

STATE OF TEXAS §
COUNTY OF TRAVIS §

Division: 210	Program Name: New Generation System – Migrant
Org Code: 711P	Legal/Funding Authority: P.L. 107-110, Elementary & Secondary Education Act of 1965 as amended by the No Child Left Behind Act of 2001, Title I, Part C, 84.011 A
Speed Chart: 7P541/ 7P544	
Payee Name: Longhorn Tech Services, Inc.	Contract #: 3657
Payee ID: 18108719636	PO #: 36194

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 Longhorn Tech Services, Inc. ("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 December 2, 2016 and ending August 31, 2017, unless extended or terminated as otherwise provided for this contract. TEA, at its own discretion, may extend the contract awarded for up three additional fiscal years under the same or different terms subject to appropriation of funds by the United States Department of Education and the Texas Legislature for this project.

ARTICLE III. PURPOSES OF CONTRACT

Contractor shall provide project management services and website maintenance to include help desk support for the New Generation System (NGS). Contractor shall perform all of the functions and duties set described herein and in the appendices to this Contract, which are attached hereto and incorporated by reference.

ARTICLE IV. PAYMENT UNDER CONTRACT

Subject to the availability to TEA of funds for the purpose(s) of this contract, TEA shall pay to Contractor by State of Texas warrant(s) the amount of \$664,160.00 for the performance, satisfactory to the TEA, of Contractor's functions and duties under this Contract. Payment to Contractor by TEA will be made in accordance with the New Generation System Statement of Work, Attachment 1, which is attached hereto and incorporated herein by reference.

ARTICLE V. GENERAL AND SPECIAL PROVISIONS OF CONTRACT

Attached hereto and incorporated herein by reference are the Terms and Conditions 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.

_____ Roarke Christian _____
President Authorized Signature
Roarke W. Christian

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 2317 (month/day/year) by a person authorized to bind Agency.

Return signed copy to: TEAContracts@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

Shirley Beaulieu
Shirley Beaulieu
Associate Commissioner Finance/ CFO

APPENDIX 1

- A. The definitions of terms in the Contract Terms and Conditions are incorporated herein.
- B. The terms, conditions, and requirements contained in the Statement of Works (SOW) entitled, "Comprehensive Web Development for New Generation System", and "Managed Services and Data Storage for New Generation System", with a closing date of June 21, 2016, and identified as SOW #701-16-028, and SOW #701-16-046, are incorporated herein by reference, although in the event of conflict the Terms and Conditions to Standard Contract shall control.
- 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:
- 1) Contract Terms and Conditions of the Standard Contract
 - 2) Standard Contract, inclusive of all appendices
 - 3) Longhorn Tech Services, Inc.'s Revised Task and Budget 2016, Attachment 1
 - 4) Contractor's proposals to the Texas Education Agency entitled, "Comprehensive Web Development for New Generation System" and "Managed Services and Data Storage for New Generation System", submitted June 20, 2016, Attachment 2
 - 5) The Statement of Works entitled, "Comprehensive Web Development for New Generation System" released May 23, 2016 and "Managed Services and Data Storage for New Generation System" released May 25, 2016, Attachment 3

D. Statement of Work:

See *New Generation System (NGS) Statement of Work, Attachment 1*.

E. Budget:

No funds shall be used to pay for food costs (i.e. refreshments, banquets, group meals, etc.). This applies to both federal and state funded Contracts. The Total Amount is based upon the Tasks and scope stated in the NGS SOW. Actual time required to fully accomplish the stated objectives may vary from these estimates. Contractor will make a good faith effort to comply with the State of Texas Travel Guidelines. TEA may at its discretion approve requests for reimbursement of travel which exceed the State of Texas Travel Guidelines. Contractor shall maintain receipts in accordance with item H of the Terms and Conditions. The Comptroller's website for travel rules and regulations – [texttravel: https://fmxcpa.state.tx.us/fmx/travel/texttravel/index.php](https://fmxcpa.state.tx.us/fmx/travel/texttravel/index.php).

Receipts must be made available for programmatic or financial audit, by TEA and by others authorized by law or regulation to make such an audit, for a period of not less than seven (7) years. State travel expense reimbursement is not a per diem. Contractors must claim the actual expenses incurred for meals and lodging not to exceed the maximum allowable rates. The maximum should not be claimed unless the actual expenditures equal or exceed the maximum allowable rate. Effective January 1, 2017, the mileage rate is 53.5¢, the previous rate was 54¢ from January 1, 2016 – December 31, 2016.

