to the following email address: [TEAAccountsPayable@tea.texas.gov](mailto:TEAAccountsPayable@tea.texas.gov) or the Performing Party can mail invoices to:

Texas Education Agency  
Attn: Accounts Payable  
1701 N. Congress Avenue  
Austin, Texas 78701-1494

Purchases of food are generally prohibited and must be preapproved by the TEA Project Manager. Food purchases must be in accordance with Federal Regulations, §200.432. Purchases must be necessary and reasonable for the successful performance of the Contract. This applies to both federal and state funded contracts. Website to view the regulations: [http://www.ecfr.gov/cgi-bin/text-idx?SID=f61b41b94d57ed256eb46811a14d243d&mc=true&node=se2.1.200\\_1432&rqn=div8](http://www.ecfr.gov/cgi-bin/text-idx?SID=f61b41b94d57ed256eb46811a14d243d&mc=true&node=se2.1.200_1432&rqn=div8)

TEA follows the Federal Rate Schedule for reimbursement of meal and lodging expenditures adopted by the State of Texas. Performing Agency shall maintain receipts in accordance with paragraph F of the Contract Terms and Conditions. The Comptroller's website for travel rules and regulations – **textravel**: <https://fmx.cpa.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 (7) years.

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

**Section 6.0 CONTRACT MANAGEMENT:**

**6.1 Notices:** Any notice relating to the CA that is required or permitted under this CA by one party to the other party shall be in writing and shall be addressed to the designated point of contact at the address specified below. The notice shall be deemed to have been given immediately if delivered in person to the recipient's email address specified below. It shall be deemed to have been given on the date of certified receipt if placed in the United States mail, postage prepaid, by registered or certified mail with return receipt requested, addressed to the receiving party at the address specified below. Registered or certified mail with return receipt is not required for copies.

**6.2 Points of Contact:** ESC Region 10 shall direct all correspondence, notices, invoices and payments to the following designated staff of the TEA:

Christine McCormick	Christine.McCormick@tea.texas.gov
	(512) 463-2334

**Section 7.0 AMENDMENTS:**

Any modifications, additions, or deletions, to the specified deliverables or terms and conditions of this CA, including the allocation of additional funds to the current list of proposed activities, or any extensions of the CA shall be processed through a written amendment and executed by both parties (refer to Cooperative Terms and Conditions, Z. Amendments).

**Section 8.0 ENTIRE COOPERATIVE AGREEMENT:**

This CA together with the documents mentioned herein and which are incorporated herein by this 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.

**8.1 Attachments:**

Attached hereto and made a part hereof by reference are the documents indicated below with an "X" beside each:

- Cooperative Agreement Terms and Conditions

- Special Provisions A, Program Specific
- Special Provisions B, Debarment
- Special Provisions C, Lobbying Certification
- Cooperative Agreement Expenditure Report/Invoice Form (separate Excel spreadsheet)

**Section 9.0 CERTIFICATIONS:**

**RECEIVING PARTY** further certifies that it has the authority to receive the above services by authority granted in:

Code of Federal Regulations Title 2, Subtitle A, Chapter II, Part 200, Subpart E, and the Texas Education Code, Chapter 8.

**PERFORMING PARTY** further certifies that it has authority to perform the above services by authority granted in: the Texas Education Code, Chapter 8.

**SUBJECT TO APPROVAL**, the authorized representatives of the undersigned parties bind themselves to the faithful performance of this CA. It is mutually understood that this CA will be effective on the earliest date shown in Section 3.0.

