



**Glenn Hegar**  
Comptroller of Public Accounts

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## RFP No. 720-1713 Low-Level Radioactive Waste Treatment and Disposal Services

**Open Date:** 04/04/17 02:30 PM

**Agency Requisition Number:** 720-1713

**NOTE:** You will need to download all of the following files for specifications and other required document, including a HUB subcontracting plan(if required).

Help: Right Click to and choose "save file as" or "save target as" to your computer.

**-Package 1** size: 191716 (in bytes) Type: Specification Format: (ASCII Plain Text)

**-Package 2** size: 121694 (in bytes) Type: Additional Specification(s) Format: (ASCII Plain Text)

**-Package 3** size: 488831 (in bytes) Type: Additional Specification(s) Format: Acrobat PDF Files

**Agency:** UNIVERSITY OF TEXAS SYSTEM (720)

**Open Date:** 04/04/17 02:30 PM

**Agency Requisition Number:** 720-1713

**Previous Price Paid:** N/A

**Solicitation type:** 21 Days or more for solicitation notice

**NIGP Commodity Code(s):**

Class-Item: 926 - 76

**Contact Information:**

**Contact Name:** Darya Vienne

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**Address:** 504 Lavaca Street  
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Austin, TX 78701

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## REQUEST FOR PROPOSAL

### RFP No. 720-1713 Low-Level Radioactive Waste Treatment and Disposal Services

**Proposal Submittal Deadline: Tuesday, April 4th, 2017 at 2:30 PM CST**

The University of Texas System  
Office of Risk Management

Prepared By:  
Darya Vienne  
The University of Texas System  
210 West Sixth St.  
Suite B. 140E  
Austin, Texas 78701-2891  
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March 7th, 2017

REQUEST FOR PROPOSAL

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## SECTION 1

### INTRODUCTION

#### 1.1 Description of The University of Texas System

For more than 130 years, The University of Texas System (“**UT System**” and “**University**”) has been committed to improving the lives of Texans and people all over the world through education, research and health care.

The University of Texas System is one of the nation’s largest systems of higher education, with 14 institutions that educate more than 217,000 students. Each year, UT institutions award more than one-third of all undergraduate degrees in Texas and almost two-thirds of all health professional degrees. With about 20,000 faculty – including Nobel laureates – and more than 70,000 health care professionals, researchers student advisors and support staff, the UT System is one of the largest employers in the state.

The UT System ranks third in the nation in patent applications, and because of the high caliber of scientific research conducted at UT institutions, the UT System is ranked No. 1 in Texas and third in the nation in federal research expenditures. In addition, the UT System is home to three (3) of the nation’s National Cancer Institute Cancer Centers – UT MD Anderson, UT Southwestern and UT Health Science Center-San Antonio – which must meet rigorous criteria for world-class programs in cancer research.

Chancellor William H. McRaven’s ambitious vision for the UT System includes eight “Quantum Leaps,” that address many of the most significant challenges of our time, including building the nation’s next generation of leaders through core education in leadership and ethics; leading a brain health revolution by accelerating discoveries and treatments for neurological diseases; elevating higher education’s role in national security; driving unprecedented levels of collaboration between higher and K-12 education; and increasing student access and success.

Other numerous transformational initiatives implemented over the past several years have cemented UT as a national leader in higher education, including the expansion of educational opportunities in South Texas with the opening of The University of Texas Rio Grande Valley in the fall of 2015. And UT is the only system of higher education in the nation establishing not one (1), but two (2) new medical schools in 2016 at The University of Texas at Austin and UT Rio Grande Valley.

University of Texas institutions are setting the standard for excellence in higher education and will continue do so thanks to our generous donors and the leadership of the Chancellor, the Board of Regents and UT presidents.

#### 1.2 Background and Special Circumstances

Fourteen (14) of UT System’s institutions (the “**Generating Institutions**”) regularly generate radioactive wastes up to the concentration limits established under 10 Code of Federal Regulations, Subpart D, Section 61.55, including but not limited to biological wastes (i.e. animal carcasses) and mixed wastes (i.e. wastes containing both hazardous and low-level radioactive wastes) and related or associated waste (collectively, “**Covered Wastes**”). The Generating Institutions, their locations and the individuals responsible for Covered Waste management, handling, transportation, treatment and disposal at each institution are listed in **APPENDIX TWO** (Agreement in Exhibit A: Names and Addresses of Contractor, UNIVERSITY, and Institutional Coordinators) attached to this Request for Proposal No. 720-1713 (this “**RFP**”), and incorporated for all purposes. The anticipated categories and estimated numbers of containers of Covered Waste Streams generated by the Generating Institutions are provided in **APPENDIX FOUR**

attached to this RFP and incorporated for all purposes. One (1) or more of the Generating Institutions may elect not to use any agreement that results from this RFP. NEITHER UT SYSTEM NOR THE GENERATING INSTITUTIONS WARRANT OR REPRESENT AND UT SYSTEM AND THE GENERATING INSTITUTIONS HEREBY DISCLAIM ANY WARRANTY OR REPRESENTATION THAT THE ANTICIPATED CATEGORIES OR ESTIMATED VOLUMES OF COVERED WASTE WILL IN FACT BE GENERATED IN ANY GIVEN YEAR OR TRANSPORTED OR DISPOSED OF UNDER ANY AGREEMENT RESULTING FROM THIS RFP.

### 1.3 Objective of Request for Proposal

The University of Texas System is soliciting proposals in response to this Request for Proposal No.720-1713 (this “RFP”), from qualified vendors to provide low-level radioactive waste treatment and disposal services (the “Services”) more specifically described in **Section 5** of this RFP, include:

- 1.3.1. Pickup, treatment (if needed), transportation and disposal of Covered Wastes including without limitation dry solid wastes, liquid scintillation fluids and vials, aqueous liquids and bulk waste that is both radioactive and hazardous at a licensed disposal facility.
- 1.3.2. The purchase and delivery of Department of Transportation (“DOT”) compliant marking, packaging, and placarding materials.
- 1.3.3. Other Covered Waste Management handling, transportation, treatment, disposal and minimization services including but not limited to super compaction, incineration, and solidification of aqueous liquids.
- 1.3.4. All other related services requested by University or the Generating Institutions.

### 1.4 Group Purchase Authority

Texas law authorizes institutions of higher education (defined by [§61.003, Education Code](#)) to use the group purchasing procurement method (ref. §§[51.9335](#), [73.115](#), and [74.008](#), *Education Code*). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Proposer. In particular, Proposer should note UT System is composed of fourteen (14) institutions described at <http://www.utsystem.edu/institutions>. UT System institutions routinely evaluate whether a contract resulting from a procurement conducted by one of the institutions might be suitable for use by another, and if so, this could give rise to additional purchase volumes. As a result, in submitting its proposal in response to this RFP, Proposer should consider proposing pricing and other commercial terms that take into account such higher volumes and other expanded opportunities that could result from the eventual inclusion of other institutions in the purchase contemplated by this RFP.

