

**REQUEST FOR PROPOSALS  
FOR**

**SELECTION OF A VENDOR  
TO PROVIDE FURNISHINGS**

**TO**

**THE TEXAS STATE UNIVERSITY SYSTEM  
AUSTIN, TEXAS**

**RFQ No.:**  
**758-18-00045**

**Submission Date:**  
**October 10, 2017 – 2:00 p.m. (C.D.T)**

**Prepared By:**  
Peter E. Graves, Vice Chancellor for Contract Administration  
Texas State University System  
Thomas J. Rusk State Building, Suite 600  
208 East 10<sup>th</sup> Street  
Austin, TX 78701-2407 - 512-463-1808  
[peter.graves@tsus.edu](mailto:peter.graves@tsus.edu)

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**Request For Proposals For  
Selection of a Vendor(s) to Provide Furnishings For  
The Texas State University System  
RFP No.: 758-18-00045**

**SECTION 1 – GENERAL INFORMATION & OBJECTIVE**

1.1 Objective: The Texas State University System (TSUS) (“Owner”) is soliciting competitive sealed Solicitations (“Request for Proposals” or “RFPs”) for the selection of a qualified and capable vendor(s) (one or more) to provide and install furnishings to the Owner. This Solicitation sets forth the terms, conditions, and requirements for Respondents to be consider for this project. The Owner expects to enter into one or more contract(s) with the selected individual(s) or firm(s) to provide and install the furnishings as further defined in Section 5 of this RFP. Furthermore, the Owner reserves the right to purchase additional furnishings through an amendment process with selected respondent(s) at the sole discretion of the Owner.

1.2 Historical Background: The Texas State University System, founded in 1911, is the first higher education system established in Texas. Beginning as an administrative means to consolidate the support and management of state teacher colleges, the System has evolved into a network of higher education institutions stretching from the Texas–Louisiana border to the Big Bend region of west Texas. Today, eight component institutions offer a broad range of academic and career opportunities. Throughout the System, faculty and staff are preparing students to work in and contribute to our global society.

The Texas State University System member institutions include:

- Lamar University
- Sam Houston State University
- Sul Ross State University
- Texas State University
- Lamar Institute of Technology
- Lamar State College - Orange
- Lamar State College - Port Arthur
- Sul Ross State University Rio Grande College

The Texas State University System is governed by a nine-member Board of Regents appointed by the governor. In addition, a nonvoting student regent is appointed annually to the board. The administration, which is headed by a board-appointed chancellor, is based in Austin, where it provides support to the System components and state government.

1.3 Mission Statement: The mission of the Texas State University System is:

- To advance and extend knowledge, learning, and culture, especially within Texas.
- To provide opportunities for individuals to develop intellectually, personally, and professionally.
- To prepare students to contribute to the state’s and nation’s economy, culture, and future.
- To offer undergraduate and graduate instruction leading to professional certificates and undergraduate, master’s, and doctoral degrees.

- To provide public services that enrich the institutions, communities, and the state.
- To foster creative and artistic expression that enhances the cultural richness of the state.

To support research and commercial development that result in new technologies and products which benefit the state.

- 1.4 **Public Information:** All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act (*Texas Government Code*, Chapter 552.001, *et seq.*) after the solicitation is completed. The Owner strictly complies with all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of RFQ/P information.
- 1.5 **Term:** The term of any contract(s) resulting from this RFP shall be from the date of agreement execution until December 31, 2018. If the Owner and successful Respondent are unable to negotiate and sign a Contract, the Owner reserves the right to seek an alternative Respondent.
- 1.6 **Group Purchasing Authority:** Texas law authorizes institutions of higher education (defined by Section 61.003, *Education Code*) to use the group purchasing procurement method (ref. Sections 51.9335, 73.115, and 74.008, *Education Code*). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Respondent under this RFP.
- 1.7 **Clarifications and Interpretations:** Any clarifications or interpretations of this Solicitation that materially affect or change its requirements will be issued formally by the Owner as a written addendum. It is the responsibility of all Respondents to check the status of formal addenda five (5) days before the submission deadline and to obtain this information in a timely manner. All such addenda issued by the Owner before the proposals are due shall be acknowledged by Respondents and incorporated into its response to the Solicitation.
- 1.7.1 Respondents shall be required to consider only those clarifications and interpretations that the Owner issues by addenda five (5) or more days prior to the submittal deadline. Interpretations or clarifications obtained in any other form, including oral statements, will not be binding on the Owner and should not be relied on in preparing proposals.
- 1.7.2 Addenda, if required, will be issued by the Owner for this Solicitation.
- 1.7.3 If Respondent takes exception to any terms or conditions set forth in the Sample Agreement, Respondent must submit a written list of the exceptions prior to the submittal deadline.
- 1.8 **Type of Contract:** Any Contract resulting from this Solicitation will be in the form of the Owner's standard Contract, a sample copy is in **Section 9** of this RFP.

## SECTION 2 – NOTICE TO RESPONDENTS

- 2.1 **Submittal Deadline:** The Owner will accept proposals submitted in response to this RFP until **October 10, 2017 - 2:00 p.m. (Central Daylight Savings Time).**

Proposals shall be submitted via mail, courier, or hand delivered, by deadline mentioned above, to the location specified on the front page of this solicitation.

- 2.1.1 The Owner will not consider any response to this solicitation that is not received at the address specified by the deadline, regardless of whether it has been otherwise received by the Owner. Proposals received after the stated official deadline will be returned, if properly identified, to the Respondent. The Owner's authorized Point-of-Contact identified in **Section 2.2** will identify the official time clock at the Proposal submittal location identified above.
- 2.1.2 The Owner will not acknowledge or receive any Proposals that are delivered by telephone, facsimile (fax), or electronic mail (email).
- 2.1.4 Failure to deliver, for whatever reason, may not be grounds for disputing the procurement solicitation process or any resulting contract award.
- 2.1.5 Respondent materials must be enclosed in a sealed envelope, box or container, addressed to the Point-of-Contact identified on the front of this solicitation. The package must clearly identify the submittal deadline, the RFP number, and the name, return address, and email address of the Respondent. **Proposals shall be submitted as three (3) separate documents: 1.) Qualifications, Response to the Scope of Work (SOW), and Execution of Offer, 2.) Pricing and Delivery Proposals, and 3.) HUB Subcontracting Plan (HSP) if applicable, must be packaged in separate sealed envelopes, clearly marked to indicate the contents, within the sealed envelope, box, or container.**
- 2.1.6 The names of the submitting Respondents will be read aloud immediately following the date and time stated in Section 2.1.
- 2.1.7 Submit (5) five identical paper/hard copies of the response to the RFP (Proposal) and (1) one electronic version (CD, etc.). An original signature must be included on one copy of the Execution of Offer.
- 2.1.8 Proposals must be typed on letter-size (8 ½" x 11") paper, and must be submitted in a binder. Preprinted material should be referenced in the Proposal and included as labeled attachments. Proposals shall include a Table of Contents and sections within the Proposal should be divided by tabs for ease of reference.
- 2.1.9 The Qualifications and Proposal section shall be a maximum of thirty-five (35) printed pages, double sided, with font 11 point. The cover, table of contents, divider sheets and Execution of Offer do not count as printed pages.
- 2.1.10 All pages of the Proposal should be numbered sequentially in Arabic numbers (1, 2, 3, etc.). Attachments should be numbered or referenced separately.

- 2.2 Point-Of-Contact: The Owner designates the following person as its representative and Point-of-Contact for this RFP. Respondents shall restrict all contact with the Owner and direct all questions regarding this RFP No. 758-18-00045, including questions regarding terms and conditions and technical specifications **in writing via email only**, to the Point-of-Contact person.

Rob Roy Parnell, AIA, RAS  
Associate Vice Chancellor for Facilities  
Texas State University System  
208 E. 10<sup>th</sup> Street, Suite 600  
Austin, TX 78701  
[robroy.parnell@tsus.edu](mailto:robroy.parnell@tsus.edu)

- 2.2.1 Point-of-Contact must receive all questions and concerns not later than the date and times specified in Section 7, Timeline of RFP Events.
- 2.2.2 Owner must have a reasonable amount of time to respond to questions or concerns.
- 2.2.3 It is the Owner's intent to respond to all appropriate questions and concerns however, the Owner reserves the right to decline to respond to any question or concern.
- 2.3 Pre-Proposal Conference: Not applicable.
- 2.4 Historically Underutilized Businesses (HUB) Submittal Requirements: See Sections 5.22, 5.23 and 5.24 of this RFP.
- 2.5 Owner's Reservation of Rights: The Owner reserves the right to accept or reject any or all Proposals, waive any formalities, procedural requirements, or minor technical inconsistencies, and delete any requirement or specification from this RFP or the Contract when deemed to be in the best interest of the Owner. Owner reserves the right to seek clarification from any Respondent concerning any item contained in its Proposal prior to final selection. Such clarification may be provided by telephone, conference or personal meeting with or writing to Owner at Owner's sole discretion. Owner makes no representations, written or oral, that it will enter into any form of agreement or contract for any project with any Respondent to this Solicitation, and no such representation is intended or should be construed by the issuance of this Solicitation. Representations made by Respondent in its Proposal will be binding on Respondent.
- 2.6 Acceptance of Evaluation Methodology: By submitting its Proposal in response to this Solicitation, Respondent accepts the evaluation process and acknowledges and accepts that determination of the "most qualified" firm will require subjective judgments by the Owner. The results of this most qualified determination will be combined with the Proposal evaluation results to determine the "best value" proposition for the Owner.
- 2.7 No Reimbursement for Costs: Respondent acknowledges and accepts that any costs incurred from the Respondent's participation in this Solicitation process shall be at the sole risk and responsibility of the Respondent. Respondents submit Proposals at their own risk and expense.
- 2.8 Eligible Respondents: Only individual firms or lawfully formed business organizations may respond. The Owner will enter into a Contract only with an individual firm or formal organization that submits a Proposal.