**RECEIVING PARTY**

**PERFORMING PARTY**

**TEXAS EDUCATION AGENCY**

**EDUCATION SERVICE CENTER REGION 10**

Name

Name

By: Shirley Beaulieu  
 Shirley Beaulieu  
 Associate Commissioner Finance/ CFO

By: Gordon Taylor  
 Gordon Taylor  
 Executive Director

1-6-16  
 Date

12-16-15  
 Date

Return two (2) copies with original signature to:  
 Norma Barrera, Director  
 Purchasing, Contracts and Agency Services  
 Texas Education Agency  
 1701 North Congress Avenue, Room 2-125  
 Austin, Texas 78701-1494

Or send an electronic copy to:  
[TEAContracts@tea.texas.gov](mailto:TEAContracts@tea.texas.gov)

**Appendix One  
Best Buddies Texas  
Tasks, Activities and Budget  
Region 10 Education Service Center  
September 1, 2015 to August 31, 2016**

#	Task	Total Budget
1	Provide resources and oversight to the Best Buddies International to encourage involvement and integration of children with disabilities into high school activities and support arrangements that encourage the development and operation of campus-based Best Buddies chapters.	\$200,000.00

Task	Activity	Description	Beginning date of activity	End date of activity	Annual Cost
1	1	Provide resources to Best Buddies High School chapters throughout the state in order to ensure their growth and development through quarterly expenditure reimbursements to Best Buddies Texas and program reviews.	9/01/2015	8/31/2016	\$40,000
1	2	Promote the annual establishment of one-to-one matches between students who have intellectual and developmental disabilities (IDD) and a non-disabled peer to establish friendships and develop critical social skills.	9/01/2015	8/31/2016	\$40,000
1	3	Monitor group activities in communities across the state which include people with IDD through quarterly program reviews and determine if each chapter meets their goal of four group activities annually.	9/01/2015	8/31/2016	\$40,000
1	4	Encourage leadership activities by supporting: a) Annual leadership training to high school students dedicated to helping those with IDD throughout their lives. b) Annual leadership training to chapter officers with IDD.	9/01/2015	8/31/2016	\$40,000
1	5a	Conduct quarterly review of chapter and fiscal activities associated with the program in collaboration with Best Buddies Texas leadership through written reports and conference calls.	9/1/2015	11/30/2015	\$10,000
	5b	Conduct quarterly review of chapter and fiscal activities associated with the program in collaboration with Best Buddies Texas leadership through written reports and conference calls.	12/01/2015	02/29/2016	\$10,000

<b>Task</b>	<b>Activity</b>	<b>Description</b>	<b>Beginning date of activity</b>	<b>End date of activity</b>	<b>Annual Cost</b>
	5c	Conduct quarterly review of chapter and fiscal activities associated with the program in collaboration with Best Buddies Texas leadership through written reports and conference calls.	03/01/2016	05/31/2016	\$10,000
	5d	Conduct quarterly review of chapter and fiscal activities associated with the program in collaboration with Best Buddies Texas leadership through written reports and conference calls.	06/01/2016	8/31/2016	\$10,000

**Estimated Monthly Expenditure Form**

CATEGORY	DESCRIPTION	BUDGET	Sep-15	Oct-15	Nov-15	Dec-15	Jan-16	Feb-16	Mar-16	Apr-16	May-16	Jun-16	Jul-16	Aug-16
<b>Personnel</b>														
	State Director/Area Director (0.65 FTE)	39,000.00	3,250.00	3,250.00	3,250.00	3,250.00	3,250.00	3,250.00	3,250.00	3,250.00	3,250.00	3,250.00	3,250.00	3,250.00
	Deputy Director of Programs (0.75 FTE)	15,000.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00	1,250.00
	Program Managers (1.75 FTE)	65,670.00	5,472.50	5,472.50	5,472.50	5,472.50	5,472.50	5,472.50	5,472.50	5,472.50	5,472.50	5,472.50	5,472.50	5,472.50
	Benefits @ 22%	26,250.00	2,187.50	2,187.50	2,187.50	2,187.50	2,187.50	2,187.50	2,187.50	2,187.50	2,187.50	2,187.50	2,187.50	2,187.50
<b>Programs</b>														
	Site Visits/Travel	6,180.00	800.00	700.00	700.00	200.00	280.00	700.00	800.00	800.00	600	200.00	200.00	200.00
	Staff Recruitment/Training	2,000.00					1,500.00	500.00						
	Volunteer Recruitment/Training & Mgmt	6,000.00			5,000.00								1,000.00	
<b>Operational</b>														
	Equipment	1,000.00	45.45	45.50	500.00	45.45	45.45	45.45	45.45	45.45	45.45	45.45	45.45	45.45
	Office Space & Utilities	7,000.00	583.33	583.33	583.33	583.33	583.33	583.33	583.33	583.33	583.33	583.33	583.33	583.33
	Supplies & Printing	900.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00	75.00
	Telecomun.	1,000.00	83.33	83.33	83.37	83.33	83.33	83.33	83.33	83.33	83.33	83.33	83.33	83.33
	Shared Services	30,000.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00	2,500.00
	<b>TOTAL EXPENSES</b>	<b>200,000.00</b>	<b>16,247.11</b>	<b>16,147.16</b>	<b>21,801.70</b>	<b>15,647.11</b>	<b>17,227.11</b>	<b>16,647.11</b>	<b>16,247.11</b>	<b>16,247.11</b>	<b>16,047.11</b>	<b>15,647.11</b>	<b>16,647.11</b>	<b>15,647.11</b>
	<b>Quarterly Expenses</b>				53,995.98			49,521.34			48,541.34			47,941.34