## SECTION 2

### NOTICE TO PROPOSER

#### 2.1 Submittal Deadline

University will accept proposals submitted in response to this RFP until 2:30 p.m., Central Standard Time (“**CST**”) on Tuesday, April 4th, 2017 (the “**Submittal Deadline**”).

#### 2.2 University Contact Person

Proposers will direct all questions or concerns regarding this RFP to the following University contact (“**University Contact**”):

**Darya Vienne**  
Email: [dvienne@utsystem.edu](mailto:dvienne@utsystem.edu)

University specifically instructs all interested parties to restrict all contact and questions regarding this RFP to written communications delivered to (i) University Contact, or (ii) if questions relate to Historically Underutilized Businesses, to HUB Coordinator (ref. **Section 2.5** of this RFP). University Contact must receive all questions or concerns no later than 2:30 p.m. CST on Tuesday, March 21st, 2017. University will have a reasonable amount of time to respond to questions or concerns. It is University’s intent to respond to all appropriate questions and concerns; however, University reserves the right to decline to respond to any question or concern.

#### 2.3 Criteria for Selection

The successful Proposer, if any, selected by University through this RFP will be the Proposer that submits a proposal on or before the Submittal Deadline that is the most advantageous to University. The successful Proposer is referred to as “**Contractor.**”

Proposer is encouraged to propose terms and conditions offering the maximum benefit to University in terms of (1) service, (2) total overall cost, and (3) project management expertise.

The evaluation of proposals and the selection of Contractor will be based on the information provided in the proposal. University may consider additional information if University determines the information is relevant.

Criteria to be considered by University in evaluating proposals and selecting Contractor, will be these factors:

##### 2.3.1 Threshold Criteria (Not Scored)

- A. Ability of University to comply with laws regarding Historically Underutilized Businesses; and
- B. Ability of University to comply with laws regarding purchases from persons with disabilities.
- C. The Proposer’s:
  1. Registration with the Texas Department of State Health Services to be a Transporter and Shipper of Low-Level Radioactive Waste inside the State of Texas to transport to the Texas Compact Waste Disposal Facility (CWF); and
  2. Contract (in force) with the Texas Compact Waste Disposal Operator.

### 2.3.2 Scored Criteria

- A. Pricing of goods and services as provided by the Proposer in Low-Level Radioactive Waste Disposal Sample Agreement, **APPENDIX TWO** (20 points);
- B. Stability (3 points);
- C. Business Reputation (7 points);
- D. Financial Capabilities (15 points);
- E. Regulatory Compliance History (10 points);
- F. Approach to Project (15 points);
- G. General Competence (15 points);
- H. Transporters and Facilities to be Used (10 points);
- I. Special Services or Benefits Offered by Proposer (5 points).

### 2.4 Key Events Schedule

Issuance of RFP	Tuesday, March 7th, 2017
Deadline for Questions / Concerns (ref. <b>Section 2.2</b> of this RFP)	2:30 p.m. CST on Tuesday, March 21st, 2017.
Submittal Deadline (ref. <b>Section 2.1</b> of this RFP)	2:30 p.m. CST on Tuesday, April 4th, 2017

### 2.5 Historically Underutilized Businesses

2.5.1 All agencies of the State of Texas are required to make a good faith effort to assist historically underutilized businesses (each a “**HUB**”) in receiving contract awards. The goal of the HUB program is to promote full and equal business opportunity for all businesses in contracting with state agencies. Pursuant to the HUB program, if under the terms of any agreement or contractual arrangement resulting from this RFP, Contractor subcontracts any of the Services, then Contractor must make a good faith effort to utilize HUBs certified by the Procurement and Support Services Division of the Texas Comptroller of Public Accounts. Proposals that fail to comply with the requirements contained in this **Section 2.5** will constitute a material failure to comply with advertised specifications and will be rejected by University as non-responsive. Additionally, compliance with good faith effort guidelines is a condition precedent to awarding any agreement or contractual arrangement resulting from this RFP. Proposer acknowledges that, if selected by University, its obligation to make a good faith effort to utilize HUBs when subcontracting any of the Services will continue throughout the term of all agreements and contractual arrangements resulting from this RFP. Furthermore, any subcontracting of the Services by Proposer is subject to review by University to ensure compliance with the HUB program.

- 2.5.2 University has reviewed this RFP in accordance with [34 TAC §20.285](#), and has determined that subcontracting opportunities are probable under this RFP.
- 2.5.3 A HUB Subcontracting Plan (“**HSP**”) is a required as part of Proposer’s proposal. The HSP will be developed and administered in accordance with University’s Policy on Utilization of Historically Underutilized Businesses attached as **APPENDIX THREE** and incorporated for all purposes.

*Each Proposer must complete and return the HSP in accordance with the terms and conditions of this RFP, including **APPENDIX THREE**. Proposers that fail to do so will be considered non-responsive to this RFP in accordance with [§2161.252, Government Code](#).*

*Questions regarding the HSP may be directed to:*

*Contact: Cynthia Booker, Coordinator, HUB Technical Assistant  
Phone: 409-772-1353  
Email: [cbooker@utsystem.edu](mailto:cbooker@utsystem.edu)*

Contractor will not be permitted to change its HSP *unless*: (1) Contractor completes a new HSP in accordance with the terms of **APPENDIX THREE**, setting forth all modifications requested by Contractor, (2) Contractor provides the modified HSP to University, (3) University approves the modified HSP *in writing*, and (4) all agreements resulting from this RFP are amended in writing to conform to the modified HSP.

- 2.5.4 Proposer must submit three (3) originals of the HSP to University at the same time it submits its proposal to University (ref. **Section 3.2** of this RFP.) **The originals of the HSP must be submitted under separate cover (mailed independently) and in three (3) separate envelopes (the “HSP Envelopes”).** Proposer must ensure that the top surface of HSP Envelopes clearly indicating:

2.5.4.1 the RFP No. (ref. **Section 1.3** of this RFP) and the Submittal Deadline (ref. **Section 2.1** of this RFP), both located in the lower left hand corner of the top surface of the envelope,

2.5.4.2 the name and the return address of the Proposer, and

2.5.4.3 the phrase “HUB Subcontracting Plan”.

Any proposal submitted in response to this RFP that is not accompanied by two (2) separate HSP Envelopes meeting the above requirements may be rejected by University and returned to Proposer unopened as non-responsive due to material failure to comply with advertised specifications.

