



THE TEXAS  
STATE  
UNIVERSITY  
SYSTEM

## REQUEST FOR PROPOSAL

Request for Proposal (“RFP”) No: 758-23-00083

FOR

BRANDING/MARKETING SERVICES

ALL PROPOSALS MUST BE RECEIVED NO LATER THAN:

**FRIDAY, JUNE 9, 2023, AT 2:30 PM CENTRAL**

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## Section 1 – General Information

### 1.1 OBJECTIVE

The Texas State University System (“**TSUS**” or “**The System**”) is soliciting proposals in response to this Request for Proposal No. 758-23-00083 (this “**RFP**”), from qualified vendors to provide branding/marketing services (the “**Services**” or “**Project**”). The System expects to enter into a contract with the selected firm or firms to provide the Services as further described in **Section 5** of this RFP.

This solicitation sets forth, at a minimum, the specifications, terms, conditions, and requirements to be considered for this solicitation. The System will select the proposal(s) that offers the “best value” based on the published selection criteria and on its ranking evaluation of submitted proposals. Firms that respond to this RFP will be referred to as “**Proposers.**”

### 1.2 DESCRIPTION OF THE SYSTEM

The Texas State University System, founded in 1911, is the first higher education system that was 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. Throughout The System, faculty and staff are preparing students to work in and contribute to our global society.

The System includes the system administration office (**TSUS Administration**) and seven (7) component institutions (**Component Institutions**) that offer a broad range of academic and career opportunities:

- TSUS Administration
- 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

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. TSUS Administration, which is led by a board-appointed chancellor, is based in Austin, where it provides support to the Component Institutions and state government.

**1.3 BACKGROUND & SPECIAL CIRCUMSTANCES**

The System engaged an Austin-based marketing firm in 2011 to assist with developing a system brand identity. Prior to this, TSUS did not have a clearly established brand that distinguished TSUS from other higher education systems in the state.

Over the past decade the higher education landscape has evolved, and so has TSUS’s place in this landscape. System leadership has expressed interest in examining TSUS’s brand identity in the current context with the goal of “refreshing” the TSUS brand to address the following questions:

- How is TSUS perceived by stakeholders and the greater public?
- What distinguishes TSUS from other university systems in Texas, and how can these distinctions be used to tell our story better?
- What are our values as a university system?
- What value do we provide to Texas and its people?
- How do we ensure that the TSUS brand relates to our diverse member institutions? What is the common thread that ties us together?

**1.4 CONTRACT TERM**

The base contract term shall be for two (2) years, beginning on the effective date of the Agreement. The System may renew the contract for one (1) additional three (3) year renewal term.

The System intends for Services to be completed within 12-18 months from the start of work. The optional renewal term would be used for *as needed* additional support (reviews, updates, etc.) related to the Project with specific scope of work and rates determined at the time of engagement. The System makes no guarantee that any additional work will be needed even if the renewal term is exercised.

**1.5 SCHEDULE OF EVENTS**

Below is the anticipated schedule of events for this RFP. The System reserves the right to revise this schedule. Any such revision will be formalized by the issuance of a written addendum to the RFP (ref. **Section 2.4**, Clarifications and Interpretations).

<b>Solicitation Event</b>	<b>Anticipated Date</b>
RFP issued	April 21, 2023
Deadline for questions to be submitted by vendors (the “ <b>Question Deadline</b> ”)	May 5, 2023
Answers to submitted questions published	May 18, 2023
RFP responses due (the “ <b>Submittal Deadline</b> ”)	<b>Friday, June 9, 2023, at 2:30 p.m. (Central Time)</b>

## **1.6 CLASS AND ITEM (NIGP) CODES**

The related Class and Item code(s) for goods / services requested are: 917-31, 917-77, 961-53, 962-58

## **1.7 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. Section 51.9335, Education Code). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Proposer under this RFP.

Texas institutions of higher education (“**IHEs**”) routinely evaluate whether a contract resulting from a procurement conducted by another IHE might be suitable for use, and if so, this RFP could give rise to additional purchase volumes. As a result, in submitting its proposal, Proposer should consider proposing a pricing model and other commercial terms that consider the higher volumes and other expanded opportunities that could result from the eventual inclusion of other IHEs in the purchase contemplated by this RFP. Any purchases made by other IHEs based on this RFP will be the sole responsibility of those IHEs.

## Section 2 – Notice to Proposers

### 2.1 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.

- 2.1.1 The System 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*.
- 2.1.2 Proposer 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.
- 2.1.3 Information provided to Proposer by The System, including information from representatives of TSUS or any of its Component Institutions, and information provided to Proposer by members of the public or any other third party shall belong to The System.
- 2.1.4 Information created or otherwise produced by Proposer shall remain the exclusive property of Proposer. Proposer acknowledges any final report or papers will be provided in accordance with this RFP, and that any information contained in any report or papers, which Proposer believes is confidential under Texas law will be clearly designated as such by Proposer.
- 2.1.5 If The System receives a request for public information for any portion of any final report or papers that have been designated by Proposer to be confidential, The System will provide notice to Proposer and Proposer may submit a brief to the Office of the Attorney General, as provided by Chapter 552, Tex. Govt. Code.

### 2.2 POINT OF CONTACT

The System designates the following person as its representative and Point of Contact for this RFP:

Jenn DeLeon  
Email: [Jennifer.deleon@tsus.edu](mailto:Jennifer.deleon@tsus.edu)

The System instructs interested parties to restrict all contact and questions regarding this RFP to **written** communications with the Point of Contact. Proposers shall restrict all contact with The System and direct all questions regarding this RFP in writing to the Point of Contact.

## 2.3 PROPOSER QUESTIONS

After the RFP is advertised, Proposers will have until the Question Deadline (ref. **Section 1.5**, Schedule of Events) to submit written questions, including questions regarding terms and conditions or for clarification of the proposal, to The System's Point of Contact (ref. **Section 2.2**). All questions submitted and received prior to the deadline will be reviewed, consolidated where possible, and answered in a written addendum. The addendum will be posted on the Texas Electronic State Business Daily ("**ESBD**") at: <http://www.txsmartbuy.com/sp>. Enter "**758**" in the **Agency Number** field to search ESBD for The Texas State University System solicitations. The System will provide responses as soon as practicable following the Question Deadline however, The System reserves the right to decline to respond to any question. It is the Proposer's responsibility to continually check the ESBD for Addenda.

## 2.4 CLARIFICATIONS AND INTERPRETATIONS

Any clarifications or interpretations of this RFP that materially affect or change its requirements will be issued formally by The System as a written addendum. Addenda, if required, will be issued by The System and posted on the ESBD (ref. **Section 2.3**). It is the responsibility of all Proposers to check the status of formal addenda before the submission deadline and to obtain this information in a timely manner. The System intends to issue any required addenda a minimum of five (5) business days prior to the Submittal Deadline (ref. **Section 3.1**) to allow time for Proposers to review information and complete responses. All such addenda issued by The System must be acknowledged by Proposers and incorporated into the RFP response (ref. **Section 7**).

## 2.5 EVALUATION OF PROPOSALS

It is the intent of The System to award a contract to the responsible, responsive Proposer(s) that submits a proposal meeting the minimum criteria set forth herein, and that represents the best value, per 51.9335 (b) Texas Education Code, to The System. Best value is determined by considering: the purchase price, the total long-term cost to the institution of acquiring the vendor's goods or services, the reputation of the vendor and of the vendor's goods or services, the vendor's past relationship with the institution, the quality of the vendor's goods or services, the extent to which the goods or services meet the institution's needs, and any other relevant factor that a private business entity would consider in selecting a vendor.

- 2.5.1 **Review and Evaluation:** To determine best value, all properly submitted proposals will be reviewed, evaluated, and ranked by The System according to the specific RFP Evaluation Criteria provided in **Section 9** of this RFP. Representatives from third party vendors or other outside entities that are currently contract holders with The System ("**External Representatives**") may have access to Proposers' submitted Proposals and other relevant materials to assist The System in conducting its review.
- 2.5.2 **Presentations:** Upon completion of the initial review, evaluation, and ranking of proposals, The System may invite one or more Proposers within the competitive range, at the Proposer's expense, to give an oral and / or written presentation and respond

to questions. Presentations, at The System's discretion, may be held either on site at The System's offices in Austin, Texas or by video conference.

- 2.5.3 **Best and Final Offers (BAFOs)**: After the initial evaluation process or at the conclusion of oral and / or written presentations but, before final selection of Contractor is made, The System may permit a Proposer to revise its proposal in order to obtain the Proposer's best and final offer. In that event, representations made by Proposer in its revised proposal, including price and fee quotes, will be binding on Proposer. The System will provide each Proposer within the competitive range with an equal opportunity for discussion and revision of its proposal. The System is not obligated to select the Proposer offering the most attractive economic terms if that Proposer is not the most advantageous to overall, as determined by The System.
- 2.5.4 **Negotiations**: If possible, an award will be made without negotiating. If negotiations are necessary, they will be scheduled after all proposals are evaluated. Negotiations will only be held with Proposer(s) who have a reasonable chance of receiving contract award. Proposers are strongly encouraged to submit the best offer at the time proposals are due.

## **2.6 AWARD OF CONTRACT**

- 2.6.1 A response to this RFP is an offer to contract based upon the best price, terms, conditions and specifications contained herein. Proposals do not become contracts until they are accepted through a purchase order or fully executed contract. Any contract shall be governed, construed and interpreted under the laws of the State of Texas, and TSUS Administration policy as the same may be amended from time to time. Any legal actions must be filed in Travis County, Austin, Texas.
- 2.6.2 **Tie Proposals**: Awards will be made in accordance with Rule 1 TAC Section 113.6 (b) and 113.8 (preferences).
- 2.6.3 **Multiple Awards and Utilization**: It may be determined that having the Services provided by multiple Proposers is more advantageous to The System. The System reserves the right to make multiple awards against this RFP. The System will only pay for Services utilized and makes no guarantee of a maximum amount to be paid over the course of any contract that may result from the RFP.
- 2.6.4 **No Guarantee of Award**: The System makes no warranty or guarantee that an award will be made as a result of this RFP. The System reserves the right to accept or reject any or all proposals, waive any formalities or minor technical inconsistencies and delete any requirement or specification from this RFP or the Agreement when deemed to be in The System's best interest. The System reserves the right to seek clarification of any item contained in Proposer's proposal prior to final selection. Such clarification may be provided by telephone or personal meetings with or in writing to The System, at The System's discretion. Representations made by Proposer within its proposal will be binding on Proposer. The System will not be bound to act by any previous communication or response submitted by Proposer, other than this RFP.



## **2.7 THE SYSTEM'S RESERVATION OF RIGHTS**

The System may evaluate the Proposals based on the anticipated completion of all or any portion of the Project. The System reserves the right to divide the Project into multiple parts, to reject any and all proposals and re-solicit for new proposals, or to reject any and all proposals and temporarily or permanently abandon the Project. The System makes no representations, written or oral, that it will enter into any form of agreement with any Proposer to this RFP for any project and no such representation is intended or should be construed by the issuance of this RFP.

## **2.8 ACCEPTANCE OF EVALUATION METHODOLOGY**

By submitting its proposal in response to this RFP, Proposer accepts the evaluation process and acknowledges and accepts that the determination of the "best value" firm(s) will require subjective judgments by The System.

## **2.9 NON-REIMBURSEMENT FOR COSTS**

Proposer acknowledges and accepts that any costs incurred from the Proposer's participation in this RFP process shall be at the sole risk and responsibility of the Proposer. Proposers submit proposals at their own risk and expense.

## **2.10 CONFLICTS/CONTACT**

Proposers shall not contact existing members of the TSUS Board of Regents, The System employees, including those of Component Institutions about this RFP until the resulting contract(s), if any, are fully executed.

## **2.11 OWNERSHIP AND USE OF WORK MATERIAL**

All work material, whether accepted or rejected by The System, is the sole property of The System and for its exclusive use and re-use at any time without further compensation and without any restriction.

## **2.12 TERMINATION / CANCELLATION**

The System may terminate any resulting agreement for any reason, including material changes to selected Proposer's firm, upon thirty (30) days written notice to the other party.

## **2.13 CERTIFICATE OF INTERESTED PARTIES**

Pursuant to Texas Government Code 2252.908 and Texas Ethic Commission Rule 46, for contracts that either have a value of at least \$1 million or require approval of the TSUS Board of Regents, a business entity (vendor) must submit a copy of the Disclosure of Interested Parties (Texas Ethics Commission Form 1295) filed with the Texas Ethics Commission when the business entity submits the signed contract. No such contract may be presented to the TSUS Board of Regents for approval without the disclosure. By submitting a proposal in

response to this RFP, Proposer agrees to comply with this law. Information on the Disclosure of Interested Parties can be found at: <https://www.ethics.state.tx.us/filinginfo/1295/>

## Section 3 – Requirements of Proposal

### 3.1 PROPOSAL SUBMITTAL DEADLINE AND LOCATION

The System will receive proposals for this RFP at the time and location described below. The Proposer (not The System, the carrier, mail service/courier, or other party) is solely responsible for ensuring that the proposal is received by the Point of Contact, in the format described below (ref. **Section 3.3**), **prior** to the Submittal Deadline.

**Submittal Deadline: Friday, June 9, 2023, at 2:30 PM CENTRAL**

The Texas State University System  
Attn: Jenn DeLeon  
601 Colorado Street  
Austin, Texas 78701  
Re: RFP 758-23-00083

**NOTE: A public opening of responses will not be conducted for this RFP.**

### 3.2 HISTORICALLY UNDERUTILIZED BUSINESSES

It is the policy of The System to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (“**HUBs**”). Accordingly, The System has adopted a policy on the Utilization of Historically Underutilized Businesses. The policy applies to all contracts with an expected value of \$100,000 or more. If The System determines that subcontracting opportunities are probable, then a HUB Subcontracting Plan is a required element of the proposal. Failure to submit a required HUB Subcontracting Plan form will result in rejection of the proposal.

- 3.2.1 The System has determined that subcontracting opportunities are probable under this RFP.
- 3.2.2 A HUB Subcontracting Plan is a requirement of this RFP. APPENDIX TWO provides information about the HUB Subcontracting Plan form.

### 3.3 PROPOSAL FORMAT AND REQUIRED COPIES

- 3.3.1 **Unacceptable Proposal Delivery Methods:** The System will not accept proposals in response to this RFP that are submitted by telephone, facsimile (fax) transmission, or electronic mail.
- 3.3.2 **Proposal Envelope/Box/Container:** Proposal must be placed in a sealed envelope, box, or container that is completely and properly identified with the name of Proposer’s firm, RFP number, due date and time. It is the Proposer’s responsibility to have the proposal correctly marked, addressed and delivered to The System by the Submittal Deadline for receipt by the Point of Contact.

- 3.3.3 **Format for Proposal:** Proposer shall make every effort to present the required information in a detailed, orderly, and compact presentation. Proposer should provide visual examples of functionality to clarify and reinforce key product features and services. Long or elaborate proposals are not desired. Sections will be tabbed and clearly labeled for ease of review and evaluation.

Proposer should submit the complete proposals, both the paper and electronic copies, using a format substantially like the following in terms of order of content:

- A. Cover Page
- B. Table of Contents
- C. Executive Summary of Proposal
- D. Pricing and Delivery Schedule (ref. **Section 6**)
- E. Proposer's Itemized Pricing for Section 6 (ref. **Section 6**)
- F. Execution of Offer (ref. **Section 7**)
- G. Proposer's Questionnaire (ref. **Section 8**)
- H. Additional Questions Specific to RFP (ref. **Section 9**)
- I. General Terms & Conditions of Contract (ref. **Section 10**)
- J. HUB Subcontracting Plan form and all required HUB documentation (ref. **Section 3.2** and **APPENDIX TWO**)
- K. Supplemental Information: Proposer may submit any additional information Proposer feels is relevant to the proposal. This information must be clearly labeled as "Supplemental Information" and in a separate tabbed section of the proposal.