## Budget and Expenditure Report Continuation

Performing Party must use the Contract Expenditure Report Form to submit invoices. ESC will not be paid for expenditures that exceed the amount approved for each Task/Category.

ESC must submit written request to TEA for revisions to the budget prior to incurring expenditures that exceed or decrease the amount approved for each object of expenditure through transfer of funds among categories. Costs will not be reimbursed for line items not approved by TEA staff.

### Reimbursement of Travel Costs:

The State of Texas Travel Guidelines specifies reimbursement rates for lodging, meals, and mileage. Refer to the current rates located at CPA's State of Texas Travel Guidelines website: <https://fmx.cpa.state.tx.us/fmx/travel/texttravel/index.php>  
For areas not listed, the rates are as follows:

- a) Lodging: Actual lodging expense not to exceed the federal rate for that city. Cities that are not listed may not exceed \$85/day.
- b) Meal Cost: Actual meal expense not to exceed the federal rate for that city. Cities that are not listed may not exceed \$36/day. Meal expenses will only be reimbursed if the travel requires an overnight stay.
- c) Mileage: Actual miles may not to exceed the official mileage allowed in the CPA Texas Mileage Guide. Effective January 1, 2015 the rate is 57.5¢. The State of Texas has adopted the federal travel reimbursement rates and the new rates may be accessed from the CPA website listed above.  
Note: In addition to the state mileage guide, the agency uses **MapQuest.com** to report the mileage between duty points. Travelers must attach a copy of the MapQuest showing the miles and directions between two duty points as supporting documentation.

Performing Party staff or subcontractor shall make a good faith effort to comply with the State of Texas Travel Guidelines. State travel expense reimbursement is not a per diem. Employees and Performing Party s must claim the actual expenses incurred for meals and lodging not to exceed the maximum allowable rates. The maximum should not be claimed unless the actual expenditures equal or exceed the maximum allowable rate.

### No expenditures will be reimbursed for costs related to:

- a) Food/refreshments (except while on travel status)
- b) Gifts or items that appear to be gifts
- c) Souvenirs, memorabilia, or promotional items