University will open Proposer’s HSP Envelopes prior to opening the proposal to confirm Proposer submitted the HSP. Proposer’s failure to submit two (2) completed and signed originals of Proposer’s HUB Subcontracting Plan may result in University’s rejection of the proposal as non-responsive due to material failure to comply with advertised specifications; such a proposal will be returned to the Proposer unopened (ref. **Section 1.5 of APPENDIX ONE** to this RFP). **Note:** The requirement that Proposer provide two (2) originals of the HSP under this **Section 2.5.4** is separate from and does not affect Proposer’s obligation to provide University with the number of copies of its proposal as specified in **Section 3.1** 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 in HSP Envelopes.** Failure to do so will slow the evaluation process and may result in DISQUALIFICATION.

## SECTION 3

### SUBMISSION OF PROPOSAL

#### 3.1 Number of Copies

- A. Proposer must submit a total of ten (10) complete and identical copies of its *entire* proposal. An *original* signature by an authorized officer of Proposer must appear on the Execution of Offer (ref. **Section 2** of **APPENDIX ONE**) of at least one (1) copy of the submitted proposal. The copy of the Proposer's proposal bearing an original signature should contain the mark "original" on the front cover of the proposal.

***University does not consider electronic signatures to be valid therefore the original signature must be a "wet signature."***

- B. One (1) complete electronic copy of its entire proposal in a single .pdf file on USB Flash Drive. USB Flash Drive must include a protective cover and be labeled with Proposer's name and RFP number.

#### 3.2 Submission

Proposals must be received by University on or before the Submittal Deadline (ref. **Section 2.1** of this RFP) and should be delivered to:

The University of Texas System Administration  
210 West Sixth St.  
Suite B. 140E  
Austin, Texas 78701-2891  
**Attn: Darya Vienne**

**NOTE: Show the Request for Proposal number and submittal date in the lower left-hand corner of sealed bid envelope (box / container).**

Proposals must be typed on letter-size (8-1/2" x 11") paper, and must be submitted in a 3-ring binder. Preprinted material should be referenced in the proposal and included as labeled attachments. Sections within a proposal should be divided by tabs for ease of reference.

#### 3.3 Proposal Validity Period

Each proposal must state that it will remain valid for University's acceptance for a minimum of one hundred and twenty (120) days after the Submittal Deadline, to allow time for evaluation, selection, and any unforeseen delays.

#### 3.4 Terms and Conditions

- 3.4.1 Proposer must comply with the requirements and specifications contained in this RFP, including the Sample Agreement (ref. **APPENDIX TWO**), the Notice to Proposer (ref. **Section 2** of this RFP), Proposal Requirements (ref. **APPENDIX ONE**) and the Specifications and Additional Questions (ref. **Section 5** of this RFP). If there is a conflict among the provisions in this RFP, the provision requiring Proposer to supply the better quality or greater quantity of services will prevail, or if such conflict does not involve quality or quantity, then interpretation will be in the following order of precedence:

- 3.4.1.1. Specifications and Additional Questions (ref. **Section 5** of this RFP);
- 3.4.1.2. Sample Agreement (ref. **Section 4** and **APPENDIX TWO**);
- 3.4.1.3. Proposal Requirements (ref. **APPENDIX ONE**);
- 3.4.1.4. Notice to Proposers (ref. **Section 2** of this RFP).

### **3.5 Submittal Checklist**

Proposer is instructed to complete, sign, and return the following documents as a part of its proposal. If Proposer fails to return each of the following items with its proposal, then University may reject the proposal:

- 3.5.1 Signed and Completed Execution of Offer (ref. **Section 2** of **APPENDIX ONE**)
- 3.5.2 Signed and Completed Pricing and Delivery Schedule (ref. **Section 6** of this RFP)
- 3.5.3 Responses to Proposer's General Questionnaire (ref. **Section 3** of **APPENDIX ONE**)
- 3.5.4 Signed and Completed Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**)
- 3.5.5 Responses to questions and requests for information in the Specifications and Additional Questions Section (ref. **Section 5** of this RFP)
- 3.5.6 Signed and completed originals of the HUB Subcontracting Plan or other applicable documents (ref. **Section 2.5** of this RFP and **APPENDIX THREE**).
- 3.5.7 Copy of Proposer's current insurance certificate. (Note: At the time of contract execution, the awarded Contractor will be required to provide proof of insurance in accordance with the applicable limits stated in **Section 11** of the Sample Agreement (ref. **APPENDIX TWO**).
- 3.5.8 Signed and Completed Agreement (including all attached exhibits including proposer's intended Treatment Facilities in **Exhibit C**, Transporters in **Exhibit D**, and intended Disposal Facilities, in addition to WCS in **Exhibit E**) (ref. sample in **APPENDIX TWO**).

## SECTION 4

### GENERAL TERMS AND CONDITIONS

The terms and conditions contained in the attached Sample Agreement (ref. **APPENDIX TWO**) or, in the sole discretion of University, terms and conditions substantially similar to those contained in the Agreement, will constitute and govern any agreement that results from this RFP. If Proposer takes exception to any terms or conditions set forth in the Agreement, Proposer will redline attached Sample Agreement (ref. **APPENDIX TWO**) and include redlined Agreement as part of its proposal in accordance with **Section 5.2.1** of this RFP. Proposer's exceptions will be reviewed by University and may result in disqualification of Proposer's proposal as non-responsive to this RFP. If Proposer's exceptions do not result in disqualification of Proposer's proposal, then University may consider Proposer's exceptions when University evaluates the Proposer's proposal.

## SECTION 5

### SPECIFICATIONS AND ADDITIONAL QUESTIONS

#### 5.1 General

The minimum requirements and the specifications for the Services, as well as certain requests for information to be provided by Proposer as part of its proposal, are set forth below. As indicated in **Section 2.3** of this RFP, the successful Proposer is referred to as the “**Contractor.**”

**Contract Term:** University intends to enter into an agreement with the Contractor to perform the Services for an initial one (1)-year base term, with the option to renew for four (4) additional one (1) year renewal periods, upon mutual written agreement of both parties.

**Disclosure of Existing Agreement:** University has a Hazardous Waste Management and Disposal Services agreement with Bionomics, Inc., which is scheduled to expire August 31, 2017.

#### 5.2 Additional Information

Proposer must submit the following information as part of Proposer’s proposal:

- 5.2.1 If Proposer takes exception to any terms or conditions set forth in the Sample Agreement (ref. **APPENDIX TWO**), Proposer must submit redlined Agreement. If Proposer agrees with terms or conditions set forth in the Sample Agreement, Proposer will submit a written statement acknowledging it.
- 5.2.2 Approved registration documentation from the Texas Department of State Health Services to be a Transporter of Low-Level Radioactive Waste inside the State of Texas to transport to the Texas Low-Level Radioactive Waste Disposal site.
- 5.2.3 Approved registration documentation from the Texas Department of State Health Services to be a Shipper of Low-Level Radioactive Waste inside the State of Texas to ship to the Texas Low-Level Radioactive Waste Disposal site.

#### 5.3 Scope of Work

Contractor will provide Covered Waste management, handling, transportation, treatment, and disposal services.