F. Invoices:

Contractor must submit the monthly invoice electronically to TEAAccountsPayable@tea.texas.gov and to Susie Coultrass, State Director of Bilingual/ESL/Title III/Migrant, Curriculum Division, Susie.Coultrass@tea.texas.gov. Contractor must provide a detailed narrative report with each invoice. The report must describe the specific work completed during the invoice period. Payment under this Contract is contingent upon satisfactory completion of services. Invoices will be reviewed and approved based upon project progress, task completion, and satisfactory performance of services. The final invoice is due within forty-five days of the completion of the project. All invoices must include:

- 1) Invoice date and invoice number
- 2) Vendor name, payee ID number and mailing address
- 3) Name and telephone number of the person designated to answer questions about the invoice
- 4) Purchase Order and contract numbers
- 5) Project name, sufficient detail about services rendered including service period and amount due

New Generation System (NGS)

Statement of Work (SOW)

Attachment 1

Texas Education Agency

Updated: January 6, 2017

NGS SOW – Attachment 1

This SOW describes the duties and responsibilities between the Contractor and the Texas Education Agency (TEA) related to project management, database management, and system maintenance services to TEA and the New Generation System (NGS). All services provided by Contractor directly to NGS shall be through the direction of TEA.

I. Comprehensive Web Development

A. Project Management

1. Oversee the NGS website maintenance, database management and system maintenance services provided by Contractor on the NGS Project provided to TEA facility NGS offices located in Austin, Texas
2. Conduct bi-monthly meetings, as needed, with TEA Migrant staff and NGS staff
3. Capture and document each new requested website modification also known as build items for each website update or build release documented in a spreadsheet managed by Contractor. New website modification requests are managed by Contractor and approved by TEA
4. Coordinate in advance with TEA and NGS staff to obtain prior approval before deploying each build release
5. Ensure all staff have a clear understanding of the Migrant Education Program and the TEA NGS Data Management Requirements

B. Website Maintenance

The Developers will provide the following:

1. Participate in and conduct website design sessions with NGS staff twice a year at the NGS Advisory Committee Meeting
 - (a) Prepare materials needed for the meetings, laptop and data projector
 - (b) Capture minutes during the meetings; share draft minutes with the committee members for feedback and post final minutes on NGS database
2. Maintain the State Assessment Data import for all NGS Consortium States
 - (a) Integrate state assessment data into the NGS database for Texas and the Consortium of States
 - (b) Address any issues relevant to the upload of the state assessment data
3. Maintain the Education Data Exchange Network (EDEN) export
4. Maintain the Health and Human Services Commission (HHSC) file exchanges
5. Maintain the Migrant Student Information Exchange (MSIX) file transfers
6. Maintain all Performance Reports
7. Maintain the Electronic Data Interchange (EDI) Service
8. Maintain the Report Processing Service
9. Maintain Change Detection Software
10. Maintain Automatic User Deactivation Process
11. Maintain the NGS Database and as identified by TEA and the NGS Consortium maintain new build items to include Level of Effort (LOE)
12. Maintain the NGS System Environments
13. Produce Eligibility Sample Reports
14. Maintain the NGS Help Screens
15. Provide monthly status reports
16. Research Requested Enhancements

NGS SOW – Attachment 1

17. Research errors and/or NGS build item change requests to determine the following:
 - (a) Validity of error and/or NGS functional change request
 - (b) LOE to correct error or implement NGS functional change request
 - (c) Create or finalize NGS Change Request document
 - (d) Submit NGS Change Request document to TEA Project Management for approvals
 - (e) Implement approved NGS Change Request(s)
 - (f) Update NGS Change Request(s) documentation
18. Provide support for the NGS Help Desk to include the following:
 - (a) Field requests from the NGS Help Desk staff for NGS issue resolution
 - (b) Field requests from the NGS Help Desk staff for Custom Reports
 - (c) Address on-going relevant issues concerning the support of the NGS Help Desk
19. Address on-going relevant issues concerning the support of the NGS system/database

C. System Maintenance Services and Administration Support for Maintenance/Development Environment

Support the maintenance/development environment (Development Web, Development Database, Test Web, Test Database, Workstations and Report Processing Services) as follows:

1. Manage and maintain maintenance tools provided in the Microsoft Developer Network (MSDN) software support package
2. Plan and manage deployment of new build items to the production environment
3. Provide recommendations for hardware and software purchases
4. Test new hardware and third party software prior to implementation
5. Provide second tier technical assistance for problem resolution
6. Perform monthly system administration duties of the maintenance/development environment:
 - (a) Perform monthly backups of the NGS maintenance/development environment
 - (b) Verify all windows updates are current
 - (c) Verify the virus scan data files are current
 - (d) Review the web error log as part of the monthly system administrative duties