- 2.9 Certain Proposals and Contracts Prohibited: Under Section 2155.004, *Texas Government Code*, a state agency may not accept a Proposal or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or Request for Proposals on which the Proposal or Contract is based. All Respondents must certify their eligibility by acknowledging the following statement, "Under Section 2155.004, *Texas Government Code*, the Respondent certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate." If a state agency determines that an individual or business entity holding a state contract was ineligible to have the contract accepted or awarded as described above, the state agency may immediately terminate any Contract resulting from this Solicitation without further obligation to the successful Respondent. This section does not create a cause of action to contest a Proposal or award of a state contract.
- 2.10 Proposal Validity Period: Each Proposal must state that it will remain valid for Owner's acceptance for ninety (90) days from the submission date of this RFP to allow time for evaluation, selection, any required additional approvals, and any unforeseen delays.
- 2.11 Submittal Modifications/Withdrawals: Except as otherwise provided in this RFP, no Proposal may be changed, amended, or modified after it has been submitted to Owner. However, a Proposal may be withdrawn and resubmitted at any time prior to the submittal deadline. No Proposal may be withdrawn after the submittal deadline without the Owner's consent, which will be based on Respondent's submittal of a written explanation and documentation evidencing a reason acceptable to Owner, in Owner's sole discretion.
- 2.12 Required Notices of Insurance Coverage: During the term of any contract resulting from this Solicitation, the successful Respondent Agrees to procure and maintain, at its expense:
- 2.12.1 Workers' compensation insurance coverage for each of the successful Respondent's employees employed on this project.
  - 2.12.2 Public liability and property damage insurance to cover sums that either party becomes obligated to pay. The policy will name The Board of Regents, Texas State University System, as an additional insured and will provide for the defense of the Owner in the event of suit. The policy will be in the minimum amounts of \$250,000 for bodily injuries, including accidental death, to any one person, \$1,000,000 for any one accident, and \$500,000 for damage to property. Provider will furnish the Owner proof of this insurance before the beginning of the work.
  - 2.12.3 Comprehensive Automobile Liability Insurance, covering owned, hired, and non-owned vehicles, with a combined bodily injury (including death) and property damage minimum limit of \$1,000,000 per occurrence. No aggregate shall be permitted for this type of coverage. Such insurance is to include coverage for loading and unloading hazards.
  - 2.12.4 Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company or otherwise acceptable to the Owner.
  - 2.12.4 Policies must include the following clauses, as applicable:



- 2.12.4.1 This insurance shall not be canceled, materially changed, or non-renewed until after thirty (30) days prior written notice has been given to the University.
- 2.12.4.2 It is agreed that the successful Respondent's insurance shall be deemed primary with respect to any insurance or self-insurance carried by the University for liability arising out of operations under the any Contract resulting from this Solicitation with the Owner .
- 2.12.4.3 The workers' compensation and employers' liability policy will provide a waiver of subrogation in favor of the Owner.
- 2.12.4.4 Without limiting any of the other obligations or liabilities of the successful Respondent, the successful Respondent shall require each Subcontractor performing work under any Contract resulting from this Solicitation, at the Subcontractor's own expense, to maintain during the term of any Contract resulting from this Solicitation, the same stipulated minimum insurance including the required provisions and additional policy conditions as shown above. As an alternative, the successful Respondent may include its Subcontractors as additional insured's on its own coverage as prescribed under these requirements. The successful Respondent's certificate of insurance shall note in such event that the Subcontractors are included as additional insured's and that the successful Respondent agrees to provide Workers' Compensation for the Subcontractors and their employees. The successful Respondent shall obtain and monitor the certificates of insurance from each Subcontractor in order to assure compliance with the insurance requirements. The successful Respondent must retain the certificates of insurance for the duration of any Contract resulting from this Solicitation plus 5 years and shall have the responsibility of enforcing these insurance requirements among its subcontractors. The Owner shall be entitled, upon request and without expense, to receive copies of these certificates.

2.13 Payment Terms: Owner shall pay for work performed under any contract resulting from this Solicitation in accordance with *Texas Government Code*, Section 2251.021. The Owner's standard terms of payment are Net 30 days; however, it will consider alternate payment terms if determined to be in the best interest of the Owner.

### **SECTION 3 – REQUIREMENTS OF PROPOSAL**

Respondents shall carefully read the information contained in the following criteria and submit a complete response to all requirements in Section 3 and formatted as directed in Section 2.1. Incomplete responses will be considered non-responsive and will be subject to rejection.

3.1 Selection Criteria and Evaluation of Proposals: Evaluation of the Proposals shall be based on the requirements described in this Solicitation. All properly prepared and submitted Proposals shall be reviewed, evaluated, and ranked by the Owner. Owner, at its sole discretion, may make the selection on the basis of Proposals initially submitted, without discussion, clarification, or modification. In the alternative, the Owner may choose to make a selection based on negotiations with any Respondents.

- 3.2 Negotiations and Clarifications: At Owner’s sole option and discretion, Owner may discuss and negotiate all elements of the Proposals submitted by selected Respondents within a specified competitive range. Owner may establish, after initial review of the Proposals, a competitive range of acceptable or potentially acceptable composed of the highest rated Proposal(s). In that event, Owner will defer further action on Proposals not included within the competitive range pending the selection of a Provider; provided, however, Owner reserves the right to include additional Proposals in the competitive range if deemed to be in the best interests of the Owner. If additional information or clarifications are needed, the Owner shall provide a written request to the appropriate Respondent and shall require all responses to be made in writing.
- 3.3 Best and Final Offers: Before final selection is made, Owner may permit Respondent(s) to revise its/their Proposal in order to obtain the Respondent’s “best and final offer” or BAFO. In that event, representations made by Respondent in its revised Proposal, including price and fee quotes, will be binding on Respondent. Owner will provide each Respondent within the competitive range with an equal opportunity for discussion and revision of its Proposal. Owner is not obligated to select the Respondent offering the most attractive economic terms if that Respondent is not the most advantageous to Owner overall, as determined by Owner.
- 3.4 Award Based on “Best Value”: The Respondent selected for award of any Contract resulting from this Solicitation will be the Respondent whose Proposal is judged most advantageous and the **Best Value** to the Owner. The Owner is not bound to accept the lowest priced Proposal, if that Proposal is not in the best interest of the Owner or not judged as “best value”, as determined solely by the Owner.
- 3.5 Criterion One - Respondent’s Methodology, Quality of Goods/Services, and Ability:
- 3.5.1 Describe your methodology for providing the requested goods or services and your service support philosophy.
- 3.5.2 Describe how you will measure the quality of service provided to the Owner for this RFP.
- 3.5.3 Provide the following information on your firm for the past five (5) fiscal years:
- 3.5.3.1 Revenues
- 3.5.3.2 Annual revenue total and percent change per year
- 3.5.4 Identify if your firm is currently for sale or involved in any transaction to expand or to become acquired by another business entity. If so, please explain the impact in both organization and company direction.
- 3.5.5 Provide details of any past or pending litigation, or claims filed, against your firm that may affect your performance under a Contract with the Owner or any of its component institutions.
- 3.5.6 Identify if your firm is currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity. If so, specify date(s), details, circumstances, and prospects for resolution.
- 3.5.7 Does any relationship exist by relative, business associate, capital-funding agreement, or

any other such kinship between your firm and any Owner employee, officer or Regent? If so, please explain.

3.6 Criterion Two – Qualifications and References:

3.6.1 Describe your unique qualifications as they pertain to this project.

3.6.2 Provide a statement on the availability and commitment of the Respondent, its principal(s) and assigned professionals to undertake the Project.

3.6.3 Identify and describe the proposed team’s past experience for providing services that are **MOST RELATED TO THIS PROJECT** within the last two (2) years. List the projects in order of priority, with the most relevant project listed first. Provide the following information for each project listed (Maximum of 3 Projects):

3.6.3.1 Project name, location, and description

3.6.4 References (for each project listed above, identify the following):

3.6.4.1 The firm’s name and representative who served as the day-to-day liaison during the project, including telephone number and/or email address;

3.6.4.2 Length of business relationship with the firm

The Owner may contact references during any part of this process. The Owner reserves the right to contact any other references at any time during the Solicitation process.

3.6.5 Provide résumés for all proposed personnel that will be assigned to this project to include the following:

3.6.5.1 Experience in the industry;

3.6.5.2 Background and education; and

3.6.5.3 Certifications.

3.6.6 Advance notice must be given to the Owner if the selected Respondent changes its management personnel assigned to this contract. If the selected Respondent changes or modifies its service providers the Owner must give the successful Respondent its approval or concurrence. If the change is rejected by the Owner, the successful Respondent must submit alternate onsite services providers. If the successful Respondent fails to provide an acceptable service provider, the Owner may cancel the contract. The Owner shall have the right to require the successful Respondent to change the onsite service provider without justification.

3.7 Criterion Three – Cost: Includes the cost of the Respondent’s goods or services and may include the total long-term cost to the Owner for acquiring the Respondent’s goods or services. See Section 5.8 for pricing of itemized furnishing as denoted in Exhibit A.

## SECTION 4 – EXECUTION OF OFFER

NOTE TO RESPONDENTS: SUBMIT ENTIRE SECTION WITH RESPONSE. THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED, AND RETURNED WITH THE RESPONDENT'S QUALIFICATIONS/PROPOSAL. **FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE PROPOSAL SHALL RESULT IN REJECTION OF THE PROPOSAL.** SIGNING A FALSE STATEMENT MAY VOID THE SUBMITTED PROPOSAL OR ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENTS, WHICH MAY RESULT FROM THE SUBMISSION OF RESPONDENT'S PROPOSAL AND THE RESPONDENT MAY BE REMOVED FROM ALL PROPOSER LISTS. A FALSE CERTIFICATION SHALL BE DEEMED A MATERIAL BREACH OF CONTRACT AND, AT THE OWNER'S OPTION, MAY RESULT IN TERMINATION OF ANY RESULTING CONTRACT OR PURCHASE ORDER. **BY SIGNATURE HEREON, RESPONDENT:**

- 4.1 Acknowledges and agrees that (1) this Solicitation is a Solicitation for Proposals and is not a contract or an offer to contract; (2) the submission of Proposals by Respondent in response to this Solicitation will not create a contract between the Owner and Respondent; (3) the Owner has made no representation or warranty, written or oral, that one or more contracts with the Owner will be awarded under this Solicitation; and (4) Respondent shall bear, as its sole risk and responsibility, any cost which arises from Respondent's preparation of a response to this Solicitation.
- 4.2 Offers and agrees to furnish to the Owner products and/or services more particularly described in the Statement of Work and to comply with all terms and conditions and requirements set forth in the Solicitation documents and contained herein.
- 4.3 Affirms that he has neither given, 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 Proposal.
- 4.4 Certifies that it is not currently delinquent in the payment of any Taxes due under Chapter 171, *Texas Tax Code*, or that the corporate Respondent is exempt from the payment of such taxes, or that the corporate Respondent is an out-of-state corporation that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at Owner's option, may result in termination of any resulting contract or agreement.
- 4.5 Certifies that neither the Respondent nor anyone acting on behalf of Respondent has violated the antitrust laws of this state, codified in Section 15.01, ET. seq., *Texas Business and Commerce Code*, or the *Federal antitrust laws*. Respondent further certifies that it has not communicated directly or indirectly the Proposals submitted to any competitor or any other person engaged in a similar line of business.
- 4.6 Represents and warrants that:
  - 4.6.1 Respondent is a reputable company regularly engaged in providing products and/or services necessary to meet the terms, conditions and requirements of this Solicitation;