##### 5.3.1 Covered Services:

Contractor must, at the request of any Generating Institution, analyze, package, seal, label, manifest, load, unload, treat (including, without limitation, supercompaction, incineration and solidification of aqueous liquids), transport, and dispose of Covered Wastes under the terms of this RFP. In association with these services, Contractor must prepare notification, certification or any other documents that are required by Applicable Laws and must also distribute and retain in its records copies of all such documents as required by Applicable Laws.

Contractor must furnish and pay for all labor, permits, licenses, insurance, materials, tools, equipment, including at a minimum the Safety Equipment listed below, and services required to provide the services described in this **Section 5.3.**

##### CONTRACTOR’S SAFETY EQUIPMENT (minimum requirements)

Emergency Response and Spill Control:

- Portable Geiger-Mueller Survey Instrument (for contamination surveys)
- 85 Gallon Overpack Drum
- Shovels and Broom
- Fire Extinguisher
- Absorbents, Pads and Oil Dry
- Evacuation Horn

Personnel Protective Clothing:

- Regular and Poly Coated Tyvek Coveralls
- Safety Glasses and Goggles
- Steel Toed Boots (leather and chemical resistant)
- Full Face Respirators and Cartridges
- Gloves (leather and chemical resistant)
- Duct Tape
- First Aid Kit

Contractor must provide general instructional services at no additional cost to the Generating Institutions regarding proper and safe segregation and packaging of Covered Wastes in compliance with all Applicable Laws with respect to the Covered Services.

Contractor must package and label the Covered Wastes if requested by the Generating Institution, and must provide such supplies as packing materials, leakproof containers, and recovery materials. All containers must meet federal, state, and local specifications and standards for the material to be contained.

Contractor must, at Contractor's sole cost and expense, assume responsibility for and respond, in accordance with all Applicable Laws, to any and all leaks, spills, and other emergencies occurring in connection with performance of the Covered Services.

### 5.3.2 Service Requirements

Contractor must perform all Covered Services on an "open order" basis as pick-up requests are received from each Generating Institution, pursuant to the requirements of this RFP and any specific instructions of the Generating Institution.

Contractor shall perform all Covered Services in compliance with all Applicable Laws, rules and regulations, and all policy and procedural requirements of the Generating Institutions.

### 5.3.3 Review and Approval of Services

All services performed by Contractor under any Agreement resulting from this RFP shall be subject to the review and approval of the Contract Coordinator and the Institution Coordinator for the affected Generating Institution.

The Institution Coordinator of each Generating Institution shall decide all questions which may arise as to Contractor's obligations hereunder at the particular Generating Institution. The determination of the Institution Coordinator shall be final and conclusive as to all questions that arise with respect to that Generating Institution.

- 5.3.4 The successful proposer will contract with University to assist University and the Generating Institutions, on an as needed basis, with the management, handling, transportation, treatment and disposal of Covered Waste in accordance with the requirements and specifications of the RFP, including without limitation the terms and conditions of the agreement (ref. **APPENDIX TWO**).

**5.4 Additional Questions Specific to this RFP**

THE FOLLOWING CRITERIA WILL BE USED BY UT SYSTEM IN EVALUATING PROPOSALS RECEIVED IN RESPONSE TO THIS RFP. AS NOTED IN THIS RFP, THE SUCCESSFUL PROPOSAL WILL BE THE PROPOSAL SUBMITTED IN RESPONSE TO THIS RFP BY THE SUBMITTAL DEADLINE THAT IS THE MOST ADVANTAGEOUS TO UT SYSTEM. PROPOSALS WILL BE EVALUATED BY UT SYSTEM PERSONNEL. THE EVALUATION OF PROPOSALS AS THE SELECTION OF THE SUCCESSFUL PROPOSAL WILL BE BASED ON THE INFORMATION PROVIDED BY PROPOSER IN ITS PROPOSAL INCLUDING, WITHOUT LIMITATION, TO RESPONSES TO THE PROPOSER QUESTIONNAIRE. CONSIDERATION MAY ALSO BE GIVEN TO ANY ADDITIONAL INFORMATION AND COMMENTS INCLUDING WITHOUT LIMITATION PROPOSER'S REGULATORY HISTORY AND ALL OTHER INFORMATION HELPFUL TO UT SYSTEM.

**Scoring Criteria:**

<i>Points Assigned</i> <b><u>3</u></b>	<p><b>1. STABILITY</b></p> <ul style="list-style-type: none"> <li>a. How long Proposer has been in business.</li> <li>b. How many employees Proposer has.</li> <li>c. Unusual changes or reorganizations of Proposer's business.</li> <li>d. Litigation that would affect Proposer's performance under the Agreement.</li> <li>e. Proposer's default on any loan agreement or financing agreement with any bank, financial institution or other entity.</li> <li>f. Additional information and comments if they increase the benefits to University.</li> </ul>
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<i>Points Assigned</i> <b><u>7</u></b>	<p><b>2. BUSINESS REPUTATION</b></p> <ul style="list-style-type: none"> <li>a. Strength of statements made by Proposer's references, including without limitation, statements regarding quality of services, whether services provided were comparable in scope and type of services required by University, timeliness of services, training of employees, safety record, and spill and emergency response history.</li> <li>b. Strength of statements made by agencies of the State of Texas, agencies of another state government or agencies of the United States, for which Proposer has provided services.</li> <li>c. Strength of statements made by institutions of higher education which Proposer has provided services.</li> <li>d. References or statements that may be solicited from Proposer's other clients or others with knowledge of Proposer's business activities.</li> <li>e. General business reputation in the community.</li> </ul>
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- f. Additional information and comments if they increase the benefits to University.

<b>Points Assigned</b> <u>15</u>	<b>3. FINANCIAL CAPABILITIES</b>
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- a. Strength of Proposer’s Financial Statements. Proposer’s demonstrated capability and financial resources to perform the Covered Services.
- b. Financial stability over the past five years, as may be determined by University from public records, supporting information provided by Proposer (such as a Dun & Bradstreet analysis), or other information that may be available to University.
- c. Type of entity organizational structure (corporation, partnership, limited liability company etc...).
- d. If the Proposer is a corporation, whether the Proposer is a parent or subsidiary corporation.
- e. If Proposer is a subsidiary corporation, whether Proposer’s parent corporation is entering into the Agreement with University or offering assurances of Proposer’s performance of the Agreement.
- f. Bankruptcy filings relating to Proposer, any partner or principal of Proposer, or Proposer’s parent corporation, if any.
- g. Whether Proposer’s Director and Officer Liability, Worker’s Compensation, Employer’s Liability, Commercial General Liability, Commercial Automobile Liability, and Pollution Legal Liability (Sudden and Non-Sudden Occurrences) insurance coverage’s are provided by an insurance carrier rated A or better and whether such insurance coverage’s are satisfactory to UTS and the Generating institutions in all respects.
- h. Additional information and comments if they increase the benefits to University.