## Cooperative Agreement Terms and Conditions

- A. Definitions as used in these Cooperative Agreement Terms and Conditions:
- *Cooperation Agreement, CA, Agreement or Contract* means the entire document, and all of TEA's attachments, appendices, schedules, exhibits (including but not limited to the Terms and Conditions and Attachments), amendments and extensions of or to the Cooperation Agreement
  - *Receiving Agency* means the Texas Education Agency, TEA or Party other than Performing Agency
  - *Performing Agency* means the Party to this Contract or Performing Party other than TEA
  - *Project Manager/Administrator* means the respective person(s) representing TEA or Performing Agency, as indicated by the CA, for the purposes of administering the Contract Project
  - *Contract Project* means the purpose intended to be achieved through the CA.
  - *Amendment* means a contract document used to formalize revisions to the CA mutually agreed to by both Parties
- B. **Contingency:** The Cooperative Agreement, including any amendments, extensions or subsequent contracts are executed by TEA contingent upon the availability of appropriated funds by legislative act. Notwithstanding any other provision in this Contract or any other document, this Contract is void upon the insufficiency (in TEA's discretion) or unavailability of appropriated funds. In addition, this Contract may be terminated by TEA at any time for any reason upon notice to Performing Party. Expenditures and/or activities for which Performing Party may claim reimbursement shall not be accrued or claimed subsequent to receipt of such notice from TEA.
- C. **Indemnification:** For local educational agencies (LEAs), regional education service centers (ESCs), institutions of higher education (IHEs), and state agencies: Performing Party, 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 Performing Party in performance of the Project.
- D. **Subcontracting and Substitutions:** Performing Party shall not assign, transfer or subcontract any of its rights or responsibilities under this Agreement without prior formal written amendment to this Agreement properly executed by both TEA and Performing Party. Substitutions are not permitted without written approval of the TEA Project Manager.
- E. **Encumbrances/Obligations:** All encumbrances, accounts payable, and expenditures shall occur on or between the beginning and ending dates of this Contract. All goods must have been received and all services rendered during the Contract period in order for Performing Party to recover funds due. In no manner shall encumbrances be considered or reflected as accounts payable or as expenditures.
- F. **Records Retention and the Right to Audit:** Performing Party shall maintain its records and accounts in a manner which shall assure a full accounting for all funds received and expended by Performing Party in connection with the Contract Project. These records and accounts shall be retained by Performing Party and made available for programmatic or financial audit by TEA and by others authorized by law or regulation to make such an audit for a period of not less than seven (7) years from the date of completion of the Contract Project or the date of the receipt by TEA of Performing Party'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.
- The Parties acknowledge the state Auditor's authority to conduct audits of state agencies under Chapter 321, Texas Government Code. TEA reserves the right to monitor and audit the Performing Party's compliance with the requirements of this Contract.
- G. **Information Security Requirements: FERPA, Access to Confidential TEA Information.** Performing Party represents and warrants that it will take all necessary and appropriate action within its abilities to safeguard Confidential Information and to protect it from unauthorized disclosure. Whenever communications with Performing Party necessitate the release of Confidential TEA Information, additional TEA Confidential forms will need to be signed by each individual who will require access to or may be exposed to that information. If Performing Party discloses any TEA confidential information to a subcontractor or agent, Performing Party will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Performing Party. Whenever communications with Performing Party necessitate the release of Confidential TEA Information, additional TEA Confidential forms will need to be signed by each individual who will require access to or may be exposed to that information. Performing Party shall access TEA's systems or Confidential TEA Information only for the purposes for which it is authorized. TEA reserves the right to review the Performing Party's security policy to ensure that any data that is on the Performing Party's servers is secure. Performing Party shall cooperate fully by making resources, personnel, and systems access available to TEA and TEA's authorized representative(s).
- Performing Party shall ensure that any TEA Confidential Information in the custody of Performing Party is properly sanitized or destroyed when the information is no longer required to be retained by TEA or Performing Party in accordance with this Agreement. Electronic media used for storing any Confidential TEA Information must be sanitized by clearing, purging or



destroying in accordance with such standards established by the National Institute of Standards and Technology and the Center for Internet Security. These standards are also required if the Performing Party is collecting, maintaining, or analyzing data gathered, collected, or provided under this Contract. Performing Party 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)
- 4) Procedures and tools used for sanitization/destruction

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

#### **FERPA**

All information gathered, produced, derived, obtained, analyzed, controlled or Accessed by Performing Party in connection with this Contract ("Confidential Information") shall be and remain Confidential Information and shall not be released or disclosed by Performing Party without the prior written consent of the TEA, which consent must specifically identify the Confidential Information to be disclosed by Performing Party and the nature of the disclosure for which consent is sought.