- 4.6.2 Respondent has the necessary experience, knowledge, abilities, skills, and resources to perform satisfactorily the terms, conditions and requirements of this Solicitation;
- 4.6.3 Respondent is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances;
- 4.6.4 Respondent understands the requirements and specifications set forth in this Solicitation and the terms and conditions set forth in this Solicitation under which Respondent will be required to operate;
- 4.6.5 Respondent, if selected by the Owner, will maintain insurance as required by any Contract resulting from this Solicitation;
  - 4.6.5.1 All statements, information and representations prepared and submitted in response to this Solicitation are current, complete, true, and accurate. Respondent acknowledges that the Owner will rely on such statements, information and representations in selecting the successful Respondent. If selected by the Owner as the successful Respondent, Respondent will notify the Owner immediately of any material change in any matters with regard to which Respondent has made a statement or representation or provided information.
- 4.6.6 If selected by Owner, Respondent will not delegate any of its duties or responsibilities under this RFP or the contract to any sub-contractor, except as expressly provided in the Contract.
- 4.7 Certifies that the individual signing this document and the documents made part of this Solicitation is authorized to sign such documents on behalf of the company and to bind the company under any Contract resulting from this Solicitation.
- 4.8 Certifies that if a Texas address is shown as the address of the Respondent, Respondent qualifies as a Texas Bidder as defined in 34 TAC 20.32 (68).
- 4.9 Certifies as follows:
  - 4.9.1 “Under Section 231.006, *Texas Family Code*, the Respondent certifies that the individual or business entity named in this Proposal or any Contract resulting from this Solicitation is not ineligible to receive the specified grant, loan, or payment and acknowledges that any Contract resulting from this Solicitation may be terminated and payment may be withheld if this certification is inaccurate.”
  - 4.9.2 “Under Section 2155.004, *Texas Government Code*, the Respondent certifies that the individual or business entity named in this Proposal or any Contract resulting from this Solicitation is not ineligible to receive the specified Contract and acknowledges that any Contract resulting from this Solicitation may be terminated and payment withheld if this certification is inaccurate.”

- 4.10 Certifies that no relationship, whether by relative, business associate, capital funding agreement or by any other such kinship exist between Respondent and an employee of any Texas State University System component, or Respondent has not been an employee of any Texas State University System component within the immediate twelve (12) months prior to your Solicitation response. All such disclosures will be subject to administrative review and approval prior to the Owner entering into any Contract resulting from this Solicitation.
- 4.11 Affirms that no compensation has been received for participation in the preparation of the specifications for this Solicitation. (Ref. Section 2155.004 *Texas Government Code*).
- 4.12 Represents and warrants that all articles and services quoted in response to this Solicitation meet or exceed the safety standards established and promulgated under the *Federal Occupational Safety and Health Law* (Public Law 91-596) and the *Texas Hazard Communication Act*, Chapter 502, *Health and Safety Code*, and all related regulations in effect or proposed as of the date of this Solicitation.
- 4.13 Signifies his compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 4.14 Agrees to defend, indemnify, and hold harmless the State of Texas, Texas State University System and all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of Respondent or any agent, employee, subcontractor, or supplier of Respondent in the execution or performance of any Contract resulting from this Solicitation.
- 4.15 Agrees that any payments that may become due under any Contract resulting from this Solicitation will be applied towards any debt including, but not limited to, delinquent taxes and child support that is owed to the State of Texas.
- 4.16 Certifies that no member of the Board of Regents of the Texas State University System, or the Executive Officers of The Texas State University System (TSUS) or its component institutions, has a financial interest, directly or indirectly, in the transaction that is the subject of any Contract resulting from this Solicitation.

4.17 **EXECUTION OF OFFER:** RFP No. 758-18-00045 – Request for Proposals for Selection of a Vendor to Provide Furnishings for Texas State University System

The Respondent must complete, sign and return this Execution of Offer as part of their submittal response. The Respondent’s company official(s) who are authorized to commit to such a submittal must sign submittals. Signing this Execution of Offer with a false statement is a material breach of contract and shall void the submitted response or any resulting contracts. The Respondent may be removed from all solicitation lists due to this transgression. **Failure to sign and return this form will disqualify the submittal.**

Respondent’s Company Name: \_\_\_\_\_

Respondent’s State of Texas Tax Account No.: \_\_\_\_\_  
*(This 11-digit number is mandatory)*

If a Corporation:

Respondent’s State of Incorporation: \_\_\_\_\_

Respondent’s Charter No.: \_\_\_\_\_

Identify each person who owns at least 25% of the Respondent’s business entity by name:

\_\_\_\_\_  
*(Name)*

\_\_\_\_\_  
*(Name)*

\_\_\_\_\_  
*(Name)*

\_\_\_\_\_  
*(Name)*

**Submitted and Certified By:**

\_\_\_\_\_  
*(Type Respondent’s Name)*

\_\_\_\_\_  
*(Type Title)*

\_\_\_\_\_  
*(Street Address)*

\_\_\_\_\_  
*(Telephone Number)*

\_\_\_\_\_  
*(City, State, Zip Code)*

\_\_\_\_\_  
*(Fax Number)*

\_\_\_\_\_  
*(Signature of Authorized Representative)*

\_\_\_\_\_  
*(Date)*

\_\_\_\_\_  
*(Email Address)*

4.18 **Acknowledgement of Addenda:** Receipt is hereby acknowledged of the following addenda issued as part of this Solicitation (initial if any addenda were issued by Owner).

No. 1 \_\_\_\_\_ No. 2 \_\_\_\_\_ No. 3 \_\_\_\_\_ No.4 \_\_\_\_\_ No.5 \_\_\_\_\_ No.6 \_\_\_\_\_

## SECTION 5– SCOPE OF WORK

- 5.1 General: The minimum requirements and the specifications for the goods and services, as well as certain requests for information to be provided by Respondent as part of its Proposal, are set forth below.
- 5.2 Requirements To Propose
- 5.2.1 See Exhibit A – Bid Proposal and Furniture Specifications and Quantities for O. Henry Hall.
- 5.2.2 Respondent must be bid all items denoted in Exhibit A. Please see Section 5.8.
- 5.3 Consideration Of Proposals: The Owner shall have the right to accept or reject any and all proposals on Packages. Where a Package consists of a Base Package only, the Owner may award a contract to the lowest responsible Respondent for that Base Package provided the proposal has been submitted in accordance with the requirements of the proposal documents and does not exceed the funds available. The Owner may reject as non-responsive a proposal which is not accompanied by any data required by the proposal documents or which contains any omissions, alterations of wording, conditions, voluntary unapproved product substitutes, qualifications, or other irregularities of any kind. However, the Owner reserves the right to waive any such irregularities in a proposal if the Owner judges such waiver to be in the Owner's best interest.
- 5.4 Submission Of Proposals:
- 5.4.1 Each Proposal shall be submitted using the itemized format as provided in Exhibit A and per 5.8 of this RFP. The signer of the Proposal must initial erasures or corrections. Any proposal that does not submit all items and quantities in Exhibit A will be rejected.
- 5.4.2 All copies of the Proposal and other documents required to be submitted with the Proposal shall be enclosed in a separate sealed envelope. The envelope shall be addressed to the party receiving the Proposals and shall be identified with the Project name, the Respondent's name and address. The Respondent shall assume full responsibility for timely delivery of his Proposal at the location designated for receipt of Proposals.
- 5.5 Respondent's Representations:
- 5.5.1 The Respondent, by a Proposal, represents that: The Respondent has read and understands the Proposal Documents and the Proposal is made in accordance therewith. Respondents are invited to pay specific attention to a certification requirement, which is stated in the proposal form and reads as follows:
- 5.5.1.1 "The Respondent, in submitting this Proposal, warrants and guarantees that this Proposal has been carefully prepared, reviewed and checked; that it is in all things true, accurate and free of mistakes."
- 5.5.2 The Proposal is based upon the materials, equipment and systems required by the Proposal Documents without exception. The successful Respondent (Respondents) shall provide and install the exact items listed in his proposal, without exception.



5.6 Interpretation Of Proposal Documents:

5.6.1 Interpretations of, corrections and/or changes to the Proposal Documents will be made by Addenda and posted on the Electronic State Business Daily Website. Respondents will acknowledge Addenda on the Execution of Offer Form. Interpretations of, corrections and changes to the Proposal Documents made in any other manner will not be binding, and Respondents shall not rely upon them. Point-of-Contact: The following individual is the Owner's authorized Point-of-Contact for this Solicitation. Respondents shall restrict all contact with other Owner staff and direct all questions regarding this Solicitation, including questions regarding terms and conditions, **in writing** to:

Rob Roy Parnell, AIA, RAS  
Associate Vice Chancellor for Facilities  
Texas State University System  
208 E. 10<sup>th</sup> Street, Suite 600  
Austin, TX 78701  
[robroy.parnell@tsus.edu](mailto:robroy.parnell@tsus.edu)

5.6.2 Point-of-Contact must receive all questions and concerns not later than the date and times specified in Section 7, Timeline of Solicitation Events.

5.6.3 Owner must have a reasonable amount of time to respond to questions or concerns.

5.6.4 It is the Owner's intent to respond to all appropriate questions and concerns however, Owner reserves the right to decline to respond to any question or concern.

5.7 Post Award And Pre-Installation Conference: At Owner's sole option and discretion, Owner may conduct both a Post Award and a Pre-installation Conference, each on a date and at a place to be determined by the Owner. At Owner's sole option and discretion, Owner may require Respondent's attendance at one or both of such conference as a mandatory condition of this Contract. Respondents will be notified by letter from the Owner of the particulars of the Post Award and the Pre-Installation Conference. The cost of attending such a Conference shall be borne by the Respondent. At the Conference, the requirements and procedures involved in administering the contract and completing the installation work will be explained.

5.8 Proposal Procedures:

5.8.1 The Respondent shall include all packing, shipping, freight, express charges, hauling charges, setup and assembly, installation, moving charges and removal of all debris in their proposal in addition to net costs, insurance, overhead, profit, etc. and any other applicable costs. All quotes will be reviewed for accuracy and clarity prior to award.

5.8.2 The Unit Prices shall be provided for each item listed in Exhibit A. Each Unit Price given shall include all costs of overhead, insurance, profit, etc., so that the sum extension of unit prices plus the line item for shipping and handling, which shall include all costs for freight, labor, moving charges and removal of all debris in their proposal etc. will equal the total amount proposed. These unit prices will be used as a basis for adjusting additions to or deductions from the Contract. Pricing to remain valid until ninety (90) days from the RFP submission date.

- 5.9 Conformity Of Product Sources: Items which are understood to be part of a design set, such as a credenza and desk in an office should match in design, finish, construction and appearance which will be provided from the same source. Any deviation from this in the Proposal Documents shall be considered a nonresponsive proposal.
- 5.10 Customer's Own Material (C.O.M.) Fabric Requirements:
- 5.10.1 The cost for procurement and handling of any Customer's Own Material (C.O.M.) fabric specified is included in the price of the Contract. Respondent is responsible for receiving approval from the owner to determining if fabric is appropriate for specified application.
  - 5.10.2 If no such approval is received from the owner, the Respondent shall be responsible for warranty on fabric and product. The Respondent is further responsible for ordering the fabric and providing it to the manufacturer.
  - 5.10.3 It is also the responsibility of the Respondent to accurately calculate yardage for COM fabric in coming up with bid pricing. In other words, the Respondent must take into account the vertical and horizontal repeats on any given item specified.
  - 5.10.4 The responsive Respondent of any awarded proposal shall be responsible for obtaining approval of the use of any COM fabrics on specific manufacturer's lines where those COM fabrics are not already approved. This approval shall be obtained prior to ordering.
  - 5.10.5 Respondent shall order C.O.M. fabrics within 10 days of receiving notification of Contract, regardless of the dates scheduled for installation of furniture. Respondent shall provide (2) copies of the orders for C.O.M. fabric to the Owner when the order is placed.
  - 5.10.6 A copy of the purchase order and manufacturer's acknowledgement or invoice for the COM fabric shall be submitted to the owner, upon issuance of that purchase order.
  - 5.10.7 Additionally, should a fabric in a given manufacturer's standard line be one that the manufacturer is planning to discontinue between the date of receipt of the Purchase Order and the installation date, the Respondent shall be responsible for procuring the required fabric and furniture, so as not to jeopardize the fabric selection or specified installation date.
  - 5.10.8 Finish Samples: Wherever finish is required to match Owner's sample of a laminate or wood, approval of strike-off shall be obtained from the Interior Designer, prior to fabrication. The manufacturer will submit such submittal sufficiently in advance to allow for multiple submittals and not compromise the installation date.
- 5.12 Warranty:
- 5.12.1 Unless otherwise indicated in the following specifications, all furniture, furnishings and accessories shall be NEW.
  - 5.12.2 The warranty on Work as a whole shall be the greater of the following, one year from date of acceptance, duration stated in the specifications or manufacturer's standard warranty.

5.12.3 The following warranty shall apply to all adjustable seating products, unless a separate warranty is specifically included with an individual specification

5.12.4 "Adjustable seating products" refers to any seating product with any adjustable part or parts. The Original Owner is herein understood to be **Texas State University System**.

5.12.5 The Warranty period for Adjustable Seating Products shall be ten (10) years except as noted below.

Surface finishes: 3 years

Textiles from manufacturer: 2 years

Application of Casters and/or glides: 5 years

The warranty: Original Owner only

5.12.6 The Manufacturer warrants that its seating products are free from defects in materials and workmanship from the date of installation for the applicable warranty period specified below.

5.12.7 The Manufacturer's obligation and the Purchaser's remedy pursuant to the foregoing warranty are limited to repairs or replacement, at the Owner's option, for the first two (2) years. The Manufacturer will repair or replace with comparable product, free of charge, inclusive of labor, handling and freight cost, any product, part or component, which fails under normal use in the first two (2) years.

5.12.8 After that initial first two years, the Manufacturer shall furnish necessary repair parts, inclusive of handling and freight cost, for products which prove to be defective within the remainder of the extended warranty period when the parts can be replaced in the field. If the defective product needs to be returned to the Manufacturer, the Original Owner shall be responsible for getting that product back to the Manufacturer and then the replacement product or repaired product will be returned then to the Original Owner at the Manufacturer's expense.

5.12.9 The definition of "Normal use" does not restrict the Original Owner to a single shift as that is irrelevant in an educational institution where class, lab and study times are often scheduled during irregular hours. Rather, the warranty extends to unlimited usage of the products.

5.12.10 The above warranty is the minimum acceptable. Where the standard warranty of a Manufacturer exceeds any portion of the warranty stated above, that standard warranty feature shall be in effect and shall supersede the more limited time periods stated above.

5.13 Modular Furniture Requirements:

5.13.1 The installer shall obtain the services of factory-trained supervisor to oversee the installation of this modular furniture. Installer is to field verify dimensions of the location of the systems furniture prior to installation and notify interior designer of any discrepancies. Installer to verify walls are free from obstructions (i.e. thermostats, switches) prior to installation.

- 5.13.2 If there are any components missing from the modular furniture lists for each of the workstations, the bidder shall notify the Owner at least 10 days prior to the bid so that an addendum can be issued. If missing parts are identified after the bid opening, it shall be the responsibility of the Respondent to provide those parts at his/her own cost.
- 5.13.3 Data and communications cabling will be done by others. Installer is to coordinate schedule of installation with these consultants.
- 5.13.4 Installer to locate starting point of installation at the location noted or by a critical dimension noted. Installer is to contact the owner if there are discrepancies.
- 5.13.5 Installer is to coordinate delivery and storage of systems and tools with general contractor prior to installation.
- 5.13.6 Installer is to verify that all workstations are level and in good working order after installation is complete.
- 5.13.7 Installer is to be prepared at the time of installation/punch with appropriate accessories such as touch up paint, cleaning materials and wood finish touch up kits, if applicable.
- 5.13.8 All keys should remain in locking mechanisms and in an unlocked position. All task lights should be in the off position. All flipper doors and file doors should be closed. Work surfaces are to be set at 28 ½" high unless otherwise noted. Work surfaces to be installed to maintain continuous level work surface. Gaps are to be a minimal butt joint.
- 5.13.9 There shall be a black 90-degree extension cord with a minimum of three grounding-type outlets and a surge protector provided for every office desk location.
- 5.14 Keying Requirements:
  - 5.14.1 Four (4) MASTER KEYS that will unlock all tumblers and four (4) PLUG REMOVAL KEYS for CASEGOODS, MODULAR FURNITURE COMPONENTS THAT ARE KEYED AND FILES shall be given to the Owner's representative, unless an alternate contact is listed in the specification.
  - 5.14.2 Unless otherwise specified, key cores shall be installed so that rooms are keyed alike among items from the same manufacturer in that room. Unless otherwise directed, rooms shall be random keyed and different from the neighboring space.
- 5.15 Clean Up Requirements:
  - 5.15.1 All furniture is to be cleaned and ready for use PRIOR TO "Final Walk Through" by Respondent and Owner. This includes such things as the trimming of loose or dangling threads on fabrics, the removal of handprints and dust from surfaces, the vacuuming of any carpets or area rugs in the furniture contract, the adjustment of chair heights at tables so that the arms do not strike table edges, etc.
  - 5.15.2 The Respondent shall sweep, dust, and clean up all trash, rubbish, and other waste resulting from the installation under this Contract. The Owner shall determine the extent of the cleaning up after a final inspection at the completion of the Contract. No empty cartons,

crates, wrappings, trash, rubbish are to be left in the building or on the project site overnight. If the Respondent does not provide prompt compliance with these clean-up requirements, the Owner may make separate arrangements, the cost of which will be back-charged to the Respondent.

5.16 Special Conditions For This Project:

5.16.1 The installer should be familiar with the location of the building.

5.16.2 If Respondent takes exception to any terms or conditions set forth, Respondent must submit a written list of the exceptions prior to the submittal deadline.

5.17 Signatures And Names Of Businesses:

5.17.1 Each copy of the Proposal shall include the legal name of the Respondent and a statement that the Respondent is a sole proprietor, partnership, corporation or other legal entity. A Proposal by a corporation shall further give the state of incorporation.

5.17.2 Corporate Respondents shall be required to furnish their exact corporate name as recorded on their charter, and also the corporation's Federal Identification Number, the Corporate Charter Number for Texas corporations or Certificate of Authority Number for foreign corporations. This information shall be recorded in the designated space in the "Execution of Offer" signature page of the Proposal.

5.18 Franchise Tax "Certificate Of Good Standing": The Texas Legislature House Bill 175 states that a corporation delinquent in franchise tax "may not be awarded a contract by the State or an agency of the State..." All corporate Respondents, both Texas and foreign, shall be required to provide, on the proposal, their exact corporate name, federal identification number, corporate charter number or certificate of authority number if they are a foreign corporation. Additionally, they shall be required to obtain a franchise tax "Certificate of Good Standing" from the Texas State Comptroller's Office.

5.19 Delinquency In Paying Child Support: Section 14.52, Texas Family Code, provides that a child support obligor who is 30 or more days delinquent in paying child support under a court order or a written repayment agreement is not eligible to submit a proposal or enter into a contract to provide property, materials, or services under a contract with the state. Further, it provides that a sole proprietor, partnership, corporation, or other entity in which a sole proprietor, partner, major shareholder or substantial owner is such a delinquent obligor is ineligible to propose on a state contract. The Attorney General and the General Services Commission are authorized to adopt rules and prescribe forms to implement Section 14.52. The Owner will provide to Respondents, before or after the opening of proposals, any such rules or forms that are applicable, when they become available.

5.20 Time Of Completion: The Respondent shall agree to commence work on or before a date to be specified on the proposal forms unless otherwise directed by the Owner and shall fully complete the Work by the date specified on the Purchase Order Documents. Anticipated completion date is **December 15-19, 2017.**

NOTE: This schedule may be modified or changed at the sole discretion of the Owner, if it is determined to be in the Owner's best interests to do so.

5.21 Liquidated Damages:

5.21.1 Failure of the Respondent to complete the Work within the time limit stipulated will be assessed Liquidated Damages which is the agreed sum stated in the individual Base Packages and is not to be construed as in any sense a penalty.

5.21.2 Owner and Respondent recognize that time is of the essence of this Agreement and that the Owner will suffer financial loss if the furnishings are not delivered and installed within the Schedule of Installation stated in the Contract Documents plus any extensions thereof allowed in accordance with Article 18 of the General Conditions. They also recognize that the timely performance of the Respondent is necessary for the Owner to take immediate occupancy of the facility. Further, they recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual losses or damages (including special, indirect, consequential, incidental and any other losses or damages) suffered by the Owner if a complete acceptable installation is not delivered on time.

5.21.3 Accordingly, and instead of requiring proof of such losses or damages, Owner and Respondent agree that as Liquidated Damages for delay (but not as a penalty), Respondent shall pay Owner for each calendar day that Respondent is late in achieving a complete acceptable installation the Liquidated Damages stated in the Base Package(s).

5.22 Historically Underutilized Businesses Submittal Requirements: It is the policy of the Texas State University System and each of its component institutions, to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUB) in all contracts. The Policy applies to all contracts with an expected value of \$100,000 or more. If TSUS determines that subcontracting opportunities are probable, then a HUB Subcontracting Plan is a required element of the Information and Proposals. Failure to submit a required HUB Subcontracting Plan will result in rejection of the Information and Proposals.

5.23 Statement Of Probability: The Texas State University System has determined that subcontracting opportunities are probable in connection with this procurement solicitation. Therefore, a HUB Subcontracting Plan (HSP) is required as a part of the Respondent's Information and Proposal. The Respondent shall develop and administer a HSP as a part of the Respondent's Information and Proposal in accordance with the Policy on Utilization of Historically Underutilized Businesses (HUB).

5.23.1 Refer to the Policy on Utilization, Historically Underutilized Business which can be found on the State of Texas Comptroller's website at:

<http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

5.23.2 The "Statement of Probability" determines the probability for subcontracting opportunities. This determination will clarify which attachments, will be required to be completed and returned.

Submit originals and copies of the HUB Subcontracting Plan in a separate attachment apart from the submittal of the Information and Proposal package as stated in Article 2.4.

5.24 Statement Of Probability: The Owner has determined that subcontracting opportunities are probable in connection with this procurement Solicitation. Therefore, a HUB Subcontracting Plan (HSP) is required as a part of the Respondent's Proposal. The Respondent shall develop and administer an HSP as a part of the Respondent's Proposals.

- 5.25 For further information regarding how to properly prepare a HSP and the forms, please access the following website:  
<http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>
- 5.26 Submit **one (1) original, and one (1) hard copy of the HUB Subcontracting Plan (HSP)** as a separate package to the Proposal package. The HSP should be clearly identified and annotated with the words “HUB Subcontracting Plan Enclosed” followed by the solicitation number.
- 5.27 Properly prepared and submitted HUB Subcontracting Plans and Proposals will not be returned to Respondents.
- 5.28 Respondents’ HSPs will be reviewed for completeness prior to evaluations of the Proposals. For disqualified HSPs, the Proposal will be returned to the submitting Respondent, upon written request, after the selection of, negotiation with, and award of the requirements to the successful Respondent.
- 5.29 Matching Of Existing Equipment: The Owner may require the Respondent to match the existing item(s) of furniture, furnishings or equipment in which case only the specified item or items may be provided. The specifications, drawings, or schedules will identify such items with the notation, "Must Match Existing Equipment."
- 5.30 Obligation Of The Respondent To Furnish The Items Specified: The Respondent is required to base its proposal on the items specified.
- 5.31 Compliance With Proposal Documents: Strict adherence to the Proposal Documents, including the specifications for the item(s) or product(s) originally specified or approved equals thereof described by addendum, will be required by the Owner. The Respondent will receive no compensation for loss in production or otherwise of the item(s) or product(s) not equal to those specified or approved by the Owner as equals.

## SECTION 6 – PRICING AND DELIVERY

### BY SIGNATURE IN SECTION 4 “EXECUTION OF OFFER”, THE RESPONDENT CONFIRMS OR AFFIRMS THE FOLLOWING:

- 6.1 Pricing for Services Offered: Having carefully examined all specifications and requirements of this RFP and any attachment thereto, the undersigned proposes to furnish and install the moveable furniture required pursuant to this RFP.
- 6.2 Delivery Schedule of Events and Time Periods: Respondent agrees to begin delivery and/or installation on December 15, 2017 and complete all installation no later than December 19, 2017 at 5:00 p.m. to the physical address of 601 Colorado Street, Austin, Texas 78701.
- 6.3 Owner’s Payment Terms: Owner’s standard payment terms for services are “Net 30 days” in accordance with Texas Government Code, Chapter 2251, Subchapter B “Payment for Goods and Services.” Indicate below the prompt payment discount that Respondent will provide to Owner:

- 6.3.1 Invoice Required. All pay requests shall include an Invoice accurately itemizing the furnishings by item number as identified in the contract specifications and stating quantities of items received and/or installed. The Invoice shall include the unit cost of the items as stated in the Bid Proposal and the extended cost, and any other requirements requested by Owner. Invoices shall be delivered to the Owner and the Interior Designer who shall check the invoice for accuracy and adjust, if necessary.
- 6.3.2 Certification by Interior Designer. As soon as practicable following the Interior Designer's receipt of the Contractor's Invoice, the Interior Designer shall review it and certify whether it is complete and payable or incomplete, identifying missing or erroneous matters. The Interior Designer shall promptly forward its certification to the Project Manager and the Owner's designated representative along with a copy to the Contractor. If the Invoice is incomplete, the Contractor shall make the required corrections and resubmit the Invoice for processing. Upon receipt of a certified Invoice, the Owner shall review the Invoice and authorize payment for approved Invoice amounts.
- 6.3.3 Owner's Duty to Pay. The Owner shall have no duty to pay the Contractor except on receipt by, the Project Manager and the Owner's designated representative, of a complete Invoice certified by the Interior Designer.
- 6.3.4 Progress Payments. Progress payments may be made to the Contractor for Work performed, and furniture or furnishings in place or suitably stored and protected on-site or as otherwise agreed to by the Owner and the Contractor. Partial payments are made provisionally and do not constitute acceptance of Work not in accordance with the Contract Documents.
- 6.3.5 Payments for C.O.M Fabrics. The Contractor may be eligible for payment of up to 85% of the Invoice price for Customer's Own Material (C.O.M.) fabric purchased in accordance with the Contract Documents and delivered to a manufacturer for incorporation into the Work. Payments shall be conditioned upon receipt of title to the C.O.M fabrics by the Owner and the Owner's interest in the C.O.M being protected by appropriate insurance.
- 6.3.6 Payments for Phased Installations. In the event the Project has a phased installation period, payment shall be limited to the quantities of furnishings listed in each phase as that starting date is reached.
- 6.3.7 Payments for Off-Site Storage. The Contractor may be eligible for payment up to 85% of the Invoice price for furnishings placed in off-site storage if the Project is not available for installation within the installation time frame stated in the Contract Documents. If payments are to be made on account for materials, items, equipment or merchandise suitably stored at an agreed or directed location, such payments shall be conditioned upon the Owner's title to such materials, items, equipment or merchandise or the Owner's interest being protected by appropriate insurance.
- 6.3.8 Procedures for Off-Site Storage. In order for the Owner to make partial payment for Contract items temporarily stored in other than Owner-owned/leased property, the following conditions must be met:
- 6.3.8.1 Items must be stored in a BONDED COMMERCIAL warehouse. The items must be physically separated from other materials stored in the warehouse and clearly identified



as being for the Project.

- 6.3.8.2 A separate Invoice must be submitted listing the items and quantities in off-site temporary storage, showing unit values/prices, and listing location, including aisle, section/parcel, etc., where stored and photograph. The Invoice shall be accompanied by legible copies of the Bill of Lading for all items of furnishings listed in the estimate. The Bill of Lading shall show a receiving date into storage and an identifiable signature of the person receiving the shipment.
- 6.3.8.3 The Contractor must provide complete separate insurance coverage for the full value of the items in storage and in transit from off-site storage to the Project site. The Certificates of Insurance must be made out to insure the Board of Regents of Texas State University System and accompany the Invoice.
- 6.3.8.4 Inspection of items by Owner's representative is allowed anytime between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday. Owner's representative must be satisfied with the security, control, maintenance and preservation measures of the storage facility.
- 6.3.8.5 Owner reserves the right to reject materials at any time prior to final acceptance of the complete Contract if they do not meet Drawings and Specifications requirements regardless of any previous progress payment made.
- 6.3.8.6 Warehouse records, receipts and invoices shall be made available for inspection by the Owner's representative on request.
- 6.3.8.7 In the event of Contract termination or default by Contractor, the items in off-site storage, upon which payments have been made, will be promptly turned over to the Owner at a location near the Project site with transportation costs for delivery paid for by the Contractor.
- 6.3.8.8 Retainage. The Owner shall withhold from each progress payment, as retainage, five percent (5%) of the total approved Invoice amount. Retainage shall be managed in conformance with Subchapter B, Chapter 2252, Texas Government Code.
- 6.3.8.9 Reduction to Cover Loss. The Owner may reduce any Invoice prior to payment to the extent necessary to protect the Owner from loss on account of actions of the Contractor, including, but not limited to:
  - a. Defective work not remedied;
  - b. Damage to work of a separate contractor;
  - c. Failure to maintain scheduled progress or reasonable evidence that the work will not be completed within the Contract Time;
  - d. Evidence that Contractor is not making timely payments to Subcontractors or others for labor, materials or furnishings;

- e. Persistent failure to carry out the work in accordance with the Contract Documents; or
- f. Reasonable evidence that the work cannot be completed for the remainder of the contract sum.

6.3.8.10 Title to all material and Work covered by progress payments transfers to the Owner upon payment. Transfer of title to Owner does not relieve the Contractor of the sole responsibility for the care and protection of materials and Work upon which payments have been made, or the restoration of any damaged work, or waive the right of the Owner to require the fulfillment of all the terms of the Contract.

6.3.8.11 Progress payments to the Contractor shall not release the Contractor from any obligations under this Contract.

6.4 **Award and Commencement of Services:** The Respondent agrees to commence services after notification that the Respondent has been identified by the Owner as the successful Respondent with the “best value” Proposal, on or before the commencement date stated by the Owner in a Notice to Proceed. The Owner reserves the right to accept or reject any or all Proposals and to waive Proposal irregularities. Proposals shall be valid and not withdrawn for a minimum period of ninety (90) days from the date of the published submittal deadline.

**SECTION 7 – TIMELINE OF RFP EVENTS**

7.1	Issuance of RFP .....	September 19, 2017
7.2	Deadline for Questions .....	September 29, 2017
7.3	RFP Submittal Deadline (2:00 p.m.) .....	October 10, 2017
7.4	Clarification of responses, negotiations, and/or demonstrations/presentations (if necessary).....	TBD
7.5	Request for “Best and Final Offer” (BAFO), if necessary.....	TBD
7.6	Recommend of Award and approval to enter into Contract(s). .....	TBD
7.7	Approximate Award/Contract Execution Date .....	October 17, 2017
7.8	Installation to begin .....	December 15, 2017

**NOTE:** This schedule may be modified or changed at the sole discretion of the Owner, if it is determined to be in the Owner’s best interests to do so.

## SECTION 8 – SUBMITTAL CHECK LIST

Respondent is instructed to complete, sign, and return the following documents as a part of its Proposal. If Respondent fails to return each of the following items with its Proposal, the Owner may reject the Proposal.

- ✓ Signed and completed originals of HUB Subcontracting Plan
- ✓ Responses to Criteria One and Two (ref. Section 3)
- ✓ Response to Criterion Three (Pricing) - Completed Pricing, including Base Package Pricing Sheets, detailed comprehensive quote specification and Delivery Schedule (ref. Section 6)
- ✓ Signed and completed Base Pricing Sheets
- ✓ Signed and completed Execution of Offer (ref. Section 4)
- ✓ Acknowledgement of Addenda (ref. Section 6)
- ✓

### **Attachments to this RFP:**

- Exhibit A Bid Proposal Sheet (nine pages)

*[The rest of this page intentionally left blank].*

**SECTION 9 – SAMPLE AGREEMENT**

***SAMPLE  
Services Agreement  
Between  
Texas State University System  
And  
[[ Name (Primary Second Party) ]]***

*This agreement (“Agreement”) is made and entered into by and between Texas State University System (“TSUS” or “Owner”) and [[ Name (Primary Second Party) ]] (“Contractor”) to provide Furniture, Delivery & Installation Services (“Work”) as described in Exhibit A.*

*TSUS and Contractor agree as follows:*

**1. *Scope of Work***

- A. The scope of the Work and the time for performance thereof, is set forth in Exhibit A, attached to, and made a part of this agreement for all purposes.*
- B. Upon execution of this agreement, all services previously performed by Contractor on behalf of TSUS and included in the description of the Work, shall become part of the Work subject to the terms and conditions of this agreement.*
- C. Contractor will obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, for the performance of the Work.*

**2. *Time for commencement and Completion***

- A. The term of this agreement will begin on the selection of the respondent(s). and will expire on December 31, 2018.*
- B. Completion of Work in Progress: The Owner has the option to extend the term of this Agreement, as necessary for Services Contractor to complete work on any project approved by the Owner prior to the expiration of the Agreement.*

**3. *Contractor Obligations***

- A. Contractor will perform the Work in compliance with all applicable federal, state and local, laws, regulations, and ordinances. Contractor represents and warrants that neither Contractor nor any firm, corporation or institution represented by Contractor, or anyone acting for the firm, corporation or institution, (1) has violated the antitrust laws of the State of Texas, Chapter 15, Texas Business and Commerce Code, or federal antitrust laws, or (2) has communicated directly or indirectly the content of Contractor’s response to Owner’s procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for this agreement.*
- B. Contractor represents, warrants and agrees that (a) it will use commercially reasonable efforts to perform the Work in a good and workmanlike manner and in accordance with commercially*

- reasonable standards of Contractor's profession or business, and (b) all of the Work to be performed will be of the quality that prevails among similar businesses engaged in providing similar services in major United States urban areas under the same or similar circumstances.*
- C. *Contractor will call to Owner's attention in writing all information in any materials supplied to Contractor (by Owner or any other party) that Contractor regards as unsuitable, improper or inaccurate in connection with the purposes for which the material is furnished.*
- D. *Contractor warrants and agrees that the Work will be accurate and free from any material defects. Contractor's duties and obligations under this agreement will at no time be in any way diminished by reason of any approval by Owner nor will Contractor be released from any liability by reason of any approval by Owner, it being agreed that Owner at all times is relying upon Contractor's skill and knowledge in performing the Work.*
- E. *Contractor will, at its own cost, correct all material defects in the Work as soon as practical after Contractor becomes aware of the defects. If Contractor fails to correct material defects in the Work within a reasonable time, then Owner may correct the defective Work at Contractor's expense. This remedy is in addition to, and not in substitution for, any other remedy for defective Work that Owner may have at law or in equity.*
- F. *Contractor will maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this Agreement. Contractor will cause all persons connected with Contractor directly in charge of the Work to be duly registered and/or licensed under all applicable federal, state and local, laws, regulations, and ordinances. Contractor will assign to the Project a designated representative who will be responsible for the administration and coordination of the Work. Contractor will furnish efficient business administration and coordination and perform the Work in an expeditious and economical manner consistent with the interests of Owner.*
- G. *Contractor represents that if (i) it is a corporation, then it is a corporation duly organized, validly existing and in good standing under the laws of the State of Texas, or a foreign corporation or limited liability company duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary corporate power and has received all necessary corporate approvals to execute and deliver this Agreement, and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor; or (ii) if it is a partnership, limited partnership, limited liability partnership, or limited liability company then it has all necessary power and has secured all necessary approvals to execute and deliver this Agreement and perform all its obligations hereunder, and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.*
- H. *Contractor represents and warrants that: (i) the Work will be performed solely by Contractor, its full-time or part-time employees during the course of their employment, or independent Contractors who have assigned in writing all right, title and interest in their work to Contractor for the benefit of Owner; (ii) Owner will receive free, good and clear title to all Work Material developed under this Agreement; (iii) the Work Material and the intellectual property rights protecting the Work Material are free and clear of all encumbrances, including security interests, licenses, liens, charges or other restrictions; (iv) the Work Material will not infringe upon or violate any patent, copyright, trade secret, trademark, service mark or other property right of any former employer, independent Contractor, client or other third party; and (v) the*

*use, reproduction, distribution, or modification of the Work Material will not violate the rights of any third parties in the Work Material, including trade secret, publicity, privacy, copyright, trademark, service mark and patent rights.*

**4. Premises Rules**

- A. *If this Agreement requires Contractor's presence on Owner's premises or in Owner's facilities, Contractor agrees to cause its employees, representatives, agents, or subcontractors to become aware of, fully informed about, and in full compliance with all applicable TSUS rules and policies, including those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.*

**5. Contract Amount**

- A. *Owner will pay Contractor for the performance of the Work as more particularly set forth in **Exhibit A**, attached and incorporated for all purposes.*
- B. *Contract Sum: Allowable fees detailed on the purchase order issued by the Owner. Invoices for authorized work performed by the Contractor shall not exceed the fees established for any portion of authorized work. Established fee amounts shall not be increased except by written amendment to the purchase order executed by the Owner and Contractor.*
- C. *TSUS, an agency of the State of Texas, is exempt from Texas Sales & Use Tax on the Work in accordance with Section 151.309, Texas Tax Code, and Title 34 Texas Administrative Code ("TAC") Section 3.322.*

**6. Payment Terms**

- A. *Owner will pay for Work performed under this agreement in accordance with Texas Government Code; section 2251 "Prompt Payment".*
- B. *For the satisfactory performance of the Work, the Owner shall pay Contractor an amount not to exceed that described in **Exhibit A**, attached to and made a part of this agreement for all purposes. If Owner disapproves any invoice amount, Owner will give Contractor specific reasons for its disapproval in writing.*
- C. *The amount due to Contractor shall be upon receipt of an invoice that details the date of service, describes the Work performed, and provides supporting documentation for reimbursable expenses relating to the Work.*
- D. *Within ten (10) days after final completion of the Work and acceptance of the Work by Owner or as soon thereafter as possible, Contractor will submit a final invoice ("Final Invoice") setting forth all amounts due and remaining unpaid to Contractor. Upon approval of the Final Invoice by Owner, Owner will pay ("Final Payment") to Contractor the amount due under the Final Invoice.*
- E. *Notwithstanding any provision of this Agreement to the contrary, Owner will not be obligated to make any payment (whether a Progress Payment or Final Payment) to Contractor if Contractor is in default under this Agreement.*

- F. *The cumulative amount of all Progress Payments and the Final Payment (defined below) will not exceed the Contract Amount.*
- G. *No payment made by Owner will (a) be construed to be final acceptance or approval of that part of the Work to which the payment relates, or (b) relieve Contractor of any of its duties or obligations under this Agreement.*
- H. *The acceptance of Final Payment by Contractor will constitute a waiver of all claims by Contractor except those previously made in writing and identified by Contractor as unsettled at the time of the Final Invoice for payment.*
- I. *Owner will have the right to verify the details set forth in Contractor's invoices and supporting documentation, either before or after payment, by (a) inspecting the books and records of Contractor at mutually convenient times; (b) examining any reports with respect to the Project; and (c) other reasonable action.*

**7. Default and Termination**

- A. *If a party substantially fails to perform in accordance with the terms of this agreement, the other party may terminate this Agreement upon fifteen days written notice of termination setting forth the nature of the failure. The termination shall not be effective if the failure is fully cured prior to the end of the fifteen-day period.*
- B. *Owner may, without cause, terminate this Agreement at any time upon giving thirty days advance notice to Contractor. Upon termination pursuant to this paragraph, Contractor receives payment for the services satisfactorily performed from the time of the last payment date to the termination date, provided Contractor shall have delivered to Owner a final report describing the work completed to the date of termination. Owner shall not reimburse Contractor for any services performed or expenses incurred after the date of termination notice.*
- C. *Termination under Sections A or B above will not relieve Contractor from liability for any default or breach under this Agreement or any other act or omission of Contractor.*
- D. *If Contractor fails to cure any default within fifteen (15) days after receiving written notice of the default, Owner will be entitled (but will not be obligated) to cure the default and will have the right to offset against all amounts due to Contractor under this Agreement, any and all reasonable expenses incurred in connection with Owner's curative actions.*

**8. Indemnification**

- A. *TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY TSUS, AND HOLD HARMLESS TSUS, AND ITS AFFILIATED ENTERPRISES, REGENTS, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND AGENTS (COLLECTIVELY "INDEMNITEES") FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING (COLLECTIVELY "CLAIMS") BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED*

*BY, OR RESULTING FROM CONTRACTOR'S PERFORMANCE UNDER OR BREACH OF THIS AGREEMENT AND THAT ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION OR WILLFUL MISCONDUCT OF CONTRACTOR, ANYONE DIRECTLY EMPLOYED BY CONTRACTOR OR ANYONE FOR WHOSE ACTS CONTRACTOR MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.*

- B. IN ADDITION, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY TSUS, AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY INTEREST ARISING BY OR OUT OF THE PERFORMANCE OF SERVICES OR THE PROVISION OF GOODS BY CONTRACTOR, OR THE USE BY INDEMNITEES, AT THE DIRECTION OF CONTRACTOR, OF ANY ARTICLE OR MATERIAL; PROVIDED, THAT, UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR INFRINGEMENT, TSUS WILL PROMPTLY NOTIFY CONTRACTOR AND CONTRACTOR WILL BE GIVEN THE OPPORTUNITY TO NEGOTIATE A SETTLEMENT. IN THE EVENT OF LITIGATION, TSUS AGREES TO REASONABLY COOPERATE WITH CONTRACTOR. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.*

**9. *Relationship of the Parties***

- A. For all purposes of this Agreement and notwithstanding any provision of this Agreement, to the contrary Contractor is an independent contractor and is not a state employee, partner, joint venture, or agent of Owner. Contractor will not bind nor attempt to bind Owner to any agreement or contract. As an independent contractor, Contractor is solely responsible for all taxes, withholdings, and other statutory or contractual obligations of any sort, including workers' compensation insurance.*
- B. Contractor shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to, those of the Owner relative to conduct on its premises. Contractor is notified that the following TSUS policies shall apply to its employees and subcontractors whole on Texas State property:*
- Parking;*
  - Prohibition on smoking and tobacco use;*
  - Fire Safety;*
  - Hazardous Material;*
  - Drug-free workplace; and*
  - Prohibition on sexual harassment or harassment or discrimination based on race, color, national origin, age, sex, religion, disability or sexual orientation.*
- C. Nondiscrimination: In their execution of this agreement, all Contractors, subcontractors, their respective employees, and others acting by or through them shall comply with all federal and state policies and laws prohibiting discrimination, harassment, and sexual misconduct. Any breach of this covenant may result in termination of this agreement.*



**10. Bonds and Insurance**

- A. Refer to UGC Article 5 located on the website at <http://www.tsus.edu/about/policies.html> for basic requirements for Bonds and Insurance.

**11. Insurance**

*Contractor, consistent with its status as an independent contractor, will carry, and will cause its subcontractors to carry, at least the following insurance in a form, with companies and in amounts (unless otherwise specified) as Owner may require:*

- A. *Workers' compensation insurance coverage for each of Contractor's employees employed on this project. Contractor must meet the statutory requirements of the Tex. Lab. Code, 401.011(44); and*
- B. *Such Insurance shall be primary and name The Texas State University System (TSUS), its Regents and employees added as additional insureds. The additional insured status must cover completed operations as well. This is not applicable to the workers' compensation and umbrella liability policies.*

*The workers' compensation and owners' protective liability policies will provide a waiver of subrogation in favor of the Owner.*

- C. *Contractor will deliver to Owner:*

- i. *Evidence, satisfactory to Owner, of the existence of all insurance promptly after the execution and delivery of this Agreement and prior to the performance or continued performance of any services to be performed by Contractor under this Agreement.*
- ii. *Additional evidence, satisfactory to Owner, of the continued existence of all insurance not less than thirty days prior to the expiration of any insurance. Insurance policies, with the exception of Workers' Compensation, will name and the evidence will reflect Owner as an Additional Insured and will provide that the policies will not be canceled until after thirty days unconditional written notice to Owner.*

- D. *The insurance policies required in this Agreement will be kept in force for the periods specified below:*

- i. *Commercial General Liability Insurance, Commercial Automobile Liability Insurance, will be kept in force until receipt of Final Payment by Owner to Contractor; and*
- ii. *Workers' Compensation Insurance and Owner's Protective Liability Insurance will be kept in force until the Work has been fully performed and accepted by Owner in writing.*

**12. Assignment and Subcontracting**

*Contractor's interest in this Agreement (including Contractor's duties and obligations under this Agreement, and the fees due to Contractor under this Agreement) may not be subcontracted, assigned, delegated, or otherwise transferred to a third party, in whole or in part, and any attempt to do so will (a) not be binding on Owner; and (b) be a breach of this Agreement for which Contractor will be subject to all remedial actions provided by Texas law, including Chapter 2161, Texas Government Code, and 34 Texas Administrative Code , §§20.101 – 20.108. The benefits and burdens of this Agreement are assignable by Owner.*

**13. Child Support Certification**

*Pursuant to Section 231.006, Texas Family Code, Contractor certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.*

**14. Eligibility Certifications**

*Pursuant to Sections 2155.004 and 2155.006, Texas Government Code, Contractor certifies that the individual or business entity named in this Agreement is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment withheld if these certifications are inaccurate.*

**15. Tax Certification**

*If Contractor is a taxable entity as defined by Chapter 171, Texas Tax Code (“**Chapter 171**”), then Contractor certifies that it is not currently delinquent in the payment of any taxes due under Chapter 171, or that Contractor is exempt from the payment of those taxes, or that Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.*

**16. Payment of Debt or Delinquency to the State**

*Pursuant to Sections 2107.008 and 2252.903, Texas Government Code, Contractor agrees that any payments owing to Contractor under this Agreement may be applied directly toward any debt or delinquency that Contractor owes the State of Texas or any agency of the State of Texas regardless of when it arises, until the debt or delinquency is paid in full.*

**17. Products and Materials Produced in Texas**

*Contractor covenants and agrees that as required by Section 2155.4441, Texas Government Code, in performing the Work and its other duties and obligations under this Agreement, Contractor will purchase products and materials produced in Texas when the products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.*

**18. Loss of Funding**

*Owner's performance of its duties and obligations under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature and/or allocation of funds by the Board of Regents of TSUS. If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then Owner will issue written notice to Contractor and Owner may terminate this Agreement without further duty or obligation hereunder.*

*Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Owner.*

**19. Entire Agreement; Modifications**

*This Agreement (including **Exhibit A**) constitutes the sole agreement of the parties and supersedes any other oral or written understanding or agreement. This Agreement may not be amended or otherwise altered except upon the written agreement of both parties.*

**20. Force Majeure**

*Except as otherwise provided, neither Contractor nor Owner, shall be liable to the other for any delay in, or failure of performance, of a requirement contained in this agreement 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, strike, fires, explosions, 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.*

**21. Governing Law**

*This Agreement shall be construed under the laws of the State of Texas, and venue for any action brought hereunder shall be Travis County, Texas.*

**22. Waivers**

*No delay or omission in exercising any right accruing upon a default in performance of this Agreement will impair any right or be construed to be a waiver of any right. A waiver of any default under this Agreement will not be construed to be a waiver of any subsequent default under this Agreement.*

**23. Public Information**

- A. Owner strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the Texas Public Information Act, Chapter 552, and Texas Government Code.*
- B. Contractor is required to make any information created or exchanged with the state pursuant to this contract, and not otherwise exempted 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.*
- C. Information provided to Contractor by the Owner, including information from representatives of TSUS or any of its components, and information provided to Contractor by members of the public or any other third party shall belong to the Owner.*
- D. Information created or otherwise produced by Contractor shall remain the exclusive property of Contractor. Contractor acknowledges any final report or papers will be provided in accordance with this Agreement, and that any information contained in any report or papers,*

*which Contractor believes is confidential under Texas law will be clearly designated as such by Contractor.*

- E. If the Owner receives a request for public information for any portion of any final report or papers that have been designated by Contractor to be confidential, the Owner will provide notice to Contractor and Contractor may submit a brief to the Office of the Attorney General, as provided by Chapter 552, Tex. Govt. Code.*

**24. Safeguarding of Owner Records**

- A. Contractor represents, warrants, and agrees that it will: (1) hold Owner Records in strict confidence and will not use or disclose Owner records except as (a) permitted or required by this Agreement, (b) required by law, or (c) otherwise authorized by Owner in writing; (2) safeguard Owner records according to reasonable administrative, physical and technical standards that are no less rigorous than the standards by which Contractor protects its own confidential information; (3) continually monitor its operations and take any action necessary to assure that University records are safeguarded and the confidentiality of Owner records is maintained in accordance with all applicable federal, state and local, laws, regulations, and ordinances, including FERPA and the Gramm-Leach Bliley Act, and the terms of this Agreement; and (4) comply with the Owner's rules, policies, and procedures regarding access to and use of Owner's computer systems. At the request of Owner, Contractor agrees to provide Owner with a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of Owner records.*
- B. If an impermissible use or disclosure of any Owner records occurs, Contractor will provide written notice to Owner within one (1) business day after Contractor's discovery of that use or disclosure. Contractor will promptly provide Owner with all information requested by Owner regarding the impermissible use or disclosure.*
- C. If Contractor discloses any Owner records 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 by this Section.*
- D. Except when defined as part of the Work, Contractor will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor as an independent contractor of Owner 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 Owner.*

**25. Notices**

*All notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement will be in writing and will be sent via certified mail, hand delivery, overnight courier, facsimile transmission, or email as provided below, and notice will be deemed given (i) if delivered by certified mailed, when deposited, postage prepaid, in the United States mail, or (ii) if delivered by hand, overnight courier, facsimile or email, when received:*

*If to Owner: Texas State University System  
Peter E. Graves  
Vice Chancellor for Contract Administration*



4. *Compliance by Contractor with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Texas Government Code.*
- B. *The contested case process provided in Chapter 2260, subchapter C, of the Texas Government Code is Contractor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by Owner if the parties are unable to resolve their disputes under subparagraph (A) of this paragraph.*
- C. *Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by Owner nor any other conduct of any representative of Owner relating to the contract shall be considered a waiver of sovereign immunity to suit.*
- D. *The submission, processing and resolution of Contractor's claim is governed by the published rules adopted by the Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended.*
- E. *Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by Contractor, in whole or in part.*
- F. *The designated individual responsible on behalf of Owner for examining any claim or counterclaim and conducting any negotiations related thereto as required under §2260.052 of the Texas Government Code shall be Owner's representative named in section 22 C.*

**29. *Limitations***

*THE PARTIES ARE AWARE THAT THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF UNIVERSITY (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS THAT MAY BE A PART OF THIS AGREEMENT, INCLUDING THOSE TERMS AND CONDITIONS RELATING TO LIENS ON OWNER'S PROPERTY; DISCLAIMERS AND LIMITATIONS OF WARRANTIES; DISCLAIMERS AND LIMITATIONS OF LIABILITY FOR DAMAGES; WAIVERS, DISCLAIMERS AND LIMITATIONS OF LEGAL RIGHTS, REMEDIES, REQUIREMENTS AND PROCESSES; LIMITATIONS OF PERIODS TO BRING LEGAL ACTION; GRANTING CONTROL OF LITIGATION OR SETTLEMENT TO ANOTHER PARTY; LIABILITY FOR ACTS OR OMISSIONS OF THIRD PARTIES; PAYMENT OF ATTORNEYS' FEES; DISPUTE RESOLUTION; INDEMNITIES; AND CONFIDENTIALITY (COLLECTIVELY, THE "LIMITATIONS"), AND TERMS AND CONDITIONS RELATED TO THE LIMITATIONS WILL NOT BE BINDING ON OWNER EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.*

**30. *Ethics***

*Contractor represents and warrants that the Contractor has no actual or potential conflicts of interest in providing services to the Owner under this Contract and that Contractor's provision of services under this Contract would not reasonably create an appearance of impropriety.*

**31. Debarment**

*Contractor confirms that neither Contractor nor its Principals are suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts from United States (“U.S.”) federal government procurement or nonprocurement programs, or are listed in the List of Parties Excluded from Federal Procurement or Non-procurement Programs (<https://www.sam.gov/portal/public/SAM>) issued by the U.S. General Services Administration. “Principals” means officers, directors, owners, partners, and persons having primary management or supervisory responsibilities within a business entity (e.g. general manager, plant manager, head of a subsidiary, division or business segment, and similar positions). Contractor will provide immediate written notification to University if, at any time prior to award, Contractor learns that this certification was erroneous when submitted or has become erroneous by reason of changed circumstances. This certification is a material representation of fact upon which reliance will be placed when Owner executes this Agreement. If it is later determined that Contractor knowingly rendered an erroneous certification, in addition to the other remedies available to Owner, Owner may terminate this Agreement for default by Contractor.*

**32. Group Purchase Authority**

*Texas law authorizes institutions of higher education (defined by Section 61.003, Education Code) to use the group purchasing procurement method (ref. Sections 51.9335, 73.115, and 74.008, Education Code). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Proposer under this agreement.*

**33. Ethics Provision**

*[[ Name (Primary Second Party) ]] acknowledges that the Texas Government Code, Section 2261.251(a) and 2261.252 require an initial determination in this higher education contract that no Texas State University System Regent, nor the Chancellor, Vice Chancellor and General Counsel, or the Vice Chancellor for Contract Administration has a 1% interest (or other interest prohibited by law) in [[ Name (Primary Second Party) ]] or any affiliated company. The Parties also assert that this Agreement complies with Texas Government Code, Section 2252.908 which requires a business entity to submit a Disclosure of Interested Parties (Disclosure), as prescribed by the Texas Ethics Commission, to the government entity (University) at the time the signed contract (or amendment) is submitted. Within 30 days after the Disclosure is filed, the Owner will file a copy of the Disclosure with the Texas Ethics Commission.*

**34. Miscellaneous Provisions**

- 34.1 PERSONNEL; RESPONSIBILITY FOR INDIVIDUALS PERFORMING WORK; CRIMINAL BACKGROUND CHECKS. Contractor will provide representation that it has conducted the following background checks on its officers, employees, or other persons it causes to be on the campus:*
- 34.2 Sex offender and criminal history databases where the above individuals will be placed on the campus, working with or around students;*
- 34.3 Criminal history and credit history background checks where the above individuals will be handling money, informational technology, or other security-sensitive areas as determined by Owner;*

- 34.4 Contractor will determine on a case-by-case basis whether each individual assigned to perform the Work is qualified to provide the services. Contractor will not knowingly assign any individual to provide services on Owner's premises who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses.
- 34.5 Contractor will provide Owner a letter signed by an authorized representative of Contractor certifying compliance with this Section. Contractor will provide Owner an updated certification letter each time there is a change in the individuals assigned to perform the Work.
- 34.6 Non-Boycott Verification. The Contractor hereby verifies that it does not boycott Israel and will not boycott Israel during the term of this Agreement. "Boycott Israel" shall have the meaning set forth in Chapter 808 of the Texas Government Code.

**35. Parking**

Unloading of the itemized furnishings will occur in the north parking area of O. Henry Hall located at 601 Colorado Street, Austin, TX 78701. Respondents are responsible for all cost related to off-site parking to move-in, assemble and remove debris of the itemized furnishings as part of the RFP.

*IN WITNESS WHEREOF, the parties have signed this agreement on the date indicated below their signatures.*

**Texas State University System**

**[[ Name (Primary Second Party) ]]**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Date)

Agreement Attachments:

TBD



# **Addendum No. 1**

**Issued October 4, 2017**

## **REQUEST FOR PROPOSALS FOR**

## **SELECTION OF A VENDOR TO PROVIDE FURNISHINGS**

**TO**

## **THE TEXAS STATE UNIVERSITY SYSTEM AUSTIN, TEXAS**

**RFP No.:**

**758-18-00045**

**Notice To All Respondents:**

The following is Addendum No. 1 to the Request for Proposals (RFP) ESBD Posting No. 758-18-00045 was posted on September 19, 2017

**Prepared By:**

*Peter E. Graves, Vice Chancellor for Contract Administration  
Texas State University System  
Thomas J. Rusk State Building  
208 E. 10th Street, Suite 600 Austin, TX 78701-2407. (512) 463-1808  
512-463-1808  
peter.graves@tsus.edu*

**I. GENERAL:**

- A.** As a point of clarification, the Owner intends to contract with two (2) of the respondents. Based on the evaluation ranking, the Owner will name a primary and secondary successful respondent to the RFP. The Owner will utilize the services of the primary respondent unless the primary respondent fails to deliver services and/or products in an acceptable and expected manner and/or the primary respondent is unable to obtain future selected furnishings that meet the specifications of the Owner's Architect/Registered Interior Designer. It is the intent of the Owner to purchase more furnishings than just those denoted in Exhibit A.
- B.** The Respondent acknowledges that time is of the essence and Respondent will provide required insurance upon written notification of selection and will execute the Agreement with the Owner once the insurance is found in good order.
- C.** Primary selected respondent will attend a meeting with the Chancellor at the Owner's headquarters at the Texas State University System Conference Room located at 208 East 10<sup>th</sup> Street, Suite 600, Austin, TX 78701, on October 16, 2017 at 9:00 a.m., to meet with the Owner and the Owner's design professional to go over strategies on future furnishing procurements.

- **END OF ADDENDUM NO. 1** -

# **Addendum No. 2**

**Issued October 10, 2017**

**REQUEST FOR PROPOSALS  
FOR  
SELECTION OF A VENDOR  
TO PROVIDE FURNISHINGS  
TO  
THE TEXAS STATE UNIVERSITY SYSTEM  
AUSTIN, TEXAS**

***RFP No.:***

**758-18-00045**

***Submission Date:***

**October 16, 2017**

~~October 10, 2017~~ – 2:00 p.m. (C.D.T)

**Notice To All Respondents:**

The following is Addendum No. 2 to the Request for Proposals (RFP)  
Addendum No. 1 was posted on October 4, 2017  
ESBD Posting No. 758-18-00045 was posted on September 19, 2017

**Prepared By:**

*Peter E. Graves, Vice Chancellor for Contract Administration  
Texas State University System  
Thomas J. Rusk State Building  
208 E. 10th Street, Suite 600 Austin, TX 78701-2407. (512) 463-1808  
512-463-1808  
peter.graves@tsus.edu*

**I. GENERAL:**

- A.** The submission date of this RFP shall change from October 10, 2017 to **October 16, 2017**. The submission time remains unchanged. This date change affects the following Sections of the RFP:
- 1) Cover page
  - 2) Section 2.1
  - 3) Section 7.3
- B.** It has come to the Owner's attention that the stated installation dates may not be achievable based on current manufacturer's time lines. Therefore, each respondent shall advise on Exhibit A that was included with the initial RFP posting, which pieces may not be available for installation by December 19, 2017. The evaluation team will use the deadline information provided on Exhibit A as information only and will not be used as part of the evaluation process.

**II. DELETIONS:**

- A.** Page 22 of 40, Section 5.21 Liquidated Damages: The Owner removes liquidated damages as part of this RFP. Remove this section in its entirety.

~~5.21 Liquidated Damages:~~

~~5.21.1 Failure of the Respondent to complete the Work within the time limit stipulated will be assessed Liquidated Damages which is the agreed sum stated in the individual Base Packages and is not to be construed as in any sense a penalty.~~

~~5.21.2 Owner and Respondent recognize that time is of the essence of this Agreement and that the Owner will suffer financial loss if the furnishings are not delivered and installed within the Schedule of Installation stated in the Contract Documents plus any extensions thereof allowed in accordance with Article 18 of the General Conditions. They also recognize that the timely performance of the Respondent is necessary for the Owner to take immediate occupancy of the facility. Further, they recognize the delays, expense and difficulties involved in proving in a legal proceeding the actual losses or damages (including special, indirect, consequential, incidental and any other losses or damages) suffered by the Owner if a complete acceptable installation is not delivered on time.~~

~~5.21.3 Accordingly, and instead of requiring proof of such losses or damages, Owner and Respondent agree that as Liquidated Damages for delay (but not as a penalty), Respondent shall pay Owner for each calendar day that Respondent is late in achieving a complete acceptable installation the Liquidated Damages stated in the Base Package(s).~~

- B.** Due to the revised submission date the selected respondent(s) will not meet with the Chancellor on October 16, 2017 as prescribed in item I (c) in Addendum No. 1.”