D. Other Services and Conditions

1. The Contractor's NGS Project Team, at a minimum consisting of the Project Manager, System Administrator, two Programmers, and two help desk specialist, in coordination with the TEA, the NGS Advisory Committee and the NGS Management Team will establish the specific deliverable items, the deliverable priorities and determine which deliverables will be presented as a website release. Website releases will be coded and implemented twice per calendar year. Release 1 delivered sometime during January 1 and June 30 of the current Contract year. Release 2 delivered sometime during July 1 through December 31 of the current Contract year. Actual implementation dates will be negotiated and approved by all parties. The following deliverable stipulations apply:
 - (a) The deliverable priorities will be fully implemented approximately one month after delivery of each release or two weeks after the NGS Management and/or NGS Advisory Committee meetings that establish the new build items and priority
 - (b) NGS Management Team can request a change of priorities and substitute build items with written approval from Contractor
 - (c) TEA and Contractor will sign off on the detailed list of new build items and priorities prior to development of each build release
 - (d) The delivery dates for each release are based upon the agreed upon specific items for each release. If any delays are projected due to changes in the specific items, then a new delivery date will be proposed and agreed upon by TEA and Contractor

NGS SOW – Attachment 1

- (e) Contractor shall provide any, and all new build items hereunder to the NGS testing group for system testing on the test server. The new build items will be made available to the NGS testing group as soon as they have been completed and tested by the Contractor's development and testing staff
 - (f) As the NGS, testing group tests the new build items they will notify the contractor's development and testing staff, in writing, of any suggestions, changes, or modifications to the new build items. Contractor will implement changes if approved by the Contractor's development and testing staff, and not increase the scope of work. If these changes require an increase in the scope of work, TEA will allow Contractor sufficient time to implement the change(s) or agree to have these changes implemented during a subsequent release
 - (g) TEA will notify Contractor, in writing, within fifteen working days following the release of a new build item if an item is not acceptable for full-scale general usage. The notice will specify in reasonable detail the reasons the deliverable is unacceptable. If TEA does not notify Contractor within fifteen working days following delivery, the deliverable has been deemed accepted by TEA
 - (h) All NGS data, in all servers, is the property of the Texas Education Agency, along with the NGS Consortium of States. In the event that the Contract is terminated for any reason, or upon its expiration, TEA shall retain ownership of all associated documentation created to support TEA and the NGS Consortium of States in whatever form that they exist
 - (i) It is the responsibility of Contractor to provide a point of contact to assist the site security monitoring company, building security/management and the Austin Police Department for issues that arise regarding the NGS office physical security
 - (j) It is the responsibility of the Contractor to ensure that the office space is reasonably neat in appearance and well maintained
 - (k) Contractor shall permit TEA access during normal business operating hours to all records, data and facilities used in performance of the contracted services provided TEA does not cause any delay or disruption in the day to day operations
 - (l) Contractor must ensure the NGS Project Team (NGS staff) are knowledgeable of the Migrant Education Program, including the TEA NGS Data Management Requirements
 - (m) Contractor will complete any other duties within the scope of the SOW as requested by TEA
2. If the TEA or the NGS Management Team want to increase the LOE contained in the Contract, including Change Requests, Contractor will present a Change Request in an estimate for approval and sign off prior to starting development. An increase in the LOE for functionality additions performed without substituting for functionality previously on the new build item list can result in additional financial charges for the requested increase in LOE
3. TEA's Responsibilities – Office Space, Equipment, and Security
- (a) TEA and/or the NGS Consortium of States will provide for the physical security of the NGS office and equipment room
 - (b) TEA and/or the NGS Consortium of States will supply office and equipment room monitoring service
 - (c) TEA and/or the NGS Consortium of States are responsible for the site security licenses filed with the Austin Police Department
 - (d) TEA and/or the NGS Consortium of States are responsible for all insurance requirements for the NGS Office, property, and equipment
 - (e) TEA and/or the NGS Consortium of States will provide reasonable and acceptable office space for up to four team members in addition to PC workstations, production servers (to include test, train and development), production software and printers
 - (f) TEA and/or the NGS Consortium of States will be financially responsible for all equipment purchases, internet service and upgrades required to maintain the proper operational environments for NGS

NGS SOW – Attachment 1

- (g) TEA and/or the NGS Consortium of States is financially responsible for all software licenses, server certificates, domain registration and the renewal of such for the proper legal operation of the NGS environments
- (h) TEA and/or the NGS Consortium of States will provide for a production system environment to include adequate cooling, ventilation, fire prevention, and offsite backup storage in the event of an emergency