Performing Party, 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 sixty (60) days of project completion. Performing Party 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, Performing Party must comply with TEA's policies and procedures. TEA's remote access request procedures will require Performing Party to submit TEA Applicable Access Request forms for TEA's review and approval. Remote access technologies provided by Performing Party 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. Performing Party 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 Performing Party'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**

Performing Party shall provide notice to TEA's Project Manager and TEA's Information Security Officer as soon as possible following Performing Party's discovery or reasonable belief that there has been unauthorized use, exposure, access, disclosure, compromise, modifications, or loss of sensitive or confidential Comptroller information ("Security Incident"). Within twenty-four (24) hours of the discovery or reasonable belief of a Security Incident, Performing Party 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 Performing Party has taken or will take to investigate the Security Incident
- 5) What steps Performing Party has taken or will take to mitigate any negative effect of the Security Incident
- 6) A point of contact for additional information

Each day thereafter until the investigation is complete, Performing Party 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 Performing Party has taken or will take to investigate the Security Incident
- 4) What steps Performing Party has taken or will take to mitigate any negative effect of the Security Incident
- 5) What corrective action Performing Party has taken or will take to prevent future similar unauthorized use or disclosure

Performing Party 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, Performing Party 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, Performing Party, 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 Performing Party. If Performing Party does not reimburse such costs within thirty (30) days of TEA's written request, then TEA shall have the right to collect such costs.

- H. Point of Contact and Escalation:** All notices, reports and correspondence required by this Contract shall be in writing and delivered to the TEA Project Manager listed in 6.2 of this ICC. Within thirty (30) days of execution of a contract, the respective Parties will designate the next level of personnel within each organization to address conflicts or ambiguity that cannot be resolved at the Project Manager level.
- I. Dispute Resolution:** The parties agree to use good-faith efforts to resolve questions, issues, or disputes of any nature that may arise under or by this Contract; provided, however nothing in this paragraph shall preclude either party from pursuing any remedies as may be available under Texas law.
- J. Compliance with Laws:** Performing Party 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 Performing Party's performance, including if applicable, prompt payment and licensing laws and regulations. For the entire duration of the Contract, Performing Party shall maintain all required licenses, certifications, and any other documentation necessary to perform this Contract. When required or requested by the Agency, Performing Party shall furnish TEA with satisfactory proof of its compliance with this provision.
- K. Governing Law:** This Contract is governed by and construed under and in accordance with the laws of the State of Texas. Any and all obligations under this Contract are due in Travis County and venue is proper only in such county.
- L. Federal Regulations Applicable to All Federally Funded Contracts:** The Code of Federal Regulations (CFR) annual edition is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government produced by the Office of the Federal Register (OFR) and the Government Publishing Office.  
Website: [http://www.ecfr.gov/cgi-bin/text-idx?SID=6214841a79953f26c5c230d72d6b70a1&tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?SID=6214841a79953f26c5c230d72d6b70a1&tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)
- M. Public Information:** Parties acknowledge they are subject to the provisions of the Texas Public Information Act.
- N. Assignment:** No assignment of this Contract or of any right accruing hereunder shall be made, in whole or part, by Performing Party without prior consent of TEA.
- O. Excluded Parties List System:** The Texas Education Agency and the Performing Party 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. 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>.
- P. Press Releases:** Performing Party will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Performing Party in connection with the Project, or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of TEA.
- Q. Independent Performing Party:** Performing Party shall serve as an independent Performing Party in providing services under this Contract. Performing Party's employees are not and shall not be construed as employees or agents of the Texas Education Agency.
- R. Termination:** This Contract shall terminate upon full performance of all requirements contained in this Contract, unless otherwise extended or renewed as provided in accordance with the Contract terms and conditions.
- 1. Termination for Convenience:** TEA may terminate this Contract at any time, in whole or in part, without penalty, by providing fifteen (15) calendar days advance written notice to the other Party. In the event of such a termination, the Performing Party shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TEA shall be liable for reimbursing only those expenses incurred by the Performing Party that are permitted, properly performed under this Contract and were incurred prior to the effective termination date.
  - 2. Termination for Cause/Default:** If the Performing Party fails to provide the goods or services contracted for according to the provisions of the Contract, or fails to comply with any of the terms or conditions of the Contract, TEA may, upon written notice of default to the Performing Party, immediately terminate all or any part of the Contract. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law or under the Contract.  
  