**NOTE:** Proposers are responsible for submitting all required information as requested in this RFP. The above listing of items to be included in the proposal submission is a summary provided to aid Proposers in putting together the proposal package. Any items stated in other Sections of the RFP, but not listed in this Section, are still required to be provided as part of the proposal submission.

- 3.3.4 **Required Copies:** Proposer must submit (a) one (1) complete paper copy of its entire proposal (including the signed HUB plan), and (b) one (1) USB flash drive with the individual and separate files as described below. The USB flash drive must include a protective cover and be labeled with Proposer's name and the RFP number. An original signature by an authorized officer of Proposer's firm must appear on the Execution of Offer (ref. **Section 7**) included in the submitted proposals, both paper and electronic.

The USB flash drive must contain the following five (5) individual and separate files:

- A. One (1) complete electronic copy of the entire proposal, in a single .pdf file
- B. One (1) electronic copy of the proposal in a single .pdf file that **does not** contain pricing information relative to **Section 6**
- C. One (1) redlined electronic copy of APPENDIX ONE in an editable format (i.e., Microsoft Word)
- D. One (1) complete electronic copy of the signed HUB Subcontracting Plan

- E. One (1) complete electronic copy of Proposer's Itemized Pricing for Section 6 in an editable format (preferably Microsoft Excel)

### **3.4 PRICING**

Proposer shall provide all-inclusive pricing as requested in **Section 6** of this RFP. All pricing must be in United States Dollars.

### **3.5 EXECUTION OF OFFER**

Proposer must complete, sign and return the attached Execution of Offer (ref. **Section 7**) as part of the proposal. The Execution of Offer must be signed by an authorized officer of Proposer's firm duly authorized to bind the Proposer to its proposal. Failure to sign and return the Execution of Offer will result in the rejection of the proposal.

### **3.6 PROPOSER'S QUESTIONNAIRE**

Proposer must completely answer all questions asked in **Section 8** (Proposer's Questionnaire). By submitting a proposal, Proposer certifies that, to the best of its knowledge, all responses are true, correct and complete.

### **3.7 ADDITIONAL QUESTIONS SPECIFIC TO RFP**

Proposer must completely answer all questions asked in **Section 9** (Additional Questions Specific to RFP). By submitting a proposal, Proposer certifies that, to the best of its knowledge, all responses are true, correct and complete.

### **3.8 GENERAL TERMS AND CONDITIONS OF CONTRACT**

Proposer must completely answer all questions asked in **Section 10** (General Terms and Conditions of Contract). Any proposed changes or additions to The System's intended agreement for the Services (ref. **APPENDIX ONE**) must be submitted with Proposer's proposal in the form of a redlined APPENDIX ONE with track changes engaged and comments to support Proposer's requested change(s) included. If Proposer has no proposed changes or additions, a redlined APPENDIX ONE is still required to document information specific to Proposer's firm (i.e., text in "red") in the Agreement / APPENDIX ONE.

### **3.9 VALIDITY PERIOD**

By submitting a proposal in response to this RFP, Proposer accepts that the proposal will remain valid for a minimum of one-hundred twenty (120) days after the submittal deadline to allow time for evaluation of proposals, award determination, and any unforeseen delays.

## Section 4 – Terms & Conditions of Proposal

The items below apply to and become a part of the proposal. Exceptions cannot be taken to the RFP document itself, nor can it be redlined. These actions may result in Proposer's disqualification. Only additions / modifications to **APPENDIX ONE** (ref. **Section 10**) will be subject to consideration by The System.

PROPOSER IS CAUTIONED TO READ THE INFORMATION CONTAINED IN THIS RFP CAREFULLY AND TO SUBMIT A COMPLETE RESPONSE TO ALL REQUIREMENTS AND QUESTIONS AS DIRECTED.

### 4.1 PROPOSAL REQUIREMENTS AND GENERAL INSTRUCTIONS

- 4.1.1 **Rules, Regulations & Statutes:** The System is an agency of the State of Texas. Proposers must comply with all rules, regulations, and statutes relating to purchasing of the State of Texas, The Texas State University System Rules and Regulations, in addition to the Terms and Conditions of this form. Upon engagement, any successful Proposer shall confirm its compliance with all necessary State and/or Federal requirements relative to work performed.
- 4.1.2 **Submittal Deadline Exception:** If The System is closed due to inclement weather and/or emergency situations on the designated Submittal Deadline, the Submittal Deadline will default to the next open business day at the same time.
- 4.1.3 **Late or Unsigned Proposals:** Late and/or unsigned proposals will not be considered under any circumstances. Person signing the proposal must have the authority to bind Proposer's firm in a contract. The Proposer (not The System, the carrier, mail service/courier, or other party) is solely responsible for ensuring that the complete proposal is received in The Texas State University System's Office prior to the specified opening date and time.
- 4.1.4 **FOB Designation:** Shipping terms will be FOB Destination, freight prepaid and allowed unless otherwise stated within the specifications.
- 4.1.5 **Pricing:** Proposal prices are requested to be firm for The System acceptance for one-hundred twenty (120) days from proposal opening date (unless otherwise stated in specifications). Proposers must price per unit shown. Unit prices shall govern in the event of extension errors. "Discount from list" proposals are not acceptable unless requested. Cash discounts are not considered in determining an award. Cash discounts will be taken if earned. All costs/pricing must be in United States dollars. The System will not recognize or accept any charges or fees to perform Services that are not specifically stated in the Pricing and Delivery Schedule.
- 4.1.6 **Tax Exempt:** Purchases made for State use are exempt from the State Sales tax and Federal Excise tax, per Texas Tax Code, Section 151.309(4). Do not include tax in the proposal.

- 4.1.7 **Right to Accept or Reject:** The System reserves the right to accept or reject all or any part of any proposal, waive minor technicalities and award the proposal to best serve the interests of The System and the State of Texas.
- 4.1.8 **Withdrawal:** Any proposal may be withdrawn prior to the date and time set for receipt of proposals. Any proposal not so withdrawn shall constitute an irrevocable offer, for a period of 90 days, to provide the commodity or service set forth in the specifications, or until a selection has been made by The System.
- 4.1.9 **Proposal Costs:** Proposers electing to respond to this RFP are responsible for any and all costs of proposal preparation. The System is not liable for any costs incurred by a Proposer in response to this RFP.
- 4.1.10 Proposals that (i) are qualified with conditional clauses; (ii) alter, modify, or revise this RFP in any way; or (iii) contain irregularities of any kind, are subject to disqualification by The System, at The System's sole discretion.
- 4.1.11 Any proposal that fails to comply with the requirements contained in this RFP may be rejected by The System, at The System's sole discretion.

## 4.2 SPECIFICATIONS

- 4.2.1 **Brand Name Descriptive:** Catalogs, brand names or manufacturer's references indicate the type and quality required by The System. Proposals on brands of like nature and quality will not be considered unless otherwise stated in the RFP. If proposing other than brand referenced, proposal will show manufacturer, brand or trade name, and other description of product offered. If other than brand(s) specified is offered, illustrations and complete description of product offered are requested to be made part of the proposal.
- 4.2.2 **New Items:** Unless otherwise specified, items shall be new and unused and of current production.
- 4.2.3 **Samples:** Samples, when requested, must be furnished free of expense to the State. Each sample should be marked with the Proposer's name, address, and RFP number. Do not enclose in or attach proposal to sample. All samples become the property of The System.
- 4.2.4 **Oral Statements:** The System will not be bound by any oral statement or representation contrary to the written specifications of the RFP.
- 4.2.5 **Manufacturer's Warranty:** Manufacturer's standard warranty shall apply unless otherwise stated in the RFP.
- 4.2.6 **Warranty-Product:** Proposer shall not limit or exclude any implied warranties and any attempt to do so shall render any potential contract voidable at the option of The

System. Proposer warrants that the goods proposed and furnished will conform to the specifications, drawings, and descriptions listed in the RFP, and to the sample(s) furnished by Proposer, if any. In the event of a conflict between the specifications, drawings, and descriptions, the specifications shall govern.

- 4.2.7 **Secure Erase of Hard Disk Capability:** All equipment provided to The System that is equipped with hard disk drives (i.e., computers, telephones, printers, fax machines, scanners, multifunction devices, etc.) shall have the capability to securely erase data written to the hard drive prior to final disposition of such equipment, either at the end of the equipment's useful life or the end of the related services agreement for such equipment, in accordance with 1 TAC § Chapter 202.

### 4.3 NON-DISCLOSURE

No public disclosures or news releases pertaining to this RFP shall be made without prior written approval of The System.

### 4.4 CONFLICTS

In event of a conflict between standard proposal requirements and conditions and the attached detailed specification, the detailed specification shall govern.

### 4.5 PROPOSER AFFIRMATION

Submitting a proposal with a false statement is material breach of contract and shall void the submitted proposal or any resulting contracts, and the Proposer shall be removed from all proposal lists. By submitting a proposal, the Proposer herein affirms:

- 4.5.1 **Vendor Ethics - Gratuities:** As an agency of the State of Texas, The System holds the trust of the public. All Proposers and persons doing business with The System must provide the highest level of ethics and service in all business interactions. A Proposer shall not give, offer to give, nor intend to give at any time any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to an employee of The System that might reasonably appear to influence the employee in the discharge of official duties. The System may, by written notice to the Proposer, cancel any resulting contract without incurring liability if it determined that gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the Proposer, or any agent or representative of the Proposer, to any officer or employee of The System or its Components with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making or any determinations with respect to the performing of such a contract. In the event any contract resulting from this RFP is cancelled by The System pursuant to this provision, The System shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Proposer in providing such gratuities.
- 4.5.2 If Proposer is a taxable entity as defined by Chapter 171, Texas Tax Code ("Chapter 171"), then Proposer certifies that it is not currently delinquent in the payment of any



taxes due under Chapter 171, or that Proposer is exempt from the payment of those taxes, or that Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.

- 4.5.3 Neither the Proposer nor the firm, corporation, partnership, or institution represented by the Proposer, or anyone acting for such firm, corporation or institution has violated the antitrust laws of this State or the Federal Antitrust Laws nor communicated directly or indirectly the proposal made to any competitor or any other person engaged in such line of business.
- 4.5.4 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. By submitting a proposal in response to this RFP, Proposer certifies and affirms that: 1) Proposer has not received compensation for participation in the preparation of the specifications for this RFP; and 2) 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.
- 4.5.5 If applicable, pursuant to Texas Family Code, Title 5, Subtitle D, Section 231.006(d), regarding child support, the Proposer certifies that the individual or business entity named in this proposal is not ineligible to receive the specified payment and acknowledges that any contract resulting from this RFP may be terminated, and payment may be withheld if this certification is inaccurate. Furthermore, any proposer subject to Section 231.006 must include the names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the proposal. If awarded this RFP, Proposer will provide this information to The System prior to contract execution.
- 4.5.6 Pursuant to Section 2155.004 Texas Government Code regarding collection of state and local sales and use taxes, the Proposer certifies that the individual or business entity named in this proposal is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and/or payment withheld if this certification is inaccurate.
- 4.5.7 Proposer agrees that any payments due under any resulting contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.
- 4.5.8 Proposer certifies that they are in compliance with Texas Government Code, Title 6, Subtitle B, Section 669.003 of the Government Code, relating to contracting with the executive head of a State agency. If Section 669.003 applies, Proposer will submit the following information in response to this Section with their response in order for the proposal to be evaluated:

Name of Former Executive: \_\_\_\_\_

Name of State Agency: \_\_\_\_\_

Date of separation from State Agency: \_\_\_\_\_

Position with Proposer: \_\_\_\_\_

Date of Employment with Proposer: \_\_\_\_\_

4.5.9 Proposer represents and warrants that Proposer's provision of services or other performance under any contract resulting from this RFP will not constitute an actual or potential conflict of interest and represents and warrants that it will not reasonably create even the appearance of impropriety.

4.5.10 Proposer and any of its principals (including, but not limited to, an owner, proprietor, sole or majority shareholder, director, president, or managing partner) are not debarred, suspended, or otherwise excluded from doing business with The System.

4.5.11 Proposer certifies that if a Texas address is shown as the address of the Proposer on its proposal, Proposer qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.

#### **4.6 TERMS AND CONDITIONS ATTACHED TO RESPONSE**

Any terms and conditions attached to the proposal will not be considered unless referred to in the proposal (ref. **Section 10**).

## Section 5 – Scope of Work

The purpose of this RFP is to solicit proposals to enter into a contract with a qualified and experienced firm(s) to obtain timely and professional Services as described herein. The successful Proposer, if any, is referred to as the “**Contractor.**” Services described in this RFP will be provided to, and on behalf of, The System which includes TSUS Administration.

Proposers shall submit a complete response to all requirements and specifications set forth in this RFP. Proposers may expand or offer any additional suggestions and / or services that their firm feels may benefit The System in addition to the requirements listed in this RFP (ref. **Section 8.4**).

### Contractor will provide the following Services:

- 5.1 Phase 1: Conduct initial research to examine the current TSUS brand and how it is perceived by key publics.
- 5.2 Phase 2: Refresh, update, or evolve the TSUS brand to ensure its relevance in the current higher education landscape. Develop a messaging platform to tell the TSUS story.
- 5.3 Phase 3: Develop a marketing strategy to increase The System’s visibility, possibly including paid marketing, revisions to the TSUS website (www.tsus.edu) and social media platforms, collateral, and other communication products.
- 5.4 Phase 4: Create an “anthem video” for use by TSUS at events (e.g., athletic events graduation ceremonies, etc.), on digital assets, etc., to increase awareness of TSUS and demonstrate that Component Institutions are part of something bigger. **Note:** *Current media assets (video, images) may be accessible for use by Contractor.*
- 5.5 Provide additional as-needed support, as mutually agreed upon, to The System once initial Services are completed (ref. **Section 1.4**).

### 5.6 Payments to Contractor

- 5.6.1 The System will make milestone payments to Contractor as phases of the Project are completed.
- 5.6.2 Billable time, if any, for dedicated hours of work provided for as-needed support (ref. **Section 5.5**) includes, but is not limited to, travel time; communications and meetings with The System, external parties, and between Contractor staff; review of electronic correspondence and attachments; research; analysis; planning; budgeting and other administrative tasks performed to support The System.

Billable time will be tracked by Contractor and rounded to the nearest quarter hour.  
(*Note: Contractor will submit tracking information with invoices as support for payment amounts.*)

- 5.7** Perform additional duties, tasks or services not specifically identified but related to the Services described in this RFP if needed and when mutually agreed upon in writing by both parties.

## Section 6 – Pricing & Delivery

### 6.1 PRICING FOR WORK AND EXPENSES

Proposer shall include in response to this Section any and all costs associated with the Services (at a firm fixed price) as requested in **Section 5** or any other part of this solicitation. Pricing must be in United States Dollars and is considered all inclusive. The System will *not* reimburse Contractor for expenses.