<b>Points Assigned</b> <u>10</u>	<b>4. REGULATORY COMPLIANCE HISTORY</b>
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- a. Proposer’s federal and state regulatory compliance history for the past five (5) years, including without limitation internal audits or reviews, inspection reports, notices of violations, administrative actions, settlements and other similar reports, actions and documentation prepared by or for, or entered into with any regulatory agency.
- b. All Department of Transportation exemptions applied for or granted to Proposer or proposed transporters that allow shipment of normally restricted hazardous materials.
- c. Proposer’s current licenses, registrations and certifications issued by federal, state, and local agencies and any other governmental entity with jurisdiction.
- d. University-Approved Transporter’s current licenses and identification numbers issued by the Nuclear Regulatory Commission, states with state radiation control programs and the Environmental Protection Agency.

- e. University-Approved Disposal Facility current licenses and identification numbers issued by the Nuclear Regulatory commission, states with state radiation control programs and the Environmental Protection Agency.
- f. Additional information and comments if they increase the benefits to University.

<b>Points Assigned</b> <u>15</u>	<b>5. APPROACH TO PROJECT</b>
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- a. Soundness of Proposer's approach to the management, handling, transportation and the disposal of Covered Wastes, including but not limited to approaches that allow the participation of University and Generating Institution personnel and other potential cost saving approaches.
- b. Soundness of Proposer's work-plan including key dates and milestones, identification of tasks to be performed and/or goods to be provided, time frames to perform the identified tasks and implementation strategy.
- c. Earliest possible date Proposer can begin providing services to University following complete execution of the Agreement.
- d. Form and substance of Proposer's procedures for the management, packaging, transportation, storage, treatment and disposal of each waste stream identified in the Sample Agreement found in **APPENDIX TWO**, including the estimated time from pick-up of Covered Wastes to receipt by the Generating Institution of the Certificate of Disposal, proposer's intended Treatment Facilities in Exhibit C, Transporters in Exhibit D, and intended Disposal Facilities, in addition to WCS in Exhibit E.
- e. Form and Substance of (1) Proposer's General instructions for preparation of Covered Wastes; (2) Proposer's packing instructions for shipment of Covered Wastes; and (3) sample invoice, Certificate of Disposal, manifest, Land Disposal Record, bulk sheet and proposed waste profile, as well, as sample tracking documentation required by the Agreement.
- f. Form, substance and frequency of other reports or written documents Proposer will provide to University and the Generating Institutions.
- g. Proposer's service support philosophy, how the philosophy is carried out, and how success in fulfilling this philosophy is measured.
- h. Proposer's quality assurance program, including Proposer's quality assurance procedures and how quality assurance is evaluated and assessed.
- i. Proposer's anticipated difficulties in serving University and the Generating Institutions, and Proposer's plan to manage those difficulties, including any assistance Proposer will require from University or the Generating Institutions.
- j. Additional information and comments if they increase the benefits to University.

<b>Points Assigned</b> <u>15</u>	<b>6. GENERAL COMPETENCE</b>
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- a. Proposer's ability to dispose of all types of wastes described in the Agreement in volumes and categories generated by University and the Generating Institutions, including Covered Wastes that contain both radioactive materials and EPS listed or Characteristic hazardous wastes (i.e., mixed wastes)

- b. Proposer's ability to provide the range of Covered Services required for each of the Generating Institutions including without limitation, those institutions located in West Texas, South Texas and Northeast Texas.
- c. Proposer's demonstrated competence and experience performing the Covered Services.
- d. Proposer's demonstrated competence and experience performing the Covered Services for other similarly situated complex institutions and specifically institutions of higher education.
- e. Proposer's knowledge of current and developing issues related to the management handling, transportation and disposal of Covered Wastes, as well as issues related to other fields that may be applicable to University.
- f. Proposer's awareness of opportunities for (1) the reduction of Covered Wastes volumes, costs and liabilities and (2) the maximization of Covered Waste disposal options, and Proposer's demonstrated competence and experience developing and implementing strategies to take advantage of such opportunities.
- g. Resumes for proposed project team members, including without limitation the team members' specific experiences with similar projects, number of years with Proposer, qualifications and education.
- h. Additional information and comments if they increase the benefits to University.

<b>Points Assigned</b> <b><u>10</u></b>	<b>7. TRANSPORTERS AND FACILITIES TO BE USED</b>
--	--

- a. Transporters and Facilities to be used by Proposer in providing the Covered Services may be evaluated based on criteria similar to criteria on which Proposer will be evaluated based on information available through public records or otherwise available to University.
- b. Transporters to be used by Proposer in providing the Covered Services may also be evaluated based on whether trucks will be owned, long-term leased or rented and whether dedicated cargo-beds are available in the transporter's regular course of business.
- c. Additional information and comments if they increase the benefits to UTS.

<b>Points Assigned</b> <b><u>5</u></b>	<b>8. SPECIAL SERVICES OR BENEFITS OFFERED BY PROPOSER</b>
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- a. Any goods or services not specified in this RFP that Proposer will provide to UTS or the Generating Institutions and any related costs of such goods and services to UTS or the Generating Institutions.
- b. Any special services or product characteristics, or other benefits (for example, tracking software, internet-based information services, electronic mail capabilities, and audit programs), offered to UTS or Generating Institutions, any other advantages to UTS or the Generating Institutions in selecting Proposer, and any related costs of such goods, services or advantages to UTS or the Generating Institution.

- c. Additional information and comments if they increase the benefits to UTS.

## SECTION 6

### PRICING AND DELIVERY SCHEDULE

Proposal of: \_\_\_\_\_  
(Proposer Company Name)

To: The University of Texas System

RFP No.: 720-1713 Low-Level Radioactive Waste Treatment and Disposal Services

Ladies and Gentlemen:

Having carefully examined all the specifications and requirements of this RFP and any attachments thereto, the undersigned proposes to furnish the required pursuant to the above-referenced Request for Proposal upon the terms quoted (firm fixed price) below. The University will not accept proposals which include assumptions or exceptions to the work identified in this RFP.

#### 6.1 Pricing for Services Offered (Points Assigned: 20)

Proposer must complete and return the Contractor Rate Schedule (ref. **EXHIBIT B** of **APPENDIX TWO** in this RFP), as part of its proposal, as described in **APPENDIX ONE (Section 1.9.3)**.

#### 6.2 Discounts

Describe all discounts that may be available to University, including, educational, federal, state and local discounts.

#### 6.3 Payment Terms

Submission of Invoices. Except as provided in Section 6.3 below or unless otherwise agreed to in writing by the Institution Coordinator, Contractor shall submit to the Institution Coordinator of the Generating Institution on a monthly basis, invoices for Covered Services provided. Contractor may submit invoices to the Institution Coordinator of the Generating Institution by fax if subsequently confirmed by first-class mail.