4. Materials and Labor

TEA and/or NGS Consortium of States shall furnish all supplies and/or equipment to perform the requirements as specified under the Contract. Contractor shall use proper materials in accordance with the manufacturer's maintenance directions and instructions. TEA or the NGS Consortium of States shall furnish all hardware upgrades as recommended, and justified by Contractor and agreed upon by the NGS Management Team to maintain the development and production-operating environment. The Contractor is not required to furnish any equipment or tools in order to perform the contract except the following:

- (a) General office supplies such as paper, pens, pencils, markers, notepads, etc.
- (b) Parking for Contractor's staff
- (c) Monthly telephone bill for two business phone lines and one fax line
- (d) Water and other provisions for Contractor's staff

Contractor is not responsible for the damages caused or expenses incurred due to hardware problems or third party software problems, fixing hardware problems or additional equipment needed to expand services. Contractor will assist with resolution of third party software problems as far as the Vendor maintenance agreements allow. Contractor must warrant that any of Contractor's custom developed or proprietary product, licensed or provided, to NGS (including all modifications and upgrades) will not infringe upon or violate any United States patent, copyright, trade secret or any other proprietary right of any third party or contain the confidential information of any third party without proper authorization from the third party.

II. Managed Services and Data Storage

A. Project Management

Contractor will provide a named point-of-contact for the purposes and terms of the Contract for Project Management. Project Management will provide the following services to TEA:

1. Oversee the NGS database management and system maintenance services provided by Contractor on the NGS Project provided to TEA facility NGS offices located in Austin, Texas
2. Conduct bi-monthly meetings, as needed, with TEA Migrant staff and Contractor's staff
3. Capture and document each new requested website modification also known as build items for each website update or build release documented in a spreadsheet managed by Contractor
4. Ensure all staff have a clear understanding of the Migrant Education Program and the TEA NGS Data Management Requirements

B. Database Management and System Administration Support Services for Production Environment

All data must be encrypted at rest and in transit, including backup and archived data. All data, including backup and archived data, must reside in the United States. Break/Fix Support for the NGS production environment (Production Web, Production Database, Training Web, Training Database, File Transfer Protocol (FTP), Electronic Data Interchange (EDI), Migrant Student Information Exchange (MSIX), Health and Human Services Commission (HHSC), Email and Report Processing Services) as described below:

1. Scheduling and monitoring of workloads:
 - (a) Monitoring - drive space, CPU utilization drive throughout, network throughout, memory utilization, and system generated logs and Change Detection Application output
 - (b) Scheduling: Structured Query Language (SQL) jobs, MSIX and HHSC file transfers, Change Detection Application

NGS SOW – Attachment 1

2. Perform daily system administration duties:
 - (a) Check submitted reports
 - (b) Check database replication
 - (c) Check SQL scheduled tasks
 - (d) Review the event logs i.e. Daily Change Detection Log, Daily Error Log
3. Perform daily backups and oversee weekly tape rotation
4. Check internet connectivity and availability on a daily basis
5. Monitor the physical environment of the server room and schedule any needed air or mechanical equipment maintenance or service
6. Monitor change detection output
7. Perform monthly system administration duties:
 - (a) Perform monthly backups and ensure backup data is encrypted
 - (b) Verify all windows updates and applicable application patches are current
 - (c) Verify the virus scan data files are current
 - (d) Review the web error log
8. Post notification of service interruptions on the NGS Homepage
9. Implement new hardware and/or third party software after testing
10. Provide second tier technical assistance for problem resolution
11. Deploy maintenance patches and updates to the production environment
12. Provide recommendations for hardware and software purchases
13. Test new hardware and third party software prior to implementation

C. Other Services and Conditions

The Contractor's NGS Project Team, at a minimum consisting of the Project Manager and two help desk specialists, in coordination with the TEA, the NGS Comprehensive Web Development team, the NGS Advisory Committee and the NGS Management Team, will establish the specific deliverable items, the deliverable priorities and determine which deliverables will be presented as a website release. Website releases are coded and implemented twice per calendar year by the NGS Comprehensive Web Development Team. Release 1 delivered sometime during January 1 and June 30 of the current Contract year. Release 2 delivered sometime during July 1 through December 31 of the current Contract year. Actual implementation dates will be negotiated and approved by all parties. The following deliverable stipulations apply:

1. The NGS help desk staff must be part of the NGS testing group for system testing on the test server. The NGS Comprehensive Web Development Team shall provide any, and all new build items hereunder to the NGS testing group for system testing. The new build items will be made available to the NGS testing group as soon as they have been completed and tested by the Contractor's development and testing staff
2. As the NGS testing group tests the new build items, they will notify the NGS Comprehensive Web Development Team, in writing, of any suggestions, changes, or modifications to the new build items
3. All NGS data, in all servers, is the property of the TEA, along with the NGS Consortium of States. In the event that the Contract is terminated for any reason, or upon its expiration, TEA shall retain ownership of all associated documentation created to support TEA and the NGS Consortium of States in whatever form that they exist
4. It is the responsibility of Contractor to provide a point of contact to assist the site security monitoring company, building security/management and the Austin Police Department for issues that arise regarding the NGS office physical security
5. It is the responsibility of the Contractor to ensure that the office space is reasonably neat in appearance and well maintained