**Indicate fee to be charged to The System for provision of Services:**

- A. Provide a pricing matrix in an editable format (preferably Excel) that includes the cost to complete the Services. The document will be named “**Proposer’s Itemized Pricing for Section 6.**” Format of the document can be of Proposer’s choosing but must clearly indicate costs related to the project phases (ref. **Section 5.1 – 5.4**) including a complete itemization of the various cost components and associated deliverables for each phase.
- B. Provide cost for each Phase (taken from **Proposer’s Itemized Pricing for Section 6** document) and the grand total cost for all phases below. *Do not include costs related to as-needed support in this table.*

PHASE	COST
Phase 1	\$
Phase 2	\$
Phase 3	\$
Phase 4	\$
<b>Grand Total:</b>	<b>\$</b>

### 6.2 DELIVERY

Indicate number of calendar days needed to commence performance of the Services after contract execution:

\_\_\_\_\_ Calendar Days

**6.3 INVOICING:** Invoices will be submitted by electronic means and must contain the resulting Agreement number and supporting documentation for the invoiced amounts as described in the Agreement.

**6.4 PAYMENT TERMS:** The System’s standard payment terms are “net 30 days” as mandated by the *Texas Prompt Payment Act* (ref. [Chapter 2251, Government Code](#)). The System will be entitled to withhold \_\_\_\_\_ percent (\_\_\_\_%) of the total payment due under the Agreement until after The System’s acceptance of the final work product.

Indicate below the prompt payment discount that Proposer offers:

Prompt Payment Discount: \_\_\_\_\_% \_\_\_\_\_ days/net 30 days.

The System, an agency of the State of Texas, is exempt from Texas Sales & Use Tax on goods and services in accordance with [§151.309, Tax Code](#), and [Title 34 TAC §3.322](#). Pursuant to [34 TAC §3.322\(c\)\(4\)](#), The System is not required to provide a tax exemption certificate to establish its tax exempt status.

**Section 7 – Execution of Offer**

**Proposer shall complete, sign, and submit this Execution of Offer with their proposal response. The Execution of Offer must be signed by an authorized officer of Proposer duly authorized to bind the Proposer to its proposal. Failure to sign the Execution of Offer will result in the rejection of proposal.**

**7.1** In compliance with this RFP, and subject to all the conditions herein, the undersigned offers and agrees to furnish any and all commodities or services at the prices quoted.

**7.2** By signature hereon, the offeror hereby certifies that he/she is not currently delinquent in payment of any franchise taxes owed the State of Texas under Chapter 11, Tax Code.

**7.3** By executing this offer, offeror represents and warrants that he/she has not given, offered, or intends to give at any time hereafter, any economic opportunity, future employment, gift loan, gratuity, special discount, trip, favor, or service to public servant in connection with the submitted offer. Failure to sign the offer, or signing it with a false statement, shall void the submitted offer or any resulting contracts, and the offeror shall be removed from all proposal lists.

**7.4** By the signature hereon affixed, the offeror hereby certifies that neither the offeror or the firm, corporation, partnership, or institution represented by the offeror or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in Section 15.01, et. seq., Texas Business and Commerce Code, or the Federal anti-trust laws, nor communicated directly or indirectly the offer made to any competitor or any other person engaged in such line of business. By signing this offer, offeror certifies that if a Texas address is shown as the address of the offeror, offeror qualified as a Texas Resident Proposer as defined in Rule 1 TAC 113.8.

**7.5 Acknowledgement of Addenda:** The undersigned Proposer hereby acknowledges receipt of the following Addenda issued as a part of this solicitation (initial only if applicable).

No. 1 \_\_\_\_\_ No. 2 \_\_\_\_\_ No. 3 \_\_\_\_\_ No. 4 \_\_\_\_\_ No. 5 \_\_\_\_\_  
**Note:** If there was only one (1) Addendum issued, initial just the first blank after No. 1, not all five (5) blanks above.

Federal Employer Identification Number (FEIN): \_\_\_\_\_

Proposer/Company: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name (typed/printed): \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ E-mail: \_\_\_\_\_

## Section 8 – Proposer’s Questionnaire

The Proposer recognizes that in selecting a Contractor, The System will rely in part on the answers provided in response to this Section. Accordingly, Proposer certifies that to the best of its knowledge, all responses are true, correct and complete.

All Proposals submitted must contain full and complete responses to each of the following questions about Proposer’s firm (“**Company**”). Proposer must demonstrate the ability to successfully provide the Services. If a Proposer cannot meet any qualifications or responsibilities, it must state that, and when appropriate, offer an alternative response. Failure to respond to any item listed may disqualify the Proposal.

### 8.1 COMPANY PROFILE

8.1.1 Provide the following information:

Legal name of Company	
Federal Tax ID #	
State of incorporation	
Identify the organizational status of the Company (i.e., corporation, partnership, or sole proprietorship). Include: <ul style="list-style-type: none"> <li>• date of incorporation,</li> <li>• name of corporate president / principals</li> </ul>	
Address of principal place of business	
Address of office that would be providing service under the Agreement	
Number of Employees	
Annual Revenue	
Name of Parent Corporation (if any)	

**NOTE: If Proposer is a subsidiary, The System prefers to enter into a contract or agreement with the Parent Corporation or to receive assurances of performance from the Parent Corporation.**



- 8.1.2 State whether Proposer will provide a copy of Company financial statements for the past two (2) years, if requested by The System.
- 8.1.3 Provide financial rating of Company and any related documentation (such as a Dunn and Bradstreet analysis) that indicates the financial stability of Proposer.
- 8.1.4 Provide a brief history of the Company. Indicate the number of years the Company has provided the type of services for which this proposal is submitted.
- 8.1.5 Is the Company licensed to solicit business in the State of Texas? If yes, include a copy of the license(s).
- 8.1.7 Disclose any relationships between Company and employees of The System:
- A. Is there any current or past relationship(s), including familial relationships through marriage or consanguinity, business relationships, capital-funding agreements or arrangements, or any other such similar business or personal relationship(s), between the Company and any employee, officer or Regent of The Texas State University System, including Component Institutions? If yes, please explain.
  - B. Does the Company have any current or former employees who are / were employees of The Texas State University System or Component Institutions? If yes, please explain.
  - C. Does the Company have any proposed personnel who are, or are related to, current or former employees of The Texas State University System or Component Institutions? If yes, please explain.
- 8.1.8 Is the Company currently for sale or involved in any transaction to expend or to become acquired by another business entity? If yes, please explain the impact both in organizational and directional terms.
- 8.1.9 Is the Company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, specify date(s), details, circumstances, and prospects for resolution.
- 8.1.10 Provide any details of all past or pending litigation or claims filed against the Company that would negatively impact the Company's performance under any agreement with The System.
- 8.1.11 Provide the name, title, email and telephone number of the individual who will serve as the primary day-to-day contact for The System should a contract be awarded to Company.

## **8.2 QUALITY OF SERVICE**

- 8.2.1 Discuss how Company maintains relationships with clients and provides high-level customer service to clients.

- 8.2.2 Describe the Company's plan to maintain effective communication with The System.
- 8.2.3 Will Company provide performance metrics (quarterly or yearly) to The System including suggested improvements and future roadmaps? If so, explain.
- 8.2.4 Describe the types of reports or other written documents Company will provide (if any) and the frequency of reporting, if more frequent than required in this RFQ. Include samples of reports and documents if appropriate.
- 8.2.5 Describe any difficulties Company anticipates in performing its duties under the Agreement with The System and how Company plans to manage these difficulties. Describe any assistance Company would require from The System.

### 8.3 MISCELLANEOUS

- 8.3.1 Provide a list of any additional services or benefits not otherwise identified in this RFP that Proposer would propose to provide to The System. Additional services or benefits must be directly related to the goods and services solicited under this RFP. Any additions, changes, or suggestions should be clearly described and defined in response to this section and included in Agreement redlines (ref. **Section 10**), for The System's consideration.
- 8.3.2 Provide details describing any unique or special services or benefits offered or advantages to be gained by The System from doing business with Company. Additional services or benefits must be directly related to the goods and services solicited under this RFP.
- 8.3.3 Indicate whether the Company intends to subcontract any of the work associated with the performance of the Services. If so, describe the roles of such subcontractors and Company's process in working with and integrating them into the successful performance of the Services.

*\*NOTE: If Proposer intends to subcontract any of the work in this RFQ and is selected for contract award, regardless of the HUB Subcontracting Plan (HSP) submittal requirement for this RFP (ref. **Section 3.2**), Proposer must submit a completed HSP to The System prior to execution of any Agreement regardless of whether Proposer is a certified Texas HUB or not.*

*Visit the Texas Comptroller of Public Account's webpage (<https://comptroller.texas.gov/purchasing/vendor/hub/forms.php>) to download the current "[HUB Subcontracting Plan Form](#)."*

### 8.4 ADDITIONAL CONSIDERATIONS

Describe any additions or changes to the Scope of Work that Company would suggest to successfully meet the objective of this RFP or that may be of benefit to The System. Any additions, changes or suggestions should be clearly described and defined in response to this section and included in Agreement redlines (ref. **Section 10**), for The System's consideration. The System reserves the right to incorporate any such additions, changes, or suggestions into the Agreement.

## Section 9 – Additional Questions Specific to RFP

The Proposer recognizes that in selecting a Contractor, The System will rely in part on the answers provided in response to this Section. Accordingly, Proposer certifies that to the best of its knowledge, all responses are true, correct and complete. The System reserves the right to contact each reference or contact name listed in response to this RFP at any time and shall be free from any liability to Proposer for conducting such inquiry. Failure to respond to any item in this section may disqualify the Response.

Per **Section 2.5** the RFP Evaluation Criteria, and relative weights of each, that will be used to evaluate Proposals are as follows:

<b>Evaluation Criteria</b>	<b>Weight</b>
Proposed Pricing	30%
Vendor Experience	30%
Project Approach	40%
<b>Total:</b>	<b>100%</b>

When considering 'best value' and award, The System reserves the right to set a minimum score requirement regarding the non-cost criteria listed in the table above.

Narratives provided in response to the criteria listed below must address the specific items noted with each criterion. Proposer must demonstrate the ability to successfully provide the Services. Proposer should note that, unless expressly permitted by this RFP, any of the following may lead to disqualification or affect scoring:

- Failure to fully disclose requested information;
- Failure to submit requested information, using the same numbering format and in the order asked below;
- Incomplete, inaccurate, materially misleading, or non-responsive submissions; or
- Conditional or qualified submissions (i.e., "to our knowledge", "to the extent of available information", "such information is not readily available", "such information is not maintained in the manner requested", etc.) to requests or questions posed.

To be considered, Proposer must submit the following information as part of Proposer's proposal:

### 9.1 VENDOR EXPERIENCE

- 9.1.1 Provide references from three (3) of Proposer's customers from the past five (5) years for services that are similar in scope, size, and complexity to the Services described in this RFP.

Provide the following information for each customer:

- Customer name and address;
- Contact name with email address and phone number;
- Time period in which work was performed;

- Short description of work performed.

9.1.2 Has Proposer worked with The System or one of the Component Institutions in the past five (5) years? If “yes,” state The System contact (or Component Institution name, department name, and department contact) and provide a brief description of work performed.

9.1.3 Describe Proposer’s experience (performing the type of work described in this RFP) in the higher education space. Provide examples of past projects undertaken with higher education clients.

*\*NOTE: Format of work examples can be either digital or print and must include a clear label and description indicating the example is being provided in response to this RFP section. If using printed examples, four (4) complete and individual copies must be provided.*

9.1.4 Provide additional examples of past work, with any client, that demonstrates Proposer’s qualifications to perform Services described in this RFP.

*\*NOTE: Format of work examples can be either digital or print and must include a clear label and description indicating the example is being provided in response to this RFP section. If using printed examples, four (4) complete and individual copies must be provided.*

9.1.5 Describe how Proposer has engaged the stakeholders of past clients to help inform brand identity and messaging going forward?

## 9.2 Project Approach

9.2.1 Describe the challenges of working on a project such as this. How will Proposer deal with these challenges to ensure ultimate success?

9.2.2 Describe Proposer’s high-level approach for this project. How will Proposer help TSUS find answers to the key questions (ref. **Section 1.3**) driving this project?

9.2.3 Describe the process Proposer will use to review the current TSUS brand and determine how TSUS is currently perceived and what distinguishes TSUS from other university systems in Texas.

9.2.4 How will Proposer determine the right messaging platform to tell the TSUS story? What is the best way to determine what the story is?

9.2.5 How will Proposer help TSUS to ensure the resulting brand is the best reflection of the system as a whole and the Component Institutions?

9.2.6 How will success be measured for this project? Describe any preliminary or subsequent metrics, surveys, etc. that will be used to determine success.

## SECTION 10 – General Terms & Conditions of Contract

The terms and conditions contained in the attached Agreement (ref. **APPENDIX ONE**) or, in the sole discretion of The System, terms and conditions substantially similar to those contained in the Agreement, will constitute and govern any contract that results from this RFP.

- 10.1 If Proposer agrees with the terms and conditions set forth in **APPENDIX ONE** as is, Proposer will acknowledge it in writing (ref. **Section 10.3 A**)
- 10.2 If Proposer has additional terms and conditions that it proposes to include in any contract or agreement resulting from this RFP (such as software license terms and conditions, participation forms, etc.) or if Proposer takes exception to any terms or conditions set forth in the Agreement, Proposer will acknowledge it in writing (ref. **Section 10.3 B and C**) and submit a redlined **APPENDIX ONE** (in the original editable format, i.e. Microsoft Word) as part of its proposal in accordance with **Section 3.3.4** of this RFP. Proposer's additions and exceptions will be reviewed by The System and may result in disqualification of Proposer's proposal as non-responsive to this RFP. If Proposer's additions and exceptions do not result in disqualification of Proposer's proposal, then The System may consider Proposer's additions and exceptions when The System evaluates the Proposer's proposal. The System will not be bound by or required to accept or agree to any terms and conditions that a Proposer includes (or fails to include) in its Proposal.

***Any addition, deletion, noted exception or other change made to the Agreement must be accompanied by a comment explaining Proposer's rationale for the edit. Failure to include all such terms and conditions in response to this RFP (incorporated into a redlined APPENDIX ONE per Section 10.3 C below) may result in Proposer's disqualification even after an award has been made.***

10.3 Regarding the Agreement (ref. **APPENDIX ONE**) Proposer:

- A. Agrees with the terms and conditions in the Agreement, has no additional terms, conditions, considerations or other documents to add to the Agreement:

Yes: \_\_\_\_\_ No: \_\_\_\_\_

- B. Takes exception to some of the terms and conditions or is proposing additions or changes for The System's consideration (ref. **Sections 8.3 and 8.4**):

Yes: \_\_\_\_\_ No: \_\_\_\_\_

- C. Has submitted additional terms and conditions, or other documents for consideration by The System in the form of a new Exhibit(s) to the Agreement:

Yes: \_\_\_\_\_ No: \_\_\_\_\_

*Exceptions cannot be taken to the RFP document itself, nor can it be redlined. These actions may result in Proposer's disqualification.*

**APPENDIX ONE**

**AGREEMENT**

The draft Agreement on the following pages has been prepopulated with relevant project information so Proposers can review and redline as instructed in this RFP (ref. **Section 3.8** and **Section 10**). Proposers will also update any text in *red* that is related to Proposer's firm (e.g., contractor name, FEIN #, point of contact, signatory information, etc.).

Guide to text in this document:

**PURPLE** text = Text to be provided by Procurement Officer before execution of agreement.

**RED** text = Text to be completed by the Proposer during the solicitation process.

***No edits shall be made without the track changes feature in Microsoft Word being engaged.***

**(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)**

**AGREEMENT BETWEEN**  
**THE TEXAS STATE UNIVERSITY SYSTEM**  
**AND**  
**INSERT CONTRACTOR NAME**

This non-exclusive agreement (**Agreement**) is entered into between **Insert Contractor Name (Contractor)**, Federal Tax Identification Number **Insert Contractor's FEIN #**, located in **Insert City, State**, and **The Texas State University System (The System)**, an agency and institution of higher education established under the laws of the State of Texas, and located in Austin, Texas. The number associated with this Agreement (**Agreement Number**) is: **Insert Agreement Number**.