TEA may exercise any other right, remedy or privilege which may be available to it under applicable law of the state and any other applicable law or may proceed by appropriate court action to enforce the provisions of the Contract, or to recover damages for the breach of any agreement being derived from the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless TEA notifies the Performing Party in writing prior to the exercise of such remedy.

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

3. **Termination Due to Changes in Law:** If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either Party cannot reasonably fulfill this Contract and if the Parties cannot agree to an amendment that would enable substantial continuation of the Contract, the Parties shall be discharged from any further obligations under this Contract.
4. **Rights upon Termination or Expiration of Contract:** In the event that the Contract is terminated for any reason, or upon its expiration, TEA shall retain ownership of all associated work products and documentation obtained from the Performing Party under the Contract.
5. **Survival of Terms:** Termination of the Contract for any reason shall not release the Performing Party from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.

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

Section 508 of the US Rehabilitation Act of 1973 has been revised and adopted. Therefore, all current and potential Performing Party s are hereby notified of the requirement. The current technical requirements for accessibility contained within this regulation form the basis for our Texas TAC rules on EIR Accessibility.

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

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

1. It could be technically difficult and expensive to bring these websites/applications to WCAG 2.0 AA later.
2. 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 Performing Party s 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.

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

- T. **Intellectual Property Ownership:** Performing Party 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, Performing Party 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. Performing Party agrees to maintain written agreements with all officers, directors, employees, agents, representatives and subcontractor Performing Party's engaged by Performing Party for the Project, granting Performing Party rights sufficient to support the performance and grant of rights to TEA by Performing Party . Copies of such agreements shall be provided to TEA promptly upon request.

Performing Party 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 Performing Party 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, Performing Party grants to TEA the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to (i) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such preexisting rights and any derivative works thereof and (ii) authorize others to do any or all of the foregoing. Performing Party agrees to notify TEA on delivery of the Works if they include any such preexisting rights. On request, Performing Party will provide TEA with documentation indicating a third party's written approval for Performing Party to use any preexisting rights that may be embodied or reflected in the Works.

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

- U. Criminal Background Checks:** If during the term of this Contract, Performing Party and/or Performing Party staff, or subcontracting have access to Texas public school campuses, all Performing Party and/or Performing Party's staff must submit to a national criminal history record information review (includes fingerprinting) and meet all eligibility standards and criteria as set by Agency before serving in assignments on behalf of the Agency. This requirement applies to all individuals who currently serve or will serve in Agency assignments that have the possibility of direct contact with students. Assignments are contingent upon meeting Agency eligibility standards. Performing Party and/or any staff member of Performing Party 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 Performing Party is not eligible for assignment, this Agreement will be terminated effective immediately or the date of notice of non-eligibility, whichever is earliest.
- V. 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.
- W. 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.
- X. Education Service Center:** No funds transferred to Regional Education Service Centers or to school districts may be used to hire a registered lobbyist.
- Y. 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.
- Z. Amendments:** All amendments to this agreement will be in a manner as prescribed by TEA Contracting Process All amendments will be initiated by TEA PCAS staff. An Amendment to this agreement will become effective on the date of signature of TEA or the effective date shown on the amendment document whichever is first.

Performing Party is 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.**

Written Amendments are required for the following contract changes and must be signed by both parties.

1. Any revision which would result in the need for additional funding;
2. Any revision to the scope of work, deliverables, or objectives of the contract (regardless of whether there is an associated budget revision requiring prior approval);
3. A request to extend the period of the contract;
4. Any reduction of funds or reduction in the scope of work; and
5. An increase in the quantity of capital outlay item(s) requested.