NGS SOW – Attachment 1

6. Contractor shall permit TEA access during normal business operating hours to all records, data and facilities used in performance of the contracted services provided TEA does not cause any delay or disruption in the day to day operations
7. Contractor must ensure the NGS Project Team are knowledgeable of the Migrant Education Program, including the TEA NGS Data Management Requirements.
8. Contractor will complete any other duties as related to this SOW, as requested by TEA and/or the Consortium of States
9. Materials and Labor:

TEA and/or NGS Consortium of States shall furnish all supplies and/or equipment to perform the requirements as specified under the Contract. The Contractor shall use proper materials in accordance with the manufacturer's maintenance directions and instructions. TEA or the NGS Consortium of States shall furnish all hardware upgrades as recommended and justified by Contractor, and agreed upon by the NGS Management Team to maintain the development and production-operating environment. The Contractor is not required to furnish any equipment or tools in order to perform the contract except the following:

 - (a) General office supplies such as paper, pens, pencils, markers, notepads, etc.
 - (b) Parking for Contractor's staff
 - (c) Monthly telephone bill for two business phone lines (one phone line being an 800 number) and one fax line
 - (d) Water and other provisions for Contractor's staff

Contractor is not responsible for the damages caused or expenses incurred due to hardware problems or third party software problems, fixing hardware problems or additional equipment needed to expand services. Contractor will assist with resolution of third party software problems as far as the Vendor maintenance agreements allow. Contractor must warrant that any of Contractor's custom developed or proprietary product, licensed or provided, to NGS (including all modifications and upgrades) will not infringe upon or violate any United States patent, copyright, trade secret or any other proprietary right of any third party or contain the confidential information of any third party without proper authorization from the third party.

10. Project Managers

Contractor and TEA shall each designate a Project Manager. The Contractor's Project Manager, working with the TEA Project Manager or TEA Project Manager Counterpart, shall be responsible for all work specified in the Contract. Contractor shall supply a Project Manager for all requirements of the Contract and ensure the Project Manager is knowledgeable of the Migrant Education Program and TEA NGS Data Management Requirements. The Project Managers will oversee all work performed on this project and will be the primary points-of-contact for matters relating to the Contract. TEA shall have the right to approve/disapprove the Contractor's Project Manager. Contractor shall not remove their Project Manager during the term of this Contract without written notice to TEA thirty days in advance or as soon as commercially feasible; however, TEA reserves the right to request the removal of a Project Manager at any time during the Contract period.

III. Help Desk Support

A. Project Requirements

1. Provide full-time project management support of the combined NGS and MSIX help desk/development and maintenance functions
2. Provide project oversight, monitoring and recommendations to validate that the NGS and MSIX help desk is executed in accordance with TEA and NGS Consortium requirements
3. Design and develop an electronic call tracking system to record the number, type and status of calls received at the help desk
4. Meet twice a month, as needed, with the TEA Migrant Education Director, or designee(s), through onsite meetings or telephone conferences, to provide NGS and MSIX project status and regular communication
5. Monitor NGS data entered by end users and periodically take samples of data

NGS SOW – Attachment 1

6. Validate that data entered into the NGS application is monitored via the NGS Help desk operators running SQL queries directly on the NGS production database
7. Provide toll free number, fax number, and email inbox for the NGS and MSIX Help Desk
8. Provide a digital telephone system that is capable of handling multiple phone lines as well as two analog ports for a conference phone and fax machine
9. Work closely with the NGS and MSIX Help Desk staff to generate and fine tune the queries so that critical data can be monitored by creating processes that run on a daily basis i.e. check submitted reports, database replications, review event logs
10. Provide call tracking software that resides on a computer system within the NGS office that will track incoming and outgoing call information
11. Create monthly help desk reports that provide the statistical information regarding the monthly Contact by end users to the help desk as well as call and resolution detail for each help desk ticket
12. Have an email mailbox to the current NGS Microsoft Exchange Mail system that automatically forwards all email received to all personnel in the NGS office
13. Ensure the NGS and MSIX Help Desk Operational Policies are in place
14. Have a clear understanding of the Migrant Education Program and the TEA NGS Data Management Requirements