The System includes the system administration office (**TSUS Administration**) and seven (7) component institutions (**Component Institutions**) that offer a broad range of academic and career opportunities:

- The Texas State University System Administration
- 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

In consideration of the mutual promises and covenants contained in the Agreement, The System and Contractor agree as follows:

**1. Services**

Contractor will perform the services (**Services**) set forth in **Exhibit A**, Scope of Work, to the satisfaction of The System and in accordance with The System's Request for Proposal (RFP) **#758-23-00083 Branding & Marketing Services** and Contractor's response to said RFP. Services will be provided to, and on behalf of, The System. Time is of the essence in connection with this Agreement. The System will have no obligation to accept late performance or waive timely performance by Contractor.

**2. Contract Term**

This Agreement is effective as of the later of **insert month, day, 2023**, or the date Agreement is fully executed by both parties (**Effective Date**). The term (**Initial Term**) of this Agreement will be for two (2) years, beginning on the Effective Date, unless earlier terminated in accordance with **Section 18**. The System will have the option to renew this Agreement for one (1) additional three (3) year term (**Renewal Term**). The Initial Term and the Renewal Term are collectively referred to as the **Term**.



### 3. Compensation

The System will compensate Contractor for services in accordance with **Exhibit B**, Pricing for Services. Total compensation to Contractor will not exceed the Contract Amount (ref. **Exhibit B, Section 1.5**) inclusive of all fees and expenses during the life of the Agreement.

The Agreement will not be effective for amounts exceeding one million dollars (\$1,000,000) unless preapproved by the Board of Regents of The Texas State University System.

### 4. Contractor's Obligations

- 4.1 **Permits, Certifications, and Licenses.** Contractor will obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local, laws, statutes, regulations and ordinances (collectively, **Applicable Laws**), for the performance of the Services.
- 4.2 Contractor will perform Services in compliance with (a) all Applicable Laws, and (b) the Board of Regents of The Texas State University System Rules and Regulations, the policies of The Texas State University System; and the institutional rules, regulations and policies of Component Institutions (collectively, **The System Rules**). 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 The System's procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for this Agreement.
- 4.3 Contractor will call to The System's attention in writing all information in any materials supplied to Contractor (by The System or any other party) that Contractor regards as unsuitable, improper or inaccurate in connection with the purposes for which the material is furnished.
- 4.4 The System at all times is relying on Contractor's skill and knowledge in performing Services. Contractor represents and warrants that Services will be accurate and free from any material defects. Contractor's duties and obligations under this Agreement will not be in any way diminished by reason of any approval by The System. Contractor will not be released from any liability by reason of any approval by The System.
- 4.5 Contractor will (a) use commercially reasonable efforts to perform Services in a good and workmanlike manner and in accordance with commercially reasonable standards of Contractor's profession or business, and (b) all Services to be performed will be of the quality that prevails among similar businesses engaged in providing similar services in major urban areas of the United States under the same or similar circumstances.

- 4.6 Contractor will, at its own cost, correct all material defects in Services as soon as practical after Contractor becomes aware of the defects. If Contractor fails to correct material defects in Services within a reasonable time, then The System may correct the defective Services at Contractor's expense. This remedy is in addition to, and not in substitution for, any other remedy for defective Services that The System may have at law or in equity.
- 4.7 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 Services to be duly registered and licensed under all Applicable Laws. Contractor will assign to the Project a designated representative who will be responsible for administration and coordination of Services. Contractor will furnish efficient business administration and coordination and perform Services in an expeditious and economical manner consistent with the interests of The System.
- 4.8 **Premise Rules.** If this Agreement requires Contractor's presence on The System's premises or in The System'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 The System Rules, including those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.
- 4.9 **Records.** Records of Contractor's costs, reimbursable expenses pertaining to the Covered Services and payments will be available to The System or its authorized representative during business hours and will be retained for four (4) years after final Payment or abandonment of the Covered Services, unless The System or Component Institution otherwise instructs Contractor in writing.
- 4.10 **Responsibility for Individuals Performing Services.** Each individual who is assigned to perform the Services under this Agreement will be an employee of Contractor or an employee of a subcontractor engaged by Contractor. Contractor is responsible for the performance of all individuals performing Services under this Agreement.

Contractor will determine on a case-by-case basis whether each individual assigned to perform the Services is qualified to provide the Services. Contractor will not knowingly assign any individual to provide services on The System or Component Institution's premises who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses.

Prior to commencing performance of Services under this Agreement, Contractor will provide The System a letter signed by an authorized representative of Contractor certifying compliance with this Section. Contractor will be responsible for providing The System an updated certification letters each time there is a change in the individuals assigned to perform the Services.

- 4.11 **Records Retention Requirements for Agreements Over One Million.** If the value of this Agreement ever exceeds a total value of one million dollars, and in

accordance with Section 552.372 of the [Texas Government Code](#), Contractor agrees to:

- A. preserve all contracting information (as this term is defined in Texas Government Code, Section 552.003 (7)) related to this Agreement in accordance with the records retention requirements applicable to The System for the duration of this Agreement;
- B. promptly provide to The System any contracting information related to this Agreement that is in the custody or possession of Contractor on request of The System; and
- C. on completion of this Agreement, either: (1) provide at no cost to The System all contracting information related to this Agreement that is in the custody or possession of Contractor, or (2) preserve the contracting information related to this Agreement in accordance with the records retention requirements applicable to The System.

Contractor further agrees that the requirements of Subchapter J, Chapter 552, [Texas Government Code](#), may apply to this Agreement and the Contractor agrees that the Agreement can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

## 5. Contractor's Certifications

- 5.1 **Entities that Boycott Israel.** Pursuant to Chapter 2270.002 of the [Texas Government Code](#), Contractor certifies that either (1) it meets an exemption criterion under Section 2270.002; or (2) it does not boycott Israel and will not boycott Israel during the term of the Agreement. Contractor shall state in this Agreement any facts that make it exempt from the boycott certification.
- 5.2 **Foreign Terrorist Organizations.** Pursuant to Chapter 2252.152 of the [Texas Government Code](#), Contractor certifies Contractor is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 5.3 **Excluded Parties.** Contractor certifies that it is not listed in the prohibited vendors list authorized by Executive Order No. 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.
- 5.4 **Suspension and Debarment.** Pursuant to and in compliance with [Executive Orders](#) 12549 and 12689 and Section 180.300 of the [Code of Federal Regulations](#), The System cannot purchase goods and / or secure services from vendors that have been debarred, suspended, proposed for debarment, or otherwise excluded from or ineligible to participate in Federal or State assistance programs or activities. Contractor certifies that, to the best of its knowledge, Contractor and / or

its Principals are not suspended, debarred, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts by the Federal government and / or the State of Texas. Contractor further certifies that it is not subject to a vendor hold by the State of Texas and / or that it is not subject to debarment or suspension by the Texas Comptroller. If it is ever determined that Contractor is suspended or debarred from doing business with the State of Texas or U.S. Federal government, The System may immediately terminate the Agreement and will not issue any payment for goods / services rendered.

- 5.5 **Eligibility Certifications (Financial Participation Prohibited / Prior Disaster Relief Contract Violation).** Pursuant to Sections 2155.004 and 2155.006, [Texas Government Code](#), Contractor certifies that the individual or business entity named in the Agreement is not ineligible to receive the award of or payments under the Agreement and acknowledges that the Agreement may be terminated and payment withheld if these certifications are inaccurate.
- 5.6 **Human Trafficking.** Under Section 2155.0061 of the [Texas Government Code](#), Contractor certifies that the individual or business entity named in this Agreement is not ineligible to receive the specified contract and acknowledges that this Agreement may be terminated, and payment withheld if this certification is inaccurate.
- 5.7 **Restricted Employment for Certain State Personnel.** Pursuant to Section 572.069 of the [Texas Government Code](#), Contractor certifies that it has not employed and will not employ a former state officer or employee who participated in a procurement or contract negotiations for The System involving Contractor within two (2) years after the date that the Agreement is signed or the procurement is terminated or withdrawn. This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.
- 5.8 **Child Support Obligation Certification.** Pursuant to [§231.006, Texas Family Code](#), Contractor certifies it is not ineligible to receive the award of or payments under this Agreement, and acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.
- 5.9 **Tax Certification.** If Contractor is a taxable entity as defined by [Chapter 171, Texas Tax Code](#), then Contractor certifies it is not currently delinquent in the payment of any taxes due under Chapter 171, Contractor is exempt from the payment of those taxes, or Contractor is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable.
- 5.10 **Computer Equipment Recycling Program.** If applicable, Contractor certifies that it is in compliance with Subchapter Y, Chapter 361 of the [Texas Health and Safety Code](#) related to the Computer Equipment Recycling Program and the Texas Commission on Environmental Quality rules in 30TAC Chapter 328.

- 5.11 **Firearm Entities and Trade Associations Discrimination.** Pursuant to Chapter 2274 of the [Texas Government Code](#), for Orders that exceed \$100,000 Contractor verifies that it:
- (1) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and
  - (2) will not discriminate during the term of the Agreement against a firearm entity or firearm trade association.
- 5.12 **Energy Company Boycotts.** Pursuant to Chapter 2274 of the [Texas Government Code](#), for Agreements that exceed \$100,000, Contractor certifies that it:
- (1) does not boycott energy companies as defined in Section 809.001 (1)(A) Texas Government Code (i.e., fossil fuel companies); and
  - (2) will not boycott energy companies during the term of the Agreement.
- 5.13 **Vaccine Passport Prohibition.** Contractor certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded contract.
- 5.14 **Critical Infrastructure Affirmation.** Pursuant to Section 2274.0102 of [Texas Government Code](#), Contractor certifies that neither it nor its parent company, nor any affiliate of Contractor or its parent company, is:
- (1) majority owned or controlled by citizens or governmental entities of China, Iran, North Korea, Russia, or any other country designated by the Governor under Section 2274.0103 of Texas Government Code, or
  - (2) headquartered in any of those countries.
- 5.16 **Disclosure of Prior State Employment.** In accordance with Section 2254.033 of the [Texas Government Code](#), relating to consulting services, Contractor certifies that it does not employ an individual who has been employed by The System or another state agency at any time during the two years preceding the Agreement or, in the alternative, Contractor has disclosed in its Response the following: (i) the nature of the previous employment with System or the other agency; (ii) the date the employment was terminated; and (iii) the annual rate of compensation for the employment at the time of its termination.

## 6. Representations and Warranties by Contractor.

- 6.1 Contractor warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary

approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.

- 6.2 **Lobbying Prohibition.** Contractor represents and warrants that The System's payments to Contractor and Contractor's receipt of appropriated or other funds under the contract are not prohibited by Sections 556.005 or 556.0055 of the [Texas Government Code](#).
- 6.3 **Ethics Matters; No Financial Interest.** Contractor and its employees, agents, representatives and subcontractors have read and understand The System's Conflicts of Interest Policy and Code of Ethics at <https://www.tsus.edu/about-tsus/policies.html> and applicable state ethics laws and rules. Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause The System employees to violate The System's Conflicts of Interest Policy. Contractor represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement. Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause The System employees to violate The System's Conflicts of Interest Policy, The System's Ethics Code, or applicable state ethics laws or rules. Contractor represents and warrants that no member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.
- 6.4 Contractor represents and warrants that all of Contractor's Personnel contributing to Work Material (ref. **Section 7.1**) under this Agreement will be required to (i) acknowledge in writing the ownership of Contractor (for the benefit of The System) of Work Material produced by Personnel while performing services pursuant to this Agreement, and (ii) make all assignments necessary to effectuate such ownership. **Personnel** means any and all persons associated with Contractor who provide any work or work product pursuant to this Agreement, including officers, managers, supervisors, full-time employees, part-time employees, and independent contractors.
- 6.5 Contractor represents and warrants that: (i) Services 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 The System); (ii) The System will receive free, good and clear title to all Work Material developed under this Agreement; (iii) Work Material and the intellectual property rights protecting Work Material are free and clear of all encumbrances, including security interests, licenses, liens, charges and other restrictions; (iv) 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 Work Material will not violate the rights of any third parties in Work Material, including trade secret, publicity, privacy, copyright, trademark, service mark and patent rights.
- 6.6 In accordance with Section 2252.901 of the [Texas Government Code](#), Contractor represents and warrants that none of its employees including, but not limited to,

those authorized to provide services under the contract, were former employees of The System during the twelve (12) month period immediately prior to the date of execution of the Agreement.

## 7. Ownership and Use of Work Material (Property Rights)

- 7.1 **Work Material.** All tools, software, programs, renderings, drawings, specifications, plans, computations, data, photographs, records, models, statements, reports, studies, and other deliverables or materials prepared or produced by Contractor Parties in connection with the Services (collectively, the Work Material), whether or not accepted or rejected by The System, are the property of The System and for The System's exclusive use and re-use at any time without further compensation and without any restriction. Contractor grants and assigns to The System all rights in and claims to the Work Material and will cooperate with The System in obtaining or enforcing The System's rights and claims. Contractor will not use the Work Material except as expressly authorized by this Agreement.
- 7.2 **Patents or Copyrights.** Contractor will not apply for any copyright, patent or other property right related to the Work Material. Contractor agrees to protect The System from claims involving infringement of patents or copyrights.
- 7.3 Contractor will deliver all Work Material to The System upon expiration or termination of this Agreement. The System will have the right to use Work Material for the completion of Work or otherwise. The System may, at all times, retain the originals of Work Material. Work Material will not be used by any person other than The System on other projects unless expressly authorized by The System in writing.
- 7.4 Work Material will not be used or published by Contractor or any other party unless expressly authorized by The System in writing. Contractor will treat all Work Material as confidential.
- 7.5 All title and interest in Work Material will vest in The System and will be deemed to be work made for hire and made in the course of Work rendered under this Agreement. To the extent that title to any Work Material may not, by operation of law, vest in The System or Work Material may not be considered works made for hire, Contractor irrevocably assigns, conveys and transfers to The System and its successors, licensees and assigns, all rights, title and interest worldwide in and to Work Material and all proprietary rights therein, including all copyrights, trademarks, service marks, patents, trade secrets, moral rights, all contract and licensing rights and all claims and causes of action with respect to any of the foregoing, whether now known or hereafter to become known. In the event Contractor has any rights in Work Material which cannot be assigned, Contractor agrees to waive enforcement worldwide of the rights against The System, its successors, licensees, assigns, distributors and customers or, if necessary, to exclusively license the rights, worldwide to The System with the right to sublicense. These rights are assignable by The System.

## 8. Right to Audit



- 8.1 **Right to Audit.** Contractor agrees that The System, or any of its duly authorized representatives, at any time during the term of the Agreement, will have access to, and the right to audit and examine, any relevant books, documents, papers, and records of Contractor and related Contractor charges incurred in its performance under this Agreement. Such records will be kept by Contractor for a period of four years after Final Payment under this Agreement. Contractor agrees to refund The System within thirty days of being notified by The System of any overpayments disclosed by any audits.
- 8.2 **State Auditor's Right to Audit.** Contractor understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the State of Texas Auditor's Office or any successor agency (**Auditor**), to conduct an audit or investigation in connection with those funds. Contractor shall cooperate with the State Auditor's Office in the conduct of the audit or investigation, including providing all records requested. Contractor shall ensure that this paragraph concerning the State's authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards. Additionally, the State Auditor's Office shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, audit documentation, and records of the Contractor relating to this contract for any purpose.