Invoices shall, among other things, (1) set forth a description of the Covered Services performed. (2) reference the Generating Institution's purchase order/release number, and (3) be accompanied by a properly completed and legible shipping manifest signed by a duly authorized representative of the Facility.

University's standard payment terms are "net 30 days" as mandated by the *Texas Prompt Payment Act* (ref. [Chapter 2251, Government Code](#)).

Indicate below the prompt payment discount that Proposer offers:

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

[Section 51.012, Education Code](#), authorizes University to make payments through electronic funds transfer methods. Proposer agrees to accept payments from University through those methods, including the automated clearing house system ("ACH"). Proposer agrees to provide Proposer's banking information to University in writing on Proposer letterhead signed by an authorized representative of Proposer. Prior to the first payment, University will confirm Proposer's banking information. Changes to Proposer's bank information must be communicated to University in writing

at least thirty (30) days before the effective date of the change and must include an [IRS Form W-9](#) signed by an authorized representative of Proposer.

University, an agency of the State of Texas, is exempt from Texas Sales and 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\(c\)\(4\)](#), University is not required to provide a tax exemption certificate to establish its tax exempt status.

Respectfully submitted,

**Proposer:** \_\_\_\_\_

**By:** \_\_\_\_\_  
(Authorized Signature for Proposer)

**Name:** \_\_\_\_\_

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

**Date:** \_\_\_\_\_

**APPENDIX ONE  
PROPOSAL REQUIREMENTS**

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## SECTION 1

### GENERAL INFORMATION

#### 1.1 Purpose

University is soliciting competitive sealed proposals from Proposers having suitable qualifications and experience providing services in accordance with the terms, conditions and requirements set forth in this RFP. This RFP provides sufficient information for interested parties to prepare and submit proposals for consideration by University.

By submitting a proposal, Proposer certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the services to be performed, the detailed requirements of the services to be provided, and the conditions under which such services are to be performed. Proposer also certifies that it understands that all costs relating to preparing a response to this RFP will be the sole responsibility of the Proposer.

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.

#### 1.2 Inquiries and Interpretations

University may in its sole discretion respond in writing to written inquiries concerning this RFP and mail its response as an Addendum to all parties recorded by University as having received a copy of this RFP. Only University's responses that are made by formal written Addenda will be binding on University. Any verbal responses, written interpretations or clarifications other than Addenda to this RFP will be without legal effect. All Addenda issued by University prior to the Submittal Deadline will be and are hereby incorporated as a part of this RFP for all purposes.

Proposers are required to acknowledge receipt of each Addendum as specified in this Section. The Proposer must acknowledge all Addenda by completing, signing and returning the Addenda Checklist (ref. **Section 4** of **APPENDIX ONE**). The Addenda Checklist must be received by University prior to the Submittal Deadline and should accompany the Proposer's proposal.

Any interested party that receives this RFP by means other than directly from University is responsible for notifying University that it has received an RFP package, and should provide its name, address, telephone and facsimile (**FAX**) numbers, and email address, to University, so that if University issues Addenda to this RFP or provides written answers to questions, that information can be provided to that party.

#### 1.3 Public Information

Proposer is hereby notified that University strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information.

University may seek to protect from disclosure all information submitted in response to this RFP until such time as a final agreement is executed.

Upon execution of a final agreement, University will consider all information, documentation, and other materials requested to be submitted in response to this RFP, to be of a non-confidential and non-proprietary nature and, therefore, subject to public disclosure under the *Texas Public Information Act* (ref. [Chapter 552, Government Code](#)). Proposer will be advised of a request for public information that implicates their materials and will have the opportunity to raise any objections to disclosure to the Texas Attorney General. Certain information may be protected from release under §§[552.101](#), [552.104](#), [552.110](#), [552.113](#), and [552.131](#), *Government Code*.

#### 1.4 Type of Agreement

Contractor, if any, will be required to enter into a contract with University in a form substantially similar to the Sample Agreement between University and Contractor (the "**Agreement**") attached to this RFP as **APPENDIX TWO** and incorporated for all purposes.

#### 1.5 Proposal Evaluation Process

University will select Contractor by using the competitive sealed proposal process described in this Section. Any proposals that are not submitted by the Submittal Deadline or that are not accompanied by required number of completed and signed originals of the HSP will be rejected by University as non-responsive due to material failure to comply with this RFP (ref. **Section 2.5.4** of this RFP). Upon completion of the initial review and evaluation of proposals, University may invite one or more selected Proposers to participate in oral presentations. University will use commercially reasonable efforts to avoid public disclosure of the contents of a proposal prior to selection of Contractor.

University may make the selection of Contractor on the basis of the proposals initially submitted, without discussion, clarification or modification. In the alternative, University may make the selection of Contractor on the basis of negotiation with any of the Proposers. In conducting negotiations, University will use commercially reasonable efforts to avoid disclosing the contents of competing proposals.

University may discuss and negotiate all elements of proposals submitted by Proposers within a specified competitive range. For purposes of negotiation, University may establish, after an initial review of the proposals, a competitive range of acceptable or potentially acceptable proposals composed of the highest rated proposal(s). In that event, University may defer further action on proposals not included within the competitive range pending the selection of Contractor; provided, however, University reserves the right to include additional proposals in the competitive range if deemed to be in the best interest of University.

After the Submittal Deadline but before final selection of Contractor, University may permit 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. University will provide each Proposer within the competitive range with an equal opportunity for discussion and revision of its proposal. University is not obligated to select the Proposer offering the most attractive economic terms if that Proposer is not the most advantageous to University overall, as determined by University.

University reserves the right to (a) enter into an agreement for all or any portion of the requirements and specifications set forth in this RFP with one or more Proposers, (b) reject any and all proposals and re-solicit proposals, or (c) reject any and all proposals and temporarily or permanently abandon this selection process, if deemed to be in the best interests of University. Proposer is hereby notified that University will maintain in its files concerning this RFP a written record of the basis upon which a selection, if any, is made by University.

#### **1.6 Proposer's Acceptance of RFP Terms**

Proposer (1) accepts [a] Proposal Evaluation Process (ref. **Section 1.5 of APPENDIX ONE**), [b] Criteria for Selection (ref. **2.3** of this RFP), [c] Specifications and Additional Questions (ref. **Section 5** of this RFP), [d] terms and conditions of the Sample Agreement (ref. **APPENDIX TWO**), and [e] all other requirements and specifications set forth in this RFP; and (2) acknowledges that some subjective judgments must be made by University during this RFP process.

#### **1.7 Solicitation for Proposal and Proposal Preparation Costs**

Proposer understands and agrees that (1) this RFP is a solicitation for proposals and University has made no representation written or oral that one or more agreements with University will be awarded under this RFP; (2) University issues this RFP predicated on University's anticipated requirements for the Services, and University has made no representation, written or oral, that any particular scope of services will actually be required by University; and (3) Proposer will bear, as its sole risk and responsibility, any cost that arises from Proposer's preparation of a proposal in response to this RFP.