B. Technical Support

1. Provide full-time full time support of the help desk hardware and software infrastructure during normal business hours, 8:00 a.m. – 5:00 p.m. Central Time
2. Run queries on the NGS production database and produce Ad-Hoc reports as required by TEA, Consortium member states and NGS end users
3. Assist TEA, NGS Consortium member state and NGS end users with usage of the Report Generator function on NGS
4. Provide complete Beta testing of the NGS application changes and new build items, and document feedback to TEA and NGS programmers
5. Monitor potential duplicate students by creating monthly potential duplicate student reports, notifying end users of potential duplicates, overseeing merge process and providing electronic feedback to TEA on potential duplicates and on students merged
6. Create, install, and maintain help desk call tracking software, which will be used to provide monthly Help Desk Reports, that will log the number and status of NGS and MSIX calls received at the NGS Help Desk
7. Provide email capability for communicating MSIX and NGS end user support issues
8. Provide web conference and training software for recording MSIX and NGS training videos
9. Work with the MSIX work lists
10. Provide programming support for the data exchange with the MSIX system
11. Assist NGS programmers and TEA by working with NGS reports to assist in MSIX interface efforts
12. Add the latest version of the *Texas Manual for NGS Data Management Requirements* on the NGS website
13. Assist TEA with NGS and MSIX data validation, password issuance, training and other duties related to this SOW, as they arise
14. Assist TEA with password maintenance for NGS and MSIX

C. Help Desk Services

1. Provide full-time Help Desk services during normal business hours, 8:00 a.m. – 5:00 p.m. Central Time

NGS SOW – Attachment 1

2. Answer the Help Desk toll free number from the hours of 8:00 a.m. - 5:00 p.m. Central time during the normal TEA business calendar schedule
3. Use call tracking software to record the number and status of calls made to the Help Desk. Provide monthly reports to TEA in agreed upon format
4. Monitor the NGS Help Desk mailbox. Provide monthly reports to TEA in agreed upon format
5. Answer NGS end user(s) questions about the TEA NGS Data Management Requirements
6. Answer NGS and MSIX end user(s) questions about the NGS and MSIX application
7. Resolve NGS and MSIX end user(s) issues with NGS and MSIX application errors
8. Escalate unresolved NGS and MSIX application problems to the NGS programmer development team
9. Provide regularly scheduled NGS application training sessions via internet and voice conference calls on a bi-weekly basis or as needed and as directed by TEA
10. Develop, maintain and update along with system builds, an NGS training manual according to TEA specifications
11. Provide an NGS trainer for Texas and consortium states who is knowledgeable about the Texas MEP and the NGS web-based application and end user requirements. NGS trainer will train on-site, as requested, ESC and other NGS end users as specified by designated TEA staff, including participating in the development of the annual NGS training for ESCs, as needed. This trainer will also create training webinars as needed or as requested by TEA and present at the annual Migrant State Conference, as requested by TEA
12. Assist TEA with family move notifications by verifying data received from other states
13. Provide Help Desk staff who are knowledgeable of the Migrant Educator Program and the NGS Data Management Requirements
14. Perform other duties related to Help Desk Services, as assigned by TEA

D. Reporting Requirements

1. Provide monthly Help Desk Reports recording the number, type and status of calls to TEA in agreed upon format
2. Provide monthly NGS Help Desk mailbox reports to TEA in agreed upon format
3. Provide monthly documentation regarding the regularly scheduled NGS application training sessions via internet and voice conference calls
4. Deliver NGS user training manual according to TEA specifications; timeline to be determined by TEA
5. Provide yearly report of NGS ad hoc reports developed for TEA, Consortium member states and NGS end users
6. Provide yearly report detailing activities of the NGS trainer for Texas and Consortium states

E. TEA Responsibilities

1. TEA and/or the NGS Consortium of States will provide for the physical security of the NGS and MSIX Help Desk office
2. TEA and/or the NGS Consortium of States will supply office monitoring service
3. TEA and/or the NGS Consortium of States are responsible for the site security licenses filed with the Austin Police Department
4. TEA and/or the NGS Consortium of States are responsible for all insurance requirements for the NGS and MSIX Help Desk office, property, and equipment
5. TEA and/or the NGS Consortium of States will provide reasonable and acceptable office space for up to three team members in addition to PC workstations