## 9. Notices

Except as otherwise provided by this Section, notices, consents, approvals, demands, requests or other communications required or permitted under this Agreement, will be in writing and sent via certified mail, hand delivery, overnight courier, facsimile transmission (to the extent a facsimile number is provided below), or email (to the extent an email address is provided below) as indicated 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 (to the extent a facsimile number is provided below) or email (to the extent an email address is provided below), when received:

If to The System: The Texas State University System  
 Attention: Vice Chancellor and CFO  
 601 Colorado Street  
 Austin, TX 78701

Or via email: [finance@tsus.edu](mailto:finance@tsus.edu)

If to Contractor: **INSERT CONTRACTOR NAME**  
 Attn: **INSERT "ATTENTION TO" NAME**  
**INSERT ADDRESS**  
**INSERT CITY, ST, ZIP**



Or via email: *INSERT CONTACT EMAIL*

or other person or address as may be given in writing by either party to the other in accordance with this Section.

#### 10. Indemnification

**CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY THE SYSTEM, AND HOLD HARMLESS THE SYSTEM AND THEIR 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, IN CONNECTION WITH, OR RESULTING FROM THIS AGREEMENT OR THE GOODS OR SERVICES PROVIDED UNDER THIS AGREEMENT, TO THE EXTENT CAUSED, IN WHOLE OR IN PART, BY THE ACTS, OMISSIONS, OR WILLFUL MISCONDUCT OF CONTRACTOR, OR IT AGENTS, EMPLOYEES, SUBCONTRACTORS, SUPPLIERS OR ANYONE DIRECTLY EMPLOYED BY CONTRACTOR OR ANYONE FOR WHOSE ACTS CONTRACTOR MAY BE LIABLE. THE FOREGOING SHALL NOT APPLY IF DUE TO THE NEGLIGENCE OR WILLFUL MISCONDUCT OF THE INDEMNITEES. IN ADDITION, CONTRACTOR WILL INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY THE SYSTEM, AND HOLD HARMLESS THE INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER INTELLECTUAL PROPERTY RIGHTS ARISING OUT OF, IN CONNECTION WITH, OR RESULTING FROM THIS AGREEMENT OR THE GOODS OR SERVICES PROVIDED UNDER THIS AGREEMENT. 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. IN THE EVENT OF LITIGATION, THE SYSTEM AGREES TO COOPERATE REASONABLY WITH CONTRACTOR. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.**

#### 11. Limitations

THE PARTIES ARE AWARE THAT THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS ON THE AUTHORITY OF THE SYSTEM (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS OF THE AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THOSE TERMS AND CONDITIONS RELATING TO LIENS ON THE SYSTEM'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 THE SYSTEM EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.

## 12. Sovereign Immunity

Notwithstanding any provision of the Agreement, nothing herein shall be construed as a waiver by The System of its constitutional, statutory or common law rights, privileges, immunities or defenses. To the extent the terms of this paragraph conflicts with any other provision in the Agreement, the terms of this paragraph shall control.

## 13. Cybersecurity Training Program

Pursuant to Section 2054.5192, [Texas Government Code](#), Contractor and its subcontractors, officers, and employees, who are provided credentials granting access to The System's computer system also known as The System's information system, must complete a cybersecurity training program certified under Section 2054.519, [Texas Government Code](#) as selected by The System. The cybersecurity training program must be completed during the Initial Term and any renewal period of this Agreement. Contractor shall verify in writing completion of the program to The System within the first thirty (30) calendar days of the Term and any renewal period of this Agreement. Failure to comply with the requirements of this section are grounds for termination for cause of this Agreement.

## 14. Undocumented Workers / Immigration

The *Immigration and Nationality Act* ([8 USC §1324a](#)) (**Immigration Act**) makes it unlawful for an employer to hire or continue employment of undocumented workers. The United States Immigration and Customs Enforcement Service has established the [Form I-9 Employment Eligibility Verification Form \(I-9 Form\)](#) as the document to be used for employment eligibility verification ([8 CFR §274a](#)). Among other things, Contractor is required to: (1) have all employees complete and sign the I-9 Form certifying that they are eligible for employment; (2) examine verification documents required by the I-9 Form to be presented by the employee and ensure the documents appear to be genuine and related to the individual; (3) record information about the documents on the I-9 Form, and complete the certification portion of the I-9 Form; and (4) retain the I-9 Form as required by Applicable Laws. It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status. If Contractor employs unauthorized workers during performance of this Agreement in violation of the Immigration Act, then, in addition to other remedies or penalties prescribed by Applicable Laws, The System may terminate this Agreement in accordance with **Section 18** Contractor represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Act.

## 15. Independent Contractor

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 venturer, or agent of The System. Contractor will not bind nor attempt to bind The System 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.

- 16. Confidentiality and Safeguarding of System Records; Press Releases; Public Information.** Under this Agreement, Contractor may (1) create, (2) receive from or on behalf of The System, or (3) have access to, records or record systems (collectively, **System Records**). Among other things, System Records may contain social security numbers, credit card numbers, or data protected or made confidential or sensitive by Applicable Laws, including student records and protected health information as defined by the [Health Insurance Portability and Accountability Act](#) and [45 Code of Federal Regulations \(CFR\) Part 160](#) and [subparts A and E of Part 164](#) (collectively, **HIPAA**). Additional mandatory confidentiality and security compliance requirements with respect to System Records subject to the Family Educational Rights and Privacy Act, [20 United States Code \(USC\) §1232g](#) (**FERPA**) are addressed in **Section 19.23**. Contractor represents, warrants, and agrees that it will: (1) hold System Records in strict confidence and will not use or disclose System Records except as (a) permitted or required by this Agreement, (b) required by Applicable Laws, or (c) otherwise authorized by The System in writing; (2) safeguard System Records according to reasonable administrative, physical and technical standards (such as standards established by the National Institute of Standards and Technology and the Center for Internet Security) 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 System Records are safeguarded and the confidentiality of System Records is maintained in accordance with all Applicable Laws and the terms of this Agreement; and (4) comply with the TSUS Information Security Policy detailed in Appendix A-3, *The Texas State University System Rules and Regulations* at <https://www.tsus.edu/about-tsus/policies.html>. At the request of The System, Contractor agrees to provide The System within ten (10) calendar days with a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of System Records.

**16.1 Notice of Impermissible Use.** If an impermissible use or disclosure of any System Records occurs, Contractor will provide written notice to The System within one (1) business day after Contractor's discovery of that use or disclosure. Contractor will promptly provide The System with all information requested by The System regarding the impermissible use or disclosure.

**16.2 Return of System Records.** Contractor agrees that within thirty (30) days after the expiration or termination of this Agreement, for any reason, all System Records created or received from or on behalf of The System will be (1) returned to The System, with no copies retained by Contractor; or (2) if return is not feasible, destroyed. Twenty (20) days before destruction of any System Records, Contractor will provide The System with written notice of Contractor's intent to destroy System Records. Within five (5) days after destruction, Contractor will confirm to The System in writing the destruction of System Records.

- 16.3 **Disclosure.** If Contractor discloses any System 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.
- 16.4 **Media / Press Releases.** Except when defined as part of Covered Services, Contractor will not make any press releases, public statements, or advertisement referring to the Services or the engagement of Contractor as an independent contractor of The System in connection with the Services or release any information relative to the Services for publication, advertisement or any other purpose without the prior written approval of The System.
- 16.5 **Public Information Act.** The System 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 (TPIA)*, [Chapter 552, Texas Government Code](#). In accordance with [§§552.002](#) and [2252.907, Texas Government Code](#), and at no additional charge to The System, Contractor will make any information created or exchanged with The System pursuant to this Agreement (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by The System that is accessible by the public.
- 16.6 **Termination.** In addition to any other termination rights in this Agreement and any other rights at law or equity, if The System reasonably determines that Contractor has breached any of the restrictions or obligations in this Section, The System may immediately terminate this Agreement without notice or opportunity to cure.
- 16.7 **Duration.** The restrictions and obligations under this Section will survive expiration or termination of this Agreement for any reason.

## 17. Insurance Requirements

Prior to commencement of any work, and at all times, during the term of this Agreement, Contractor must obtain and maintain the minimum insurance coverages set forth below. Contractor is not relieved of any liability or other obligations assumed or pursuant to the Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

- 17.1 **Workers' Compensation Insurance** with statutory limits for the State of Texas, and Employer's Liability Insurance with limits of not less than:

Employers Liability - Each Accident - \$1,000,000  
 Employers Liability - Each Employee - \$1,000,000  
 Employers Liability - Policy Limit - \$1,000,000

Policies must include (a) Other States Endorsement to include TEXAS if business is domiciled outside the State of Texas, and (b) a waiver of all rights of subrogation and other rights in favor of The System.

17.2 **Commercial General Liability Insurance** with limits of not less than:

Each Occurrence Limit - \$1,000,000  
 Damage to Rented Premises - \$300,000  
 Medical Expenses (any one person) - \$10,000  
 Personal & Advertising Injury - \$1,000,000  
 General Aggregate - \$2,000,000  
 Products - Completed Operations Aggregate - \$2,000,000

Policy must include independent contractor's liability, covering, but not limited to, the liability assumed under the indemnification provision of this contract, fully insuring Contractor's (or Subcontractor's) liability for bodily injury (including death) and property damage.

17.3 **Business Auto Liability Insurance** covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 Combined Single Limit Bodily Injury and Property Damage.

17.4 **Professional Liability Insurance (Errors and Omissions)** with limits of not less than \$1,000,000 per claim and \$2,000,000 annual aggregate.

17.5 **Aviation Insurance (including coverage for Drones)** with limits of not less than \$1,000,000 and coverage extended to Bodily Injury, Property Damage, Personal Injury and Advertising Injury.

17.6 **Additional insurance requirements:**

A. Insurance must be placed with insurers duly licensed or authorized to do business in the state of Texas and with an "A.M. Best" rating of not less than A- VII.

B. Before the commencement of any work, Contractor must furnish to The System's Risk Manager an original, latest edition Certificate of Insurance written on a standard ACORD form acceptable to The System, evidencing that it has procured the insurance required herein. The System reserves the right to require Contractor to provide updated certificates of insurance, declaration pages, and/or endorsements evidencing the terms and conditions required herein at any time. Contractor must replace all such certificates with new ones within 10 days of expiration. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project.

C. With the exception of Workers' Compensation, Employer's Liability, and Professional Liability, The System, its officers, employees, agents, and volunteers must be included as additional insureds with respect to liability arising out of the activities performed by, or on behalf of, the Contractor.

Commercial General Liability must include The System and its officers, employees, agents, and volunteers as additional insureds for both on-going and completed operations.

- D. All policies must be endorsed to provide a waiver of subrogation in favor of The System.
- E. All policies of insurance must be endorsed to be primary and non-contributory with any insurance coverages and/or self-insurance maintained by The System.
- F. All insurance policies must provide for written notice of cancellation to be sent to The System in accordance with policy provisions. In the event of notice of cancellation of or material change in any insurance required herein, within two (2) days upon receiving such notice, Contractor shall provide written notice to The System.
- G. Contractor must require and verify that any and all contractors, architects, engineers and other consultants which are not protected under Contractor's own insurance policies maintain insurance of the same nature and in the same amounts as required of Contractor in this Agreement.

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

- A. Commercial General Liability Insurance and Business Automobile Liability Insurance will be kept in force until receipt of Final Payment by The System to Contractor.
- B. Workers' Compensation Insurance and Employer's Liability Insurance will be kept in force until Services have been fully performed and accepted by The System in writing.
- C. If any insurance coverage required herein is written on a "claims made" basis, the policy retroactive date must precede the effective date of this Agreement and must not be advanced during the term of this Agreement. Contractor agrees that such coverage must remain in force, either by maintaining continuous "claims made" coverage or by purchasing an extended reporting option, until the applicable preemptive period or statute of repose for any claims has expired. Contractor must provide The System with proof of continuous coverage at the time the policy is renewed.

**18. Default and Termination**

- 18.1 Termination for Default.** In the event of a material failure by a party to this Agreement to perform in accordance with its terms (**default**), the other party may terminate this Agreement upon thirty (30) days' written notice of termination setting

forth the nature of the material failure; provided, that, the material failure is through no fault of the terminating party. The termination will not be effective if the material failure is fully cured prior to the end of the thirty-day (30-day) period.

- 18.2 **Termination for Convenience.** The System may, without cause, terminate this Agreement at any time upon giving thirty (30) days' written notice to Contractor. Upon termination pursuant to this Section, Contractor will be entitled to payment of an amount that will compensate Contractor for Services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Agreement; provided, that, Contractor has delivered all Work Material to The System. Notwithstanding any provision in this Agreement to the contrary, The System will not be required to pay or reimburse Contractor for any services performed or for expenses incurred by Contractor after the date of the termination notice, that could have been avoided or mitigated by Contractor.
- 18.3 The System may terminate this Agreement immediately with no further notice if Contractor: (a) petitions for reorganization under the Bankruptcy Code or is adjudged bankrupt; (b) becomes insolvent; or (c) makes a general assignment or sale of Contractor's assets or business for the benefit of creditors.
- 18.4 Termination under this Section does not relieve Contractor or any of its employees, subcontractors or agents from liability for any default or breach under this Agreement or any other act or omission of Contractor.

## 19. General

- 19.1 **Loss of Funding.** Performance by The System under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (**Legislature**) and/or allocation of funds by the Board of Regents of The Texas State University System (**Board**). If the Legislature fails to appropriate or allot necessary funds, or the Board fails to allocate necessary funds, then The System will issue written notice to Contractor and The System may terminate this Agreement without further duty or obligation. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond The System's control.
- 19.2 **Exclusivity.** This Agreement is not exclusive, and The System may engage other vendors or use its own employees to perform Services.
- 19.3 **Governing Law and Venue.** The Agreement and all claims arising from the Agreement shall be interpreted and construed in accordance with the laws of the State of Texas, without regard to its conflict of laws principles. Any judicial action or proceeding between the parties relating to the Agreement and all claims arising from the Agreement shall be brought in the federal or state courts serving Travis County in the State of Texas.
- 19.4 **Buy Texas Affirmation.** If Contractor will provide services under the Agreement, Contractor covenants and agrees that in accordance with Section 2155.4441, [Texas Government Code](#), in performing its duties and obligations under the Agreement, Contractor will purchase products and materials produced in Texas



when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

- 19.5 **Force Majeure.** Except as otherwise provided, neither Contractor nor The System, 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, incidents of force majeure will include but are not limited to the following: acts of God, strikes, epidemics and pandemics, war, riots, flood, fire, sabotage, or any other circumstances of like character. 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.
- 19.6 **Assignment and Subcontractors.** Except as specifically provided in **EXHIBIT C**, Subcontracting of Services, 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 The System; and (b) be a breach of this Agreement for which Contractor will be subject to all remedial actions provided by Applicable Laws, including [Chapter 2161, Texas Government Code](#), and [34 TAC §§20.285\(g\)\(5\), 20.585 and 20.586](#). The benefits and burdens of this Agreement are assignable by The System.
- 19.7 **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.
- 19.8 **Trademark License and Ownership.** Nothing in this Agreement permits Contractor to use The System's logo, trademark, service mark, any Component Institution or The Texas State University System name or likeness and Contractor understands and agrees that such use is strictly prohibited. Additionally, the Contractor is prohibited from referencing The System or Component Institution in any form of marketing or media, including websites, social media and print media. The System may immediately terminate this Agreement in the event of a breach of this provision by the Contractor. This provision shall remain in effect after the termination or expiration of this Agreement.
- 19.9 **Entire Agreement; Modifications.** The Agreement (including all exhibits, schedules, supplements and other attachments (collectively, **Exhibits**)) supersedes all prior agreements, written or oral, between Contractor and The System and will constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. The Agreement and each of its provisions will be binding upon the parties and may not be waived, modified, amended or altered except in writing signed by The System and Contractor.



- 19.10 **Captions.** The captions of sections and subsections in this Agreement are for convenience only and will not be considered or referred to in resolving questions of interpretation or construction.
- 19.11 **Title and Risk of Loss.** Title to and risk of loss to any goods to be delivered under this Agreement will not pass to The System until The System actually receives and takes possession of such goods at the point of delivery.
- 19.12 **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors.
- 19.13 **Severability.** In case any provision of this Agreement will, for any reason, be held invalid or unenforceable in any respect, the invalidity or unenforceability will not affect any other provision of this Agreement, and this Agreement will be construed as if the invalid or unenforceable provision had not been included.
- 19.14 **Limitation of Liability.** EXCEPT FOR THE SYSTEM'S OBLIGATION (IF ANY) TO PAY CONTRACTOR CERTAIN FEES AND EXPENSES THE SYSTEM WILL HAVE NO LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT. NOTWITHSTANDING ANY DUTY OR OBLIGATION OF THE SYSTEM TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR, NO PRESENT OR FUTURE AFFILIATED ENTERPRISE, SUBCONTRACTOR, AGENT, OFFICER, DIRECTOR, EMPLOYEE, REPRESENTATIVE, ATTORNEY OR REGENT OF THE SYSTEM, OR THE TEXAS STATE UNIVERSITY SYSTEM, OR ANYONE CLAIMING UNDER THE SYSTEM HAS OR WILL HAVE ANY PERSONAL LIABILITY TO CONTRACTOR OR TO ANYONE CLAIMING THROUGH OR UNDER CONTRACTOR BY REASON OF THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT.
- 19.15 **Survival of Provisions:** No expiration or termination of this Agreement will relieve either party of any obligations under this Agreement that by their nature survive expiration or termination.
- 19.16 **Dispute Resolution.** To the extent that Chapter 2260, [Texas Government Code](#), is applicable to the Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, will be used by The System and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The chief business officer of The System will examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve such claims. The parties specifically agree that (i) neither the execution of the Agreement by The System nor any other conduct, action or inaction of any representative of The System relating to the Agreement constitutes or is intended to constitute a waiver of The System's or the state's sovereign immunity to suit; and (ii) The System has not waived its right to seek redress in the courts.

- 19.17 **Enforcement.** Contractor agrees and acknowledges that The System is entering into this Agreement in reliance on Contractor's special and unique knowledge and abilities with respect to performing Services. Contractor's services provide a peculiar value to The System. The System cannot be reasonably or adequately compensated in damages for the loss of Contractor's services. Accordingly, Contractor acknowledges and agrees that a breach by Contractor of the provisions of this Agreement will cause The System irreparable injury and damage. Contractor, therefore, expressly agrees that The System will be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement.
- 19.18 **Office of Inspector General Certification.** Contractor acknowledges that The System is prohibited by federal regulations from allowing any employee, representative, agent or subcontractor of Contractor to work on site at The System's premises or facilities if that individual is not eligible to work on federal healthcare programs including Medicare, Medicaid, or other similar federal programs. Therefore, Contractor will not assign any employee, representative, agent or subcontractor that appears on the List of Excluded Individuals issued by the United States Office of the Inspector General (**OIG**) to work on site at The System's premises or facilities. Contractor will perform an OIG sanctions check quarterly on each of its employees, representatives, agents, and subcontractors during the time the employees, representatives, agents, or subcontractors are assigned to work on site at The System's premises or facilities. Contractor acknowledges that The System will require immediate removal of any employee, representative, agent, or subcontractor of Contractor assigned to work at The System's premises or facilities if the employee, representative, agent, or subcontractor is found to be on the OIG's List of Excluded Individuals. The OIG's List of Excluded Individuals may be accessed through the following Internet website: <https://exclusions.oig.hhs.gov/>
- 19.19 **Access to Documents.** To the extent applicable to this Agreement, in accordance with §1861(v)(1)(i) of the Social Security Act ([42 USC §1395x](#)) as amended, and the provisions of [42 CFR §420.300 et seq.](#), Contractor will allow, during and for a period of not less than four (4) years after the expiration or termination of this Agreement, access to this Agreement and its books, documents, and records; and contracts between Contractor and its subcontractors or related organizations, including books, documents and records relating to same, by the Comptroller General of the United States, the U.S. Department of Health and Human Services and their duly authorized representatives.
- 19.20 **Occupational Safety and Health (OSHA) Compliance.** To the extent applicable to the services to be performed under this Agreement, Contractor represents and warrants, that all articles and services furnished under this Agreement meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law ([Public Law 91-596](#)) and its regulations in effect or proposed as of the date of this Agreement.

- 19.21 **Nondiscrimination.** In their execution of the Agreement the parties and others acting by or through them shall comply with all federal and state laws prohibiting discrimination, harassment, and sexual misconduct. To the extent not in conflict with federal or state law, the parties agree not to discriminate on the basis of race, color, national origin, age, sex, religion, disability, veterans' status, sexual orientation, gender identity or gender expression. Any breach of this covenant may result in termination of the Agreement.
- 19.22 **External Terms.** This Agreement completely supplants, replaces, and overrides all other terms and conditions or agreements, written or oral, concerning Contractor's performance or provision of goods or services under this Agreement (**External Terms**). External Terms are null and void and will have no effect under this Agreement, even if The System or its employees, contractors, or agents express assent or agreement to External Terms. External Terms include any shrinkwrap, clickwrap, browsewrap, web-based terms and conditions of use, and any other terms and conditions displayed in any format that The System or its employees, contractors, or agents are required to accept or agree to before or in the course of accessing or using any goods or services provided by Contractor.
- 19.23 **FERPA Compliance.** Some of the System Records Contractor receives, creates or maintains for or on behalf of The System may constitute **Education Records** (as defined by [FERPA](#)), or **Personally Identifiable Information from Education Records** (as defined by [FERPA](#)) (collectively, **FERPA Records**). Contractor will hold The System FERPA Records in strict confidence. Contractor will not use or disclose FERPA Records received from or on behalf of The System, except as permitted or required by this Agreement in order to execute required Services to The System. Contractor will use the administrative, technical and physical security measures, including secure encryption in the case of electronically maintained or transmitted FERPA Records, approved by The System and that are at least as stringent as the requirements of Title 34, Part 99 – Family Educational Rights and Privacy noted at <https://www.ecfr.gov/current/title-34/part-99> to preserve the confidentiality and security of all FERPA Records received from, or on behalf of The System, its students or any third party pursuant to this Agreement. Contractor agrees that no later than thirty (30) days after the expiration or termination of this Agreement, for any reason, or within thirty (30) days after The System's written request, Contractor will halt all access, use, or processing of FERPA Records and will return to The System all FERPA Records, including any copies created by Contractor or any subcontractor; and Contractor will certify in writing to The System that all FERPA records have been returned to The System. Contractor will restrict disclosure of FERPA Records solely to those employees, subcontractors, or agents of Contractor that have a need to access the FERPA Records in order for Contractor to perform its obligations under this Agreement. If Contractor discloses any FERPA Records to a subcontractor or agent, Contractor will require the subcontractor or agent to comply with restrictions and obligations that align with the restrictions and obligations imposed on Contractor by this Agreement, including requiring each subcontractor or agent to agree to the same restrictions and obligations in writing.

- 19.24 **No Third-Party Beneficiaries.** Nothing contained in the Agreement, either expressed or implied, is intended to confer on any person other than the Parties, or their respective permitted successors, assigns, transferees or delegates, any interests, rights, remedies, obligations or liabilities pursuant to, or by reason of, this Agreement.
- 19.25 **Use of State Property.** Contractor is prohibited from using State Property for any purpose other than performing Services authorized under the Agreement. Use of State Property for a purpose not authorized by Agreement shall constitute breach of contract and may result in termination of the Agreement and the pursuit of other remedies available to The System under contract, at law, or in equity.
- 19.26 **Group Purchasing Authority.** Texas law authorizes institutions of higher education (defined by Section 61.003, [Texas Education Code](#)) to use the group purchasing procurement method (ref. Section 51.9335 [Texas Education Code](#)). Contractor agrees that other Texas institutions of higher education may enter into a separate agreement or contract with Contractor for the purchase of the services described herein based on the terms, conditions, and process of this Agreement.
20. **Access by Individuals with Disabilities.** Contractor represents and warrants (the **EIR Accessibility Warranty**) that the electronic and information resources and all associated information, documentation, and support that it provides to The System under the Agreement (collectively, the **EIRs**) comply with the applicable requirements set forth in Title 1, Chapter 213 of the [Texas Administrative Code](#) and Title 1, Chapter 206, Rule §206.70 of the [Texas Administrative Code](#) (as authorized by Chapter 2054, Subchapter M of the [Texas Government Code](#).) To the extent Contractor becomes aware that the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants that it will, at no cost to The System, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. In the event that Contractor fails or is unable to do so, then The System may terminate the Agreement and Contractor will refund to The System all amounts The System has paid under the Agreement within thirty (30) days after the termination date.

In accordance with [Texas Education Code](#), Section 51.9335 (h), any Contract for the acquisition of goods and services to which an institution of higher education is a party, any provision required by applicable law to be included in the Agreement or Contract is considered to be a part of the executed Agreement or Contract without regard to:

- (1) Whether the provision appears on the face of the Agreement or Contract; or
- (2) Whether the Agreement or Contract includes any provision to the contrary.

**THE FOLLOWING LIST OF EXHIBITS ARE INCORPORATED INTO THE AGREEMENT BY REFERENCE. IN THE CASE OF ANY DISCREPANCIES BETWEEN EXHIBITS AND AGREEMENT, THE AGREEMENT WILL PREVAIL.**

**EXHIBIT A – Scope of Work**

**EXHIBIT B – Pricing for Services**  
**EXHIBIT C – Subcontracting of Services**

The System and Contractor have executed and delivered this Agreement to be effective as of the Effective Date.

***Insert Contractor Name:***

\_\_\_\_\_  
*Insert Signor Name*  
*Insert Signor Title*

\_\_\_\_\_  
Date

**TEXAS STATE UNIVERSITY SYSTEM:**

\_\_\_\_\_  
Brian McCall, PhD  
Chancellor

\_\_\_\_\_  
Date

Reviewed and Recommended:

\_\_\_\_\_  
Daniel Harper  
Vice Chancellor and Chief Financial Officer

\_\_\_\_\_  
Date

Approved as to legal form:

\_\_\_\_\_  
Nelly R. Herrera, J.D.  
Vice Chancellor and General Counsel

\_\_\_\_\_  
Date

**EXHIBIT A**  
**SCOPE OF WORK**

Contractor will provide timely and professional Services as described herein and in accordance with Contractor's response to The System's RFP #758-23-00083.

The Services will be provided per the following excerpt from Section 5 of The System's RFP 758-23-00083 Branding & Marketing Services.

**Contractor will provide the following Services:**

- 5.1 Phase 1:** Conduct initial research to examine the current TSUS brand and how it is perceived by key publics.
- 5.2 Phase 2:** Refresh, update, or evolve the TSUS brand to ensure its relevance in the current higher education landscape. Develop a messaging platform to tell the TSUS story.
- 5.3 Phase 3:** Develop a marketing strategy to increase The System's visibility, possibly including paid marketing, revisions to the TSUS website (www.tsus.edu) and social media platforms, collateral, and other communication products.
- 5.4 Phase 4:** Create an "anthem video" for use by TSUS at events (e.g., athletic events graduation ceremonies, etc.), on digital assets, etc., to increase awareness of TSUS and demonstrate that Component Institutions are part of something bigger. **Note:** *Current media assets (video, images) may be accessible for use by Contractor.*
- 5.5** Provide additional as-needed support, as mutually agreed upon, to The System once initial Services are completed.

*The System intends for Services to be completed within 12-18 months from the start of work. The optional renewal term would be used for as needed additional support (reviews, updates, etc.) related to the Project with specific scope of work and rates determined at the time of engagement. The System makes no guarantee that any additional work will be needed even if the renewal term is exercised.*

- A. To request Services, The System's Contract Manager, or his / her designee, shall notify the designated Point of Contact (ref. **Section 5.8** of this Exhibit A) at Contractor's firm and identify the specific scope and nature of Services requested.
- B. Contractor will provide a written quote to The System outlining the specific tasks to be accomplished, the estimated period within which the task(s) should be accomplished, and the cost.
- C. The System may choose to issue a Purchase Order that aligns with the written quote

prior to the start of any work on the project. The Purchase Order amount is considered a “Not to Exceed” price / amount.

## 5.6 Payments to Contractor

- 5.6.1 The System will make milestone payments to Contractor as phases of the Project are completed.
- 5.6.2 Billable time, if any, for dedicated hours of work provided for as-needed support (ref. **Section 5.5**) includes, but is not limited to, travel time; communications and meetings with The System, external parties, and between Contractor staff; review of electronic correspondence and attachments; research; analysis; planning; budgeting and other administrative tasks performed to support The System.

Billable time will be tracked by Contractor and rounded to the nearest quarter hour. *(Note: Contractor will submit tracking information with invoices as support for payment amounts.)*

**5.7** Perform additional duties, tasks or services not specifically identified but related to the Services described in this RFP if needed and when mutually agreed upon in writing by both parties.

**5.8 Responsiveness:** Contractor’s primary points of contact (**POC**) will be available via **INSERT METHODS OF COMMUNICATION (PHONE, EMAIL, ETC.)** and will respond to all inquiries received within **INSERT TIME FRAME TO RESPOND**. POC(s) are:

- **INSERT CONTACT INFORMATION**
- **INSERT CONTACT INFORMATION**

**[ Insert new scope of work to address any additional items Proposer will provide per the submitted Proposal:**

Contractor will provide the following additional Services as described in Contractor’s RFP response:

**5.9 .....Insert specifics from Proposal including a reference to the specific section of the Proposal.....]**

**EXHIBIT B**  
**PRICING FOR SERVICES**

**1. Pricing for Services and Expenses**

Requesting Institutions will compensate Contractor for successful completion of Services outlined in **Exhibit A**, Scope of Work, as follows.

1.1 **Pricing for Services.** Contractor will provide Services at rates(s) described below.

PHASE	COST
Phase 1	\$
Phase 2	\$
Phase 3	\$
Phase 4	\$
<b>Grand Total:</b>	<b>\$</b>

1.2 **[Insert additional pricing information if needed]**

1.3 **Contract Amount.** The total Contract Amount will not exceed \$ *Insert NTE Amount* without the prior written approval of The System.