#### **1.8 Proposal Requirements and General Instructions**

- 1.8.1 Proposer should carefully read the information contained herein and submit a complete proposal in response to all requirements and questions as directed.
- 1.8.2 Proposals and any other information submitted by Proposer in response to this RFP will become the property of University.
- 1.8.3 University will not provide compensation to Proposer for any expenses incurred by the Proposer for proposal preparation or for demonstrations or oral presentations that may be made by Proposer. Proposer submits its proposal at its own risk and expense.
- 1.8.4 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 University, at University's sole discretion.
- 1.8.5 Proposals should be prepared simply and economically, providing a straightforward, concise description of Proposer's ability to meet the requirements and specifications of this RFP. Emphasis should be on completeness, clarity of content, and responsiveness to the requirements and specifications of this RFP.
- 1.8.6 University makes no warranty or guarantee that an award will be made as a result of this RFP. University reserves the right to accept or reject any or all proposals, waive any formalities, procedural requirements, or minor technical inconsistencies, and delete any requirement or specification from this RFP or the Agreement when deemed to be in University's best interest. University reserves the right to seek clarification from any Proposer concerning any item contained in its proposal prior to final selection. Such clarification may be provided by telephone conference or personal meeting with or writing to University, at University's sole discretion. Representations made by Proposer within its proposal will be binding on Proposer.
- 1.8.7 Any proposal that fails to comply with the requirements contained in this RFP may be rejected by University, in University's sole discretion.

#### **1.9 Preparation and Submittal Instructions**

##### **1.9.1 Specifications and Additional Questions**

Proposals must include responses to the questions in Specifications and Additional Questions (ref. **Section 5** of this RFP). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N / A (Not Applicable) or N / R (No Response), as appropriate. Proposer should explain the reason when responding N / A or N / R.

##### **1.9.2 Execution of Offer**

Proposer must complete, sign and return the attached Execution of Offer (ref. **Section 2 of APPENDIX ONE**) as part of its proposal. The Execution of Offer must be signed by a representative of Proposer duly authorized to bind the Proposer to its proposal. Any proposal received without a completed and signed Execution of Offer may be rejected by University, in its sole discretion.

##### **1.9.3 Pricing and Delivery Schedule**

Proposer must complete and return the Contractor Rate Schedule (ref. **EXHIBIT B of APPENDIX TWO** in this RFP), as part of its proposal. In the Contractor Rate Schedule, the Proposer should describe in detail (a) the total fees for the entire scope

of the Services; and (b) the method by which the fees are calculated. The fees must be inclusive of all associated costs for delivery, labor, insurance, taxes, overhead, and profit.

University will not recognize or accept any charges or fees to perform the Services that are not specifically stated in the Contractor Rate Schedule.

In the Contractor Rate Schedule, Proposer should describe each significant phase in the process of providing the Services to University, and the time period within which Proposer proposes to be able to complete each such phase.

1.9.4 Proposer's General Questionnaire

Proposals must include responses to the questions in Proposer's General Questionnaire (ref. **Section 3 of APPENDIX ONE**). Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N / A (Not Applicable) or N / R (No Response), as appropriate. Proposer should explain the reason when responding N / A or N / R.

1.9.5 Addenda Checklist

Proposer should acknowledge all Addenda to this RFP (if any) by completing, signing and returning the Addenda Checklist (ref. **Section 4 of APPENDIX ONE**) as part of its proposal. Any proposal received without a completed and signed Addenda Checklist may be rejected by University, in its sole discretion.

1.9.6 Submission

*Proposer should submit all proposal materials as instructed in **Section 3 of this RFP**. RFP No. (ref. **Title Page** of this RFP) and Submittal Deadline (ref. **Section 2.1** of this RFP) should be clearly shown (1) in the Subject line of any email transmitting the proposal, and (2) in the lower left-hand corner on the top surface of any envelope or package containing the proposal. In addition, the name and the return address of the Proposer should be clearly visible in any email or on any envelope or package.*

Proposer must also submit three (3) copies of the HUB Subcontracting Plan (also called the HSP) as required by **Section 2.6** of this RFP.

University will not under any circumstances consider a proposal that is received after the Submittal Deadline or which is not accompanied by the HSP as required by **Section 2.6** of this RFP. University will not accept proposals submitted by telephone or FAX transmission.

Except as otherwise provided in this RFP, no proposal may be changed, amended, or modified after it has been submitted to University. However, a proposal may be withdrawn and resubmitted at any time prior to the Submittal Deadline. No proposal may be withdrawn after the Submittal Deadline without University's consent, which will be based on Proposer's written request explaining and documenting the reason for withdrawal, which is acceptable to University.

1.9.7 Page Size, Binders, and Dividers

Proposals must be typed on letter-size (8-1/2" x 11") paper, and must be submitted in a binder. Preprinted material should be referenced in the proposal and included as labeled attachments. Sections within a proposal should be divided by tabs for ease of reference.

1.9.8 Table of Contents

Proposals must include a Table of Contents with page number references. The Table of Contents must contain sufficient detail and be organized according to the same format as presented in this RFP, to allow easy reference to the sections of the proposal as well as to any separate attachments (which should be identified in the main Table of Contents). If a Proposer includes supplemental information or non-required attachments with its proposal, this material should be clearly identified in the Table of Contents and organized as a separate section of the proposal.

1.9.9 Pagination

All pages of the proposal should be numbered sequentially in Arabic numerals (1, 2, 3, etc.). Attachments should be numbered or referenced separately.

## SECTION 2

### EXECUTION OF OFFER

**THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED AND RETURNED WITH PROPOSER'S PROPOSAL. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE PROPOSER'S PROPOSAL MAY RESULT IN THE REJECTION OF THE PROPOSAL.**

- 2.1 Representations and Warranties.** Proposer represents, warrants, certifies, acknowledges, and agrees as follows:
- 2.1.1 Proposer will furnish the Services to University and comply with all terms, conditions, requirements and specifications set forth in this RFP and any resulting Agreement.
  - 2.1.2 This RFP is a solicitation for a proposal and is not a contract or an offer to contract. Submission of a proposal by Proposer in response to this RFP will not create a contract between University and Proposer. University has made no representation or warranty, written or oral, that one or more contracts with University will be awarded under this RFP. Proposer will bear, as its sole risk and responsibility, any cost arising from Proposer's preparation of a response to this RFP.
  - 2.1.3 Proposer is a reputable company that is lawfully and regularly engaged in providing the Services.
  - 2.1.4 Proposer has the necessary experience, knowledge, abilities, skills, and resources to perform the Services.
  - 2.1.5 Proposer is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances relating to performance of the Services.
  - 2.1.6 Proposer understands (i) the requirements and specifications set forth in this RFP and (ii) the terms and conditions set forth in the Agreement under which Proposer will be required to operate.
  - 2.1.7 Proposer will not delegate any of its duties or responsibilities under this RFP or the Agreement to any sub-contractor, except as expressly provided in the Agreement.
  - 2.1.8 Proposer will maintain any insurance coverage required by the Agreement during the entire term.
  - 2.1.9 All statements, information and representations prepared and submitted in response to this RFP are current, complete, true and accurate. University will rely on such statements, information and representations in selecting Contractor. If selected by University, Proposer will notify University immediately of any material change in any matters with regard to which Proposer has made a statement or representation or provided information.
  - 2.1.10 PROPOSER WILL DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, INDEMNIFY, AND HOLD HARMLESS UNIVERSITY, THE STATE OF TEXAS, AND ALL OF THEIR REGENTS, OFFICERS, AGENTS AND EMPLOYEES, FROM AND AGAINST ALL ACTIONS, SUITS, DEMANDS, COSTS, DAMAGES, LIABILITIES AND OTHER CLAIMS OF ANY NATURE, KIND OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTling ANY OF THE FOREGOING, ARISING OUT OF, CONNECTED WITH, OR RESULTING FROM ANY NEGLIGENT ACTS OR OMISSIONS OR WILLFUL MISCONDUCT OF PROPOSER OR ANY AGENT, EMPLOYEE, SUBCONTRACTOR, OR SUPPLIER OF PROPOSER IN THE EXECUTION OR PERFORMANCE OF ANY CONTRACT OR AGREEMENT RESULTING FROM THIS RFP.
  - 2.1.11 Pursuant to §§[2107.008](#) and [2252.903](#), *Government Code*, any payments owing to Proposer under the Agreement may be applied directly to any debt or delinquency that Proposer 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.
  - 2.1.12 Any terms, conditions, or documents attached to or referenced in Proposer's proposal are applicable to this procurement only to the extent that they (a) do not conflict with the laws of the State of Texas or this RFP, and (b) do not place any requirements on University that are not set forth in this RFP. Submission of a proposal is Proposer's good faith intent to enter into the Agreement with University as specified in this RFP and that Proposer's intent is not contingent upon University's acceptance or execution of any terms, conditions, or other documents attached to or referenced in Proposer's proposal.
- 2.2 No Benefit to Public Servants.** Proposer has not given or offered to give, nor does Proposer intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with its proposal. Failure to sign this Execution of Offer, or signing with a false statement, may void the submitted proposal or any resulting Agreement, and Proposer may be removed from all proposer lists at University.
- 2.3 Tax Certification.** Proposer is not currently delinquent in the payment of any taxes due under [Chapter 171, Tax Code](#), or Proposer is exempt from the payment of those taxes, or Proposer is an out-of-state taxable entity that is not subject to those taxes, whichever is applicable. A false certification will be deemed a material breach of any resulting contract or agreement and, at University's option, may result in termination of any resulting Agreement.
- 2.4 Antitrust Certification.** Neither Proposer nor any firm, corporation, partnership or institution represented by Proposer, nor anyone acting for such firm, corporation or institution, has violated the antitrust laws of the State of Texas, codified in [§15.01 et seq., Business and Commerce Code](#), 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.
- 2.5 Authority Certification.** The individual signing this document and the documents made a part of this RFP, is authorized to sign the documents on behalf of Proposer and to bind Proposer under any resulting Agreement.

- 2.6 Child Support Certification.** Under [§231.006, Family Code](#), relating to child support, the individual or business entity named in Proposer's proposal is not ineligible to receive award of the Agreement, and any Agreements resulting from this RFP may be terminated if this certification is inaccurate
- 2.7 Relationship Certifications.**
- No relationship, whether by blood, marriage, business association, capital funding agreement or by any other such kinship or connection exists between the owner of any Proposer that is a sole proprietorship, the officers or directors of any Proposer that is a corporation, the partners of any Proposer that is a partnership, the joint venturers of any Proposer that is a joint venture, or the members or managers of any Proposer that is a limited liability company, on one hand, and an employee of any member institution of University, on the other hand, other than the relationships which have been previously disclosed to University in writing.
  - Proposer has not been an employee of any member institution of University within the immediate twelve (12) months prior to the Submittal Deadline.
  - No person who, in the past four (4) years served as an executive of a state agency was involved with or has any interest in Proposer's proposal or any contract resulting from this RFP (ref. [§669.003, Government Code](#)).
  - All disclosures by Proposer in connection with this certification will be subject to administrative review and approval before University enters into any Agreement resulting from this RFP with Proposer.
- 2.8 Compliance with Equal Employment Opportunity Laws.** Proposer is in compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 2.9 Compliance with Safety Standards.** All products and services offered by Proposer to University in response to this RFP meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law ([Public Law 91-596](#)) and the *Texas Hazard Communication Act*, [Chapter 502, Health and Safety Code](#), and all related regulations in effect or proposed as of the date of this RFP.
- 2.10 Exceptions to Certifications.** Proposer will and has disclosed, as part of its proposal, any exceptions to the information stated in this Execution of Offer. All information will be subject to administrative review and approval prior to the time University makes an award or enters into any Agreement with Proposer.
- 2.11 Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act Certification.** If Proposer will sell or lease computer equipment to University under any Agreement resulting from this RFP then, pursuant to [§361.965\(c\), Health & Safety Code](#), Proposer is in compliance with the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act set forth in [Chapter 361, Subchapter Y, Health & Safety Code](#), and the rules adopted by the Texas Commission on Environmental Quality under that Act as set forth in [30 TAC Chapter 328, §361.952\(2\), Health & Safety Code](#), states that, for purposes of the Manufacturer Responsibility and Consumer Convenience Computer Equipment Collection and Recovery Act, the term "computer equipment" means a desktop or notebook computer and includes a computer monitor or other display device that does not contain a tuner.
- 2.12 Conflict of Interest Certification.**
- Proposer is not a debarred vendor or the principal of a debarred vendor (i.e. owner, proprietor, sole or majority shareholder, director, president, managing partner, etc.) either at the state or federal level.
  - Proposer's provision of services or other performance under any Agreement resulting from this RFP will not constitute an actual or potential conflict of interest.
  - Proposer has disclosed any personnel who are related to any current or former employees of University.
  - Proposer has not given, nor does Proposer intend to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to an officer or employee of University in connection with this RFP.
- 2.13 Proposer should complete the following information:**

If Proposer is a Corporation, then State of Incorporation: \_\_\_\_\_

If Proposer is a Corporation, then Proposer's Corporate Charter Number: \_\_\_\_\_

RFP No.: 720-1713 Low-Level Radioactive Waste Treatment and Disposal Services

**NOTICE:** WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER [§§552.021 AND 552.