NGS SOW – Attachment 1

December ², 2016 – August 31, 2017

Task #	Task Activity	Personnel	Hourly Rate	Sub Total Amount for Year	Total Amount for Year	Managed Services	Managed Services Total	Web Development	Web Development Total
1	Project Management				\$24,960				\$24,960
		Project Manager	\$80.00	\$24,960				\$24,960	
2	Website Maintenance				\$250,692				\$250,692
		Developer Analyst	\$82.00	\$44,772				\$44,772	
		Programmers - 2	\$66.00	\$205,920				\$205,920	
3	System Maintenance Services and Administration Support for Maintenance/ Development Environment				\$49,920				\$49,920
		Network Administrator	\$80.00	\$49,920				\$49,920	
4	Database Management and System Administration Support Services for Production Environment				\$44,304		\$44,304		
		Developer Analyst	\$82.00	\$25,584		\$25,584			
		Network Administrator	\$80.00	\$18,720		\$18,720			
5	Project Requirement				\$73,554		\$73,554		
		Project Manager	\$80.00	\$18,720		\$18,720			
		Developer Analyst	\$82.00	\$25,584		\$25,584			
		Lead Help Desk	\$75.00	\$29,250		\$29,250			
6	Technical Support				\$73,710		\$73,710		
		Developer Analyst	\$82.00	\$31,980		\$31,980			
		Lead Help Desk	\$75.00	\$29,250		\$29,250			
		System Administrator	\$80.00	\$12,480		\$12,480			
7	Help Desk Services				\$97,890		\$97,890		
		Lead Help Desk	\$75.00	\$29,250		\$29,250			
		Help Desk Specialist	\$44.00	\$68,640		\$68,640			
8	Reporting Requirements				\$29,250		\$29,250		
		Lead Help Desk	\$75.00	\$29,250		\$29,250			
9	Other Services				\$19,880		\$16,130		\$3,750
		Phone System		\$7,500		\$3,750		\$3,750	
		Travel		\$10,500		\$10,500			
		Call Tracking Software		\$1,500		\$1,500			
		Web Conference and Training Software		\$380		\$380			
							\$334,838		\$329,322
Grand Total					\$664,160				

Combined pricing for Managed Services and Data Storage for New Generation System (NGS) for SOW# 701-16-046 and Comprehensive Web Development for New Generation System (NGS) for SOW# 701-16-028

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 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

Rev. 9.22.16

TEXAS EDUCATION AGENCY CONTRACT TERMS AND CONDITIONS

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.

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 15th 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

TEXAS EDUCATION AGENCY CONTRACT TERMS AND CONDITIONS

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)
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
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
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.

TEXAS EDUCATION AGENCY CONTRACT TERMS AND CONDITIONS

- 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
Susie Coultriss	Roarke Christian
State Director, Bilingual/ ESL/ Title III/ Migrant	President
Texas Education Agency	Longhorn Tech Services, Inc.
1701 N. Congress Ave	2033 Charlotte Way
Austin, Texas 78701	Round Rock, Texas 78664
Email: Susie.Coultriss@tea.texas.gov	LTSI@LonghornTechServices.com
(512) 463-9581	(512) 825-1165

- 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:
- (1) Americans With Disabilities Act, P.L. 101-336, 42 U.S.C. sec. 12101, and the regulations effectuating its provisions contained in 28 CFR Parts 35 and 36, 29 CFR Part 1630, and 47 CFR Parts 0 and 64
 - (2) Title VI of the Civil Rights Act of 1964, as amended (prohibition of discrimination by race, color, or national origin), and the regulations effectuating its provisions contained in 34 CFR Part 100
 - (3) Title IX of the Education Amendments 1972, as amended (prohibition of sex discrimination in educational institutions) and the regulations effectuating its provisions contained in 34 CFR Part 106, if Contractor is an educational institution
 - (4) Section 504 of the Rehabilitation Act of 1973, as amended (nondiscrimination on the basis of handicapping condition), and the regulations effectuating its provisions contained in 34 CFR Parts 104 and 105
 - (5) The Age Discrimination Act of 1975, as amended (prohibition of discrimination on basis of age), and the implementing regulations contained in 34 CFR, Part 110
 - (6) Family Educational Rights and Privacy Act of 1975, as amended, and the implementing regulations contained in 34 CFR, Part 99, if Contractor is an educational institution
 - (7) Section 509 of H.R. 5233 as incorporated by reference in P.L. 99-500 and P.L. 99-591 (prohibition against the use of federal grant funds to influence legislation pending before Congress)
 - (8) P.L. 103-227, Title X, Miscellaneous Provisions of the GOALS 2000: Educate America Act; P.L. 103-382, Title XIV, General Provisions of the Elementary and Secondary Education Act, as amended
 - (9) 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.

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- 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.