**2. Invoicing**

Contractor will invoice no more than once each month for Services performed during the prior month. Contractor will submit invoices by electronic means, as directed by The System. Each invoice must contain the Agreement Number, or Purchase Order number, and supporting documentation for the invoiced amounts as described in **Item 1** of this **Exhibit B**. *\*\*The System may require Contractor to include a complete breakdown / itemization of costs, including receipts, with invoices.*

**3. Payment Terms**

3.1 **Prompt Payment.** So long as Contractor has provided the Requesting Institution with its current and accurate Federal Tax Identification Number in writing and Contractor is not in default under this Agreement, the Requesting Institution will pay Contractor for goods and services in accordance with the Prompt Payment Provisions of Chapter 2251, [Texas Government Code](#). The Requesting Institution will incur no penalty for late payment, if payment is made in accordance with these Prompt Payment Provisions. The Requesting Institution will notify Contractor, in writing, of any error or



- disputed amount in an invoice submitted for payment not later than the 21<sup>st</sup> day after The System receives the invoice. Pursuant to Section 2251.042, [Texas Government Code](#), The Requesting Institution may withhold from payments required no more than 110 percent of the disputed amount.
- 3.2 **Sales Tax.** As an agency of the State of Texas, the Requesting Institution is exempt from Texas Sales & Use Tax on goods and services in accordance with §151.309, [Texas Tax Code](#), and Title 34 [Texas Administrative Code \(TAC\)](#) §3.322. Pursuant to [34 TAC §3.322\(c\)\(5\)](#), the Requesting Institution is not required to provide a tax exemption certificate to establish its tax exempt status.
- 3.3 **Payment of Debt or Delinquency to the State.** Pursuant to [§§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 such debt or delinquency is paid in full.
- 3.4 **Electronic Funds Transfer.** [Section 51.012, Education Code](#), authorizes the Requesting Institution to make payments through electronic funds transfer methods. Contractor agrees to receive payments from the Requesting Institution through electronic funds transfer methods, including the automated clearing house system (**ACH**). Contractor agrees to provide Contractor's banking information and taxpayer identification number to the Requesting Institution, in the format requested by the Requesting Institution, prior to the first payment. Changes to Contractor's information should be communicated to the Requesting Institution in the same manner at least thirty (30) days in advance of the effective date of the change.
- 3.5 **Refund.** Contractor will promptly refund or credit within thirty (30) calendar days any funds erroneously paid by the Requesting Institution which are not expressly authorized under the Agreement.
- 3.6 Notwithstanding any provision of this Agreement to the contrary, the Requesting Institution will not be obligated to make any payment to Contractor if Contractor is in default under this Agreement.
- 3.7 No payment made by the Requesting Institution will (a) be construed to be final acceptance or approval of that part of the Services to which the payment relates, or (b) relieve Contractor of any of its duties or obligations under this Agreement.
- 3.8 Notwithstanding any other provision of this Agreement, the Requesting Institution is entitled to a discount of *Insert #* % (**Prompt Payment Discount**) off of each payment that the Requesting Institution submits within *Insert #* days after the Requesting Institution's receipt of Contractor's invoice for that payment.

**EXHIBIT C****SUBCONTRACTING OF SERVICES****1. Subcontracting**

If at any time during the Term it is determined that Contractor will not self-perform all work associated with the Services, Contractor will complete a Historically Underutilized Business Subcontracting Plan (**HSP**) (ref. **Item 1.3** below) and submit it to The System. Except as specifically provided in the HSP, Contractor will not subcontract any of its duties or obligations under the Agreement, in whole or in part. The Agreement is subject to [34 TAC Section 20.285 \(RULE §20.285\)](#) of the [Texas Administrative Code](#). Contractor will comply with all of its duties and obligations under RULE §20.285. In addition to other rights and remedies, The System may exercise all rights and remedies authorized by RULE §20.285.

- 1.1 Contractor agrees to maintain business records documenting its compliance with any HSP and to submit a monthly compliance / progress assessment report (**PAR**) (ref. **Item 1.3** below) to The System in the format required by the Statewide Procurement Division of the Texas Comptroller of Public Accounts or any successor agency (collectively, the **SPD**). Submission of compliance reports will be required as a condition for payment under this Agreement. If The System determines that Contractor has failed to subcontract as set out in the HSP, The System will notify Contractor of any deficiencies and give Contractor an opportunity to submit documentation and explain why the failure to comply with the HSP should not be attributed to a lack of good faith effort by Contractor. If The System determines that Contractor failed to implement the HSP in good faith, The System, in addition to any other remedies, may report nonperformance to the SPD in accordance with 34 TAC [§§20.285\(g\)\(5\), 20.585](#) and [20.586](#). The System may also revoke this Agreement for breach and make a claim against Contractor.
- 1.2 **Changes to the HSP.** If at any time during the Term, Contractor desires to change any HSP associated with this Agreement, before the proposed changes become effective (a) Contractor must comply with [34 TAC §20.285](#); (b) the changes must be reviewed and approved by The System; and (c) if The System approves changes to the HSP, this Agreement must be amended in accordance with this **Exhibit C** to replace the HSP with the revised subcontracting plan.
- 1.3 **SPD Forms.** The current versions of the HSP and PAR forms can be found on the website of the Texas Comptroller: (<https://comptroller.texas.gov/purchasing/vendor/hub/forms.php>)

**2. Expansion of Services**

If The System expands the scope of Services through a change order or any other amendment, The System will determine if the additional Services contain probable subcontracting opportunities *not* identified in the initial request for Services. If The System

determines additional probable subcontracting opportunities exist, Contractor will submit a new or amended subcontracting plan covering those opportunities. The new / amended subcontracting plan must comply with the provisions of [34 TAC §20.285](#) before (a) this Agreement may be amended to include the additional Services; or (b) Contractor may perform the additional Services. If Contractor subcontracts any of the additional subcontracting opportunities identified by The System without prior authorization and without complying with [34 TAC §20.285](#), Contractor will be deemed to be in breach of this Agreement under **Section 19.6** and will be subject to any remedial actions provided by Applicable Laws, including [Chapter 2161, Texas Government Code](#), and [34 TAC §20.285](#). The System may report nonperformance under this Agreement to the SPD in accordance with [34 TAC §§20.285\(g\)\(5\), 20.585](#) and [20.586](#).

## APPENDIX TWO

## HUB SUBCONTRACTING PLAN

Per **Section 3.2** of this RFP, The System has reviewed this RFP in accordance with [Title 34, Texas Administrative Code, Section 20.285](#), and has determined that subcontracting opportunities (HUB and/or Non-HUB) are probable under this RFP therefore a HUB Subcontracting Plan (“HSP”) is required as part of Proposer’s proposal. The HSP will be developed and administered in accordance with The System’s Policy on Utilization of Historically Underutilized Businesses and incorporated for all purposes. The HUB participation goal for this RFP is **12.8%**

*Each Proposer, **whether self-performing or planning to subcontract**, must complete and return the HSP in accordance with the terms and conditions of this RFP. Proposers that fail to do so will be considered non-responsive to this RFP in accordance with [§2161.252, Government Code](#). 1. All Proposers must submit a HUB Subcontracting Plan regardless of whether Proposer is a certified Texas HUB or not.*

1. **REQUIRED HSP FORM:** Visit the Texas Comptroller of Public Account’s webpage (<https://comptroller.texas.gov/purchasing/vendor/hub/forms.php>) to download the current **“HUB Subcontracting Plan Form.”**
2. **HSP SUBMISSION:** Proposer must complete the HSP, then print, sign and scan all pages of the HSP form, with additional support documentation\*, and submit the HSP to The System as instructed in **Section 3.3** of this RFP.

*\*If Proposer’s submitted HSP refers to specific page(s) / Sections(s) of Proposer’s proposal that explain how Proposer will perform entire contract with its own equipment, supplies, materials and/or employees, Proposer must include copies of those pages with the HSP. In addition, all solicitation emails to potential subcontractors must be included as backup documentation to the Proposer’s HSP to demonstrate the Good Faith Effort. Failure to do so will slow the evaluation process and may result in DISQUALIFICATION.*

3. **HSP GUIDANCE:** The HSP form includes a **“Quick Checklist”** to assist Proposers in identifying the sections of the HSP that will need to be completed. The form is in **fillable** PDF format and must be downloaded and opened with *Adobe Acrobat/ Reader* to utilize the fillable function. Proposer should use the RFP number as the “Requisition #” on all HSP documents. The following should be taken into consideration by Proposer when reviewing the HSP form:

**A. If Proposer chooses to self-perform:**

Proposer will be required to provide a detailed Self Performance Justification as to how Proposer’s firm will perform the entire contract with its own equipment, supplies, materials and employees. Complete SECTION 3 of the “HUB Subcontracting Plan.”

**B. If Proposer will subcontract:**

1. Proposer must submit a completed “HSP Good Faith Effort – Method B (Attachment B)” for each subcontracting opportunity listed in Section 2, Item b. of the “HUB Subcontracting Plan (HSP).”
2. Proposer must give notification in writing to at least three (3) Texas certified HUBs for each trade / scope identified for the project. A notification form is included in the HSP package. Use of this form is highly recommended. You must allow the HUB subcontractors no less than seven (7) working days from the receipt of their notice to respond. Complete Section B-3, Item b. of the “HSP Good Faith Effort – Method B (Attachment B).”

Visit the State of Texas Centralized Master Bidders List (CMBL) for a list of HUB vendors: <https://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>

3. Proposer must notify a minimum of two (2) minority or women trade organizations or development centers of subcontracting opportunities. Proposer must allow the HUB subcontractors no less than seven (7) working days from the receipt of their notice to respond. Complete Section B-3, Item d. of the “HSP Good Faith Effort – Method B (Attachment B).”
4. Proposer must provide written justification of the selection process if a HUB company is not selected. Complete Section B-4, Item c. of the “HSP Good Faith Effort – Method B (Attachment B).”
5. Proposer is required to submit all supporting documentation (HUB Subcontracting Opportunity Notification Form(s), letters, phone logs, fax transmittals, emails, etc.) demonstrating evidence of good faith effort performed in contacting subcontractors and listings. Failure to produce required documentation may result in rejection of Proposer’s HUB Plan and subsequently the proposal.

# **Addendum No. 1**

**Issued: 5/17/23**

*RFP No.:*

**758-23-00083**

**Branding / Marketing Services**

FOR

THE TEXAS STATE UNIVERSITY SYSTEM  
AUSTIN, TEXAS

**Notice To All Potential Respondents:**

This Addendum to the Request for Proposal (RFP) No. 758-23-00083, posted on 4/21/2023, modifies bid documents with the amendments and additions noted below.

**Prepared By:**

Jennifer De Leon

The Texas State University System

[Jennifer.DeLeon@tsus.edu](mailto:Jennifer.DeLeon@tsus.edu)

I. **Questions and Answers:**

The questions below were submitted to the Point-of-Contact in writing prior to the question deadline of the RFP and have been answered by TSUS.

1. For brand research, which stakeholders are we most interested in?

- a. Donors
- b. Potential New Students
- c. Existing Students
- d. Some combination of all

**Answer: We are most interested in the perspectives of alumni, policymakers, donors, institution leadership, faculty, and higher education opinion leaders.**

2. We're interested in your team's perspective on which audiences you would prioritize from that list (or others you would include).

**Answer: Policymakers, donors, and alumni.**

3. Are there other university systems you feel embody what you're after from a brand perspective? What do you like/dislike about their brands?

**Answer: No. We are a unique university system (e.g., no flagship institution, diverse array of institutions) and thus we want to carve out our own unique brand identity.**

4. What do you know about your student base today? Have you performed any historical segmentations, studies, or other research to help you unlock the hearts and minds of more students like them?

**Answer: The TSUS student base is far-reaching and diverse. As the third-largest university system in Texas, TSUS has a student enrollment of over 88,000. With nearly 48,000 minority students and six out of the seven TSUS member institutions being Hispanic-Serving Institutions (HSIs) or emerging Hispanic-Serving Institutions (eHSIs), enrollment continues to reflect the changing demographics of Texas.**

**In addition, because TSUS is the only university system in Texas with both four-year universities and two-year colleges, students complete degrees in a wide range of areas from welding certificates to doctoral degrees.**

5. If we should win the assignment, would it be possible to share first-party data on current students (emails only)? We ask because we have the option to run behavioral analytics to understand where students spend their time (social media, brands, YouTube, Podcasts, influencers, other) to get deeper into their affinities and preferences.

**Answer: We would consider this, but students are not our primary target audience (see answers to Questions 1 and 2).**

6. Can you submit a bid with a partnering agency?

**Answer: Yes.**

7. Are there budget parameters for the project?

**Answer: We have some flexibility with budget. Higher-cost proposals should demonstrate additional value.**

8. Will Texas State University System give preference to Texas-based companies?

**Answer: Typically, preference to a Texas bidder is given only in the case of a tie bid.**

9. Does Texas State University System have an incumbent or preferred vendor in mind for this project?

**Answer: No.**

10. What is prompting this search for a new supplier?

**Answer: Over a decade ago, TSUS engaged a marketing firm to assist with developing a system brand identity. Since then, TSUS and the higher education landscape have evolved. TSUS leadership is interested in examining TSUS's brand identity, values and messaging with the goal of "refreshing" the TSUS brand.**

11. Who will be directing/leading the agency partner on a daily basis?

**Answer: Leadership and staff from the Texas State University System.**



12. What strengths are important to you from your selected agency partner?

**Answer: Demonstrated experience with similar initiatives, clear communication, creativity, technical expertise/digital fluency and proactiveness.**

13. You say you'd like an examination of the current TSUS brand and how it is perceived by key publics. When you say "key publics" are you suggesting you'd like to better understand how TSUS is perceived by other public higher ed institutions? If so, who within those institutions would provide the best point of reference? Admissions teams, leadership, current students, etc? Also, if this is the case, how many institutions would you expect to be polled? Would they be in and around Texas, regional, national?

**Answer: See answers to Questions 1 and 2.**

14. Typically, when we do a brand perception study, we'll survey internal audiences (current students, faculty, staff) and external audiences (prospects, general population, alumni). Would you be open to us taking this approach?

**Answer: Yes.**

15. Could you clarify the deliverables for the refresh, update, or evolution of the TSUS brand? Does this include a narrative (What we call a "Brand Platform" that includes brand pillars, personality traits, and positioning statement.) and/or are you looking for a redesign of the visual brand (logo, typography, brand guidelines, collateral, etc.)?

**Answer: We are looking for a narrative/brand platform (brand pillars, personality traits, and positioning statement). We do not anticipate the need to redesign the visual brand at this time.**

16. When you ask for a messaging platform, what exactly do you see as deliverables? Are we talking things like brand pillars and/or a positioning statement? Are you looking for specific messaging points in the form of written content? Are you hoping to have an ad campaign that shares your story in a creative way?

**Answer: See answer to Question 15.**

17. How long do you envision the anthem video to be? 1 to 2 minutes, perhaps? Also, will you require cut downs (6 second, 15 second, 30 second)?

**Answer: The anthem video should be no more than one- to two-minutes in length. We are open to discussing the need for a shorter version, but this is not a requirement.**

18. You mention that current media assets may be available to the contractor. Do you envision the anthem video to be your standard b-roll footage approach where you see a lot of snippets of athletics, student life, research, drone footage of buildings, etc. or would we be on a multi-day shoot capturing original footage from around the state that would tell more of a conceptual story? Maybe both, maybe something in between?

**Answer: We have substantial assets available for the selected vendor to use (b-roll footage, athletics, student life, research, drone footage of buildings, etc.). If limited, additional footage is needed to complete the anthem video, cost estimates could be adjusted accordingly.**

19. In the RFP you say: "Create an "anthem video" for use by TSUS at events (e.g., athletic events graduation ceremonies, etc.), on digital assets, etc.,". Would this video be used in a paid media environment (on ad platforms, or tv or other types of paid media)? This is important to know for the purposes of pricing the video as it pertains to usage rights for talent, music, VO, etc.

**Answer: We do not anticipate using the video in paid media. This will be for "internal" use only.**

20. Can you share even a rough budget for the anthem video. As you know, you can spend an awful lot on video production by bringing on full crews, talent, travel, multi-day shoots on location and/or in studio, or you can scale that way back and cut something together using pre-existing b-roll footage. Can you provide a sense of which end of that spectrum you're expecting?

**Answer: We anticipate being able to provide raw assets (video, photos) for this project. If additional footage is needed to complete the anthem video, cost estimates could be adjusted accordingly.**

21. What challenges do you anticipate for this engagement?

**Answer: The biggest challenge will be developing an impactful and succinct brand/messaging platform, since we are a unique university system with a diversity of member institutions – each with its own unique brand. Unlike other university systems (e.g., University of Texas System, Texas A&M System), we are not vertically integrated from a brand standpoint. We also have both four- and two-year institutions in our system and their missions differ greatly. Telling this story in a crisp and meaningful way will be a challenge.**

22. Is there a preference for a local agency to conduct this work? Or for an agency with experience working with public colleges and universities?

**Answer: No preference will be given to a local agency. We are more interested in finding an agency with experience in the higher education space.**

23. What criteria will you look at when evaluating the proposals?

**Answer: Criteria for the RFP is described in Section 9 of the RFP.**

24. What budget or budget range is anticipated for this project?

**Answer: See answer to Question 7.**

25. Is there any other budget context that you would be willing to share that may impact or influence overall pricing?

**Answer: See answer to Question 7.**

26. Do you have a preference for in person or video presentations throughout the life of the project?

**Answer: Video presentations are acceptable if the vendor is located outside of Texas.**

27. Do you have a media partner to assist with placing media, or are you looking for these capabilities as part of this project? If media buying is an expectation, is the media budget and related placement fees to be included in the total contract budget, or is there a separate budget or fee structure for media buying?

**Answer: Our marketing staff has historically handled media placement. We do not anticipate the need for media placement as part of this proposal.**

28. Why is now the right time to pursue these activities?

**Answer: We completed our last branding initiative in 2012. Since then, much has changed in the higher education landscape. We believe our university system provides great value to students and the State of Texas, and we want to make sure this is evident in our brand and messaging.**

29. What data and insights exist around target audiences? Where is additional research needed?

**Answer: We simply want to know how the audiences identified in response to Questions 1 and 2 perceive our university system and what the brand communicates.**

30. What is the content management system (CMS) for <https://www.tsus.edu/> ?

**Answer: TSUS uses Texas State University's propriety content management system, Gato. We are open to migrating our current site or creating a new website using a different CMS.**

31. Do we understand correctly that the proposal is expected to include Appendix One with the red sections completed by the proposing agency, regardless of whether we have any redline edits to the agreement?

**Answer: That is correct.**

32. Can you share more details about the required Cybersecurity Training Program listed in Appendix One, page 42? Approximately how many hours does this training require?

**Answer: More information on cybersecurity training programs can be found at: <https://dir.texas.gov/information-security/statewide-cybersecurity-awareness-training> It is not expected that the selected firm will be given login credentials granting access to any of The System's computer systems therefore, this training would not be applicable.**

33. Can you clarify what existing research TSUS currently maintains/has on hand related to public perception, including NPS scores from current students or alum, and rankings?

**Answer: The System (different than our individual institutions) does not have NPS scores or existing research in hand.**

34. Can you share the process TSUS took to create the current branding, as well as when this current branding was created?

**Answer: TSUS's current branding was created in 2011 by an Austin-based marketing firm with the goals of elevating the System's status as a higher education leader in Texas and providing brand standards to guide System employees and component institutions on use of the system brand.**

35. Can you describe in greater detail what you mean by "a messaging platform to tell the TSUS story"? Are you referring to a technology solution and/or approach?

**Answer: See answer to Question 15.**

36. Could the brand refresh include logo update?

**Answer: No, we are not interested in redesigning our logo at this time.**

37. What specific challenges is TSUS facing in the higher education landscape to require work now?

**Answer: Ten years has passed since our last branding campaign. The COVID pandemic and concerns about the cost of higher educations and its value as a public good require us to revisit our current brand identity to ensure that we are positioned properly in the State of Texas and nationally.**

38. Can you further clarify what aspects of marketing strategy implementation are in scope?

**Answer: TSUS website, social media platforms (Twitter, FB, Instagram, Linked In, YouTube), TSUS monthly newsletter.**

39. Are you considering large scale revisions to the TSUS website? Will these revisions relate to design and development? How do you currently manage website updates?

**Answer: Probably. The last major update to our website occurred around 2013-14. Also see answer to Question 30.**

40. What do you mean by (marketing) “collateral”? What collateral does TSUS have currently?

**Answer: Brochures, donor solicitations, annual report, etc.**

41. Is TSUS looking to revisit its overall social media strategy (e.g., decision to focus on FC, Twitter, YouTube, and LI) or to potentially refresh existing social media platform strategy and tactics?

**Answer: Potentially refresh existing social media platform strategy and tactics.**

42. What do you mean by “other communication products”? What does TSUS have currently?

**Answer: TSUS's website, social media, and monthly newsletter.**

43. Can you clarify what you mean by an “anthem video” and how you envision using it (e.g, target audience(s) and uses). Does TSUS have one currently? And if so, what is working well and what needs to be improved? Is this YouTube video an example?  
<https://www.youtube.com/watch?v=ZoLvQcfLndk>

**Answer:** The anthem video will be a one- to two-minute, inspiring video that demonstrates the diversity of our university system and ways it impacts students and the State of Texas. The example cited above is not an anthem video. Here are some examples of what we envision in terms of production quality (not necessarily the message or content):  
<https://www.youtube.com/watch?v=j2Tlu0sYOPc>,  
<https://www.youtube.com/watch?v=luM8Wlb5heM>,  
<https://www.youtube.com/watch?v=MZfxbwmPHEI>

44. Can you further clarify what kind of support TSUS envisions for 6-12 months after Phases 1-4? Are the possible updates all related to marketing strategy implementation?

**Answer:** Yes. Any work after phases 1-4 would be related to implementing the strategy if such assistance is needed.

45. What is your budget for this effort?

**Answer:** See answer to Question 7.

46. Does the system have access to lists for the key publics across campuses?

**Answer:** Yes.

47. In order for this work to be deemed successful, which key publics need to change their thinking/behavior, and how?

**Answer:** Alumni, donors, state policymakers, higher education opinion leaders.

48. When thinking about the system's relevance in the marketplace, are there any brands either within higher education or within Texas that should be considered? Either as inspiration or competition for mind space?

**Answer:** All other university systems in the state (University of Texas, Texas A&M, University of Houston, Texas Tech, and University of North Texas Systems).

49. Could you please share what existing market research exists?

**Answer:** None.

50. What is the budget for this assignment?

**Answer:** See answer to Question 7.

51. How will you judge success for this work?

**Answer: Creation of a brand/messaging platform, including product deliverables, that demonstrates the uniqueness, diversity, and impact of our university system and distinguishes our system from other systems in the state (e.g., what do we do that they don't/can't).**

52. Would TSUS consider an identity refresh or update as part of the Phase 2 brand work? Would the marketing strategy involve creative concept exploration that brings the brand to life in a visual way?

**Answer: Yes.**

53. Would the anthem video use just existing supplied assets or is there an opportunity to shoot new original footage?

**Answer: We expect to be able to provide a substantial amount of assets for the anthem video, either using existing footage/photos or using our campus-based marketing teams to acquire needed assets once identified. We are open to shooting original new footage if needed.**

54. Would the anthem video or edits of it be used for broadcast?

**Answer: No, primarily internally (as described in the RFP) or on our own Internet and social media platforms.**

55. Can you provide a few examples of what type of support would be needed on an on-going basis?

**Answer: Ongoing support is not required, but we want to leave the door open to ongoing support if we have unfinished business after Phase 4.**

56. What are you hoping to find in an agency partner for this project?

**Answer: Experience doing similar work in the higher ed space, creative capacity to differentiate our university system from others in the state, integrity, effective communication of needs and expectations, responsiveness.**

57. What spurred the need for this RFP process? Why is now the time?

**Answer: See answer to Question 37.**

58. How would you describe the current TSUS brand positioning, narrative, story, visual identity etc.? What's working / what's not working for you?

**Answer: We are good at telling our story using data. What's missing is the meaning behind the data (e.g., what do we do that no other system does/can do; what makes our system unique; how do we inspire the state, alumni, donors, and policymakers to support us?).**

59. Is TSUS looking to redesign its current organizational logos, wordmarks, etc. as part of this RFP process?

**Answer: No.**

60. What are your expectations for the "messaging platform" deliverable? What does this entail for your team? Can you provide additional specs?

**Answer: We are looking for a narrative/brand platform (brand pillars, personality traits, and positioning statement).**

61. What are your expectations for the "marketing strategy" deliverable? What does this entail for your team? Can you provide additional specs?

**Answer: Recommendations on media placement. Note that our primary target audiences (see answer to Question 47) are primarily Austin-based. We do not anticipate the need for extensive statewide or national media placement.**

62. Which Austin-based marketing firm did TSUS partner with in 2011 to develop the current identity? Was that firm invited and/or participating in this RFP process?

**Answer: Hahn Public.**

63. Are there any incumbent agencies currently working with TSUS participating in this RFP process?

**Answer: No firm is currently working with The System on this project.**

64. We understand submitting a completed HUB Subcontracting Plan is required for this RFP, but is it mandatory to sub-contract any of this work if we're ultimately the selected partner?

**Answer: No. If a Proposer intends to self-perform all work, that must be clearly indicated in Proposer's response to the HSP.**



65. Who are your primary competitors?

**Answer: See answer to Question 48.**

66. If we currently work with individual institutions within The University of Texas System or Texas Tech University System, would that preclude us from responding to this RFP and ultimately working with TSUS?

**Answer: No.**

67. How will you ultimately measure the success of this branding effort? Please outline any KPIs/metrics to be mindful of.

**Answer: Success is frankly hard to measure because we do not sell a product. Nonetheless, this effort will be successful if it contributes to increased state support for our system and member institutions, increases affinity for our system among key stakeholders (Question 47), increases social media engagement, and enhances key stakeholders' understanding of our system's unique attributes.**

68. What is the composition of TSUS's internal marketing capabilities and personnel (e.g., graphic designers, copywriters, developers, etc.)? What is the anticipated division of labor between TSUS and the selected agency partner?

**Answer: We are a small, three-person team in Austin sometimes supported by campus-based marketing and communications teams of varying sizes. For this initiative, the agency partner will perform most of the work, with limited support from our team.**

69. Who are the key decision makers at TSUS leading this RFP process? Who are the key stakeholders on your RFP selection committee?

**Answer: The System does not release this type of information for an open solicitation.**

70. How would you describe the ideal agency partner for this comprehensive work? What are you looking for most/what do you value most in an agency partnership?

**Answer: See answer to Question 56.**

71. Are there any higher education brand platforms or campaigns that you admire? If so, why?

**Answer: We want the selected agency to create something new and innovative.**

72. There is mention of “revisions to the TSUS website ([www.tsus.edu](http://www.tsus.edu))” as part of the marketing strategy deliverable in this RFP. Should we assume TSUS is actually interested in redesigning your current .edu as part of this RFP process, or will this be a future RFP process to come?

**Answer: Yes, we are interested in redesigning our website.**

73. If TSUS is looking to redesign its website, can you provide additional background information/specs on the following: CMS platform, hosting, development needs, copywriting needs, content migration, etc.?

**Answer: See answer to Question 30.**

74. What is the RFP process following proposal submissions by June 9<sup>th</sup>? Are you short-listing firms to potentially meet with (in-person or remote)?

**Answer: All valid responses will be evaluated. It is unknown if shortlist presentations/interviews will be needed or not. Information regarding the evaluation process can be found in Section 2.5 of the RFP.**

75. When are you looking to kickoff this work?

**Answer: As soon as possible after contract award.**

76. When are you expecting to complete the scope of work outlined in this RFP? Please outline any key deadlines or due dates to be mindful of.

**Answer: Per Section 1.4 of the RFP, The System intends for Services to be completed within 12-18 months from the start of work.**

77. What is the target date for ultimately “launching” the new brand platform (and any associated branding campaigns) in market?

**Answer: Within 12-18 months from the start of work (contract execution).**

78. What is your preference for in-person vs. remote collaboration for this scope of work? For example, are you open to recommendations for potential hybrid meetings for stakeholder engagement, collaborative work sessions, presentation of deliverables, etc. throughout this scope of work?

**Answer: Yes, we are open to remote/hybrid collaboration.**

79. What is the all-in budget for this RFP as it relates to agency fees, production hard costs, paid media spend, etc.? If a budget hasn't been defined, can you provide a do-not exceed range or threshold?

**Answer: See answer to Question 7.**

80. As it relates to the anthem video, what is the anticipated video length you are seeking? For example, are you open to developing a :90-2-min video with associated cut-downs (:30, :15, etc.)?

**Answer: See answer to Question 17.**

81. What do we want audiences to think, feel, and do after seeing the new anthem video? What are your desired calls to action? Where are we driving people to?

**Answer: We want our audiences to feel a greater sense of affinity for our system and understand that our students, faculty, staff, and alumni are part of something bigger than they imagined. The calls to action are to increase awareness of TSUS and demonstrate that TSUS institutions are part of a System.**

82. What "current media assets" do you have that the selected partner can ultimately leverage to bring the new anthem video to life?

**Answer: Videos and photos of TSUS member institutions, 13 campuses, student life, academics, athletic events, commencement, footage of the cities where the campuses are located, etc.**

83. Are there any higher education anthem videos that you admire? If so, why?

**Answer: See answer to Question 43.**

84. Are you expecting a new photo shoot or video production shoot as part of this anthem video development process?

**Answer: See answer to Question 17.**

85. Historically speaking, what has been TSUS's paid media strategy and marketing mix? What channels perform the most effective vs. least effective?

**Answer: See answer to Question 61.**

86. There is mention of “paid marketing” as part of the marketing strategy deliverable in this RFP. Should we assume TSUS is interested in paid media strategy, planning, buying, and trafficking as part of this RFP process, or will this be a future RFP process to come?

**Answer: We historically have used our own staff to handle media placement.**

87. If you’re interested in paid marketing for this RFP process, how would you outline (and prioritize) core audiences that you are looking to target from a paid media perspective?

**Answer: See answer to Question 61.**

88. What specific geographies and DMAs are you interested in covering from a paid media perspective?

**Answer: See answer to Question 61.**

89. How will you ultimately measure the success of this paid media planning effort? Please outline any KPIs/metrics to be mindful of.

**Answer: See answer to Question 67.**

90. What is your working budget to ultimately place any future paid media in the market? Can you share historical (or future) breakdowns of TSUS’s paid media spend?

**Answer: See answer to Question 61.**

91. When was the last time TSUS conducted any market research? What does this existing market research and data entail? Who conducted this research, and what audiences were included? Is there something you’re looking to learn this time around that you didn’t before?

**Answer: We have not conducted market research recently.**

92. How would you define and prioritize the target audiences for this research effort (audience types, geographies, etc.)?

**Answer: See answer to Question 61.**

93. Does TSUS have existing opt-in contact lists (including email addresses) for any of the research-specific audiences? If so, what sizes are these lists?

**Answer: Yes.**

94. Who at TSUS will be the primary users of this research?

**Answer: The Office of Marketing and Communications.**

95. How would you describe the greater public survey audiences (e.g., demographics, geography, age, etc.)?

**Answer: See answer to Question 61.**

96. What specific milestones/timing considerations should we be aware of for the market research?

**Answer: Marketing research (Phase 1) should be completed by the Fall of 2023.**

**END OF ADDENDUM 1**