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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:

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- (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, which consent must specifically identify the confidential to be disclosed by Contractor and the nature of the disclosure for which consent is sought. Contractor, its employees and subcontractors, agree that in executing tasks on behalf of TEA. Contractor will indemnify and hold harmless the State of Texas, its officers and employees, and TEA, its officers and employees for any claims or damages that arise from the disclosure by Contractor or its Contractors of information held by the State of Texas, except when defined as part of the Work under this Contract.
- Contractor will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor in connection with the Project, or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of TEA
- 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:** All state agencies must report unsatisfactory Contractor performance on purchases over \$25,000. Proposers who are in default or otherwise not in good standing under any other current or prior contract with TEA at the time of selection will not be eligible for award of this Contract. A Proposer's past performance will be measured based upon pass/fail criteria, in compliance with applicable provisions of Government Code §§ 2155.074, 2155.075, 2156.007, 2157.003, and 2157.125. Proposers may fail this selection criterion for any of the following conditions: A score of less than 90% in Contractor Performance System, currently under a Corrective Action Plan, having repeated negative Contractor performance reports for the same reason, having purchase orders that have been cancelled in the previous 12 months for non-performance (i.e. late delivery, etc.). TEA may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through Contractor Performance Tracking System (as authorized by 34 Texas Administrative Code §20.108). TEA or a designee may conduct periodic contract compliance reviews without advance notice, to monitor performance. TEA may examine other sources of Contractor performance including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit

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reports, and non-renewals of contracts. Any such investigations shall be at the sole discretion of TEA, and any negative findings, as determined by TEA, may result in non-award to the Proposer.

Agencies report satisfactory and exceptional Contractor performance to assist in determining best value. In accordance with Texas Government Code, §2155.074 and §2155.75, Contractor performance may be used as a factor in future contract awards. Contractor performance information is located on the CPA 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.

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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
 - 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.x.cpa.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.

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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://fmx.cpa.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
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

TEXAS EDUCATION AGENCY CONTRACT TERMS AND CONDITIONS

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

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.

Longhorn Tech Services Inc.

Organization Name

Roarke Christian, President

Name and Title of Authorized Representative

Roarke W. Christian

Signature

4/11/2017

Date

OMB 0348-0046

7-97

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.

<p>1. Type of Federal Action:</p> <p><input type="checkbox"/> Contract</p> <p><input type="checkbox"/> Grant</p> <p><input type="checkbox"/> Cooperative Agreement</p>	<p>2. Status of Federal Action</p> <p><input type="checkbox"/> Bid/Offer/Application</p> <p><input type="checkbox"/> Initial Award</p> <p><input type="checkbox"/> Post-award</p>	<p>3. Report Type</p> <p><input type="checkbox"/> Initial Filing</p> <p><input type="checkbox"/> Material Change</p> <p>For Material Change Only: Year _____ Quarter _____ Date of Last Report: _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p><input type="checkbox"/> Subawardee Tier _____, if known:</p> <p>Congressional District, if known: _____</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p style="text-align: center;">Texas Education Agency 1701 N. Congress Avenue Austin, Texas 78701</p> <p>Congressional District: 10</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> <p>CFDA Number, if applicable: _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known: \$ _____</p>	
<p>10. A) Name and Address of Lobbying Entity (If individual, Last name, First name, MI):</p>	<p>B) Individuals Performing Services (include address, if different from 10 A) (Last name, First name, MI):</p>	
<p>11. Amount of Payment \$ _____</p> <p>12. Form of Payment _____</p> <p>13. Type of Payment <input type="checkbox"/> retainer <input type="checkbox"/> one-time fee <input type="checkbox"/> commission</p>	<p>14. Brief Description of Services Performed</p>	
<p>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.</p>		
<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No: _____</p> <p>Date: _____</p>		
<p>Federal Use Only: _____</p>		
<p>Authorized for Local Reproduction Standard Form—LLL (Rev. 7-97)</p>		

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)

- A. Contractor's HSP is attached and incorporated herein.
- B. Any changes to the HUB Subcontracting Plan (HSP) must be approved by the TEA HUB Coordinator before changes are initiated.
- C. Contractor must submit a Prime Contractor Progress Assessment Report (PAR) monthly documenting all subcontractor payments made in the preceding month. Submission of the PAR is a condition for payment.
- 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.
- E. 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



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: Longhorn Tech Services Inc. State of Texas VID #: 18108719636
 Point of Contact: Roarke Christian Phone #: (512) 825-1165
 E-mail Address: LTSI@LonghornTechSerices.com Fax #: _____
- b. Is your company a State of Texas certified HUB? - Yes - No
- c. Requisition #: _____ Bid Open Date: _____

(mm/dd/yyyy)

Enter your company's name here: Longhorn Tech Services Inc. Requisition #: _____

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 <u>do not</u> have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
1	Personnel Services	41.3 %	%	%
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: Longhorn Tech Services Inc. Requisition #: _____

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 <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.
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: Longhorn Tech Services Inc.

Requisition #: _____

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

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.

Roarke W Christian

Signature

Roarke Christian

Printed Name

President

Title

1/11/2017

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.

SOW #701-16-028 and SOW #701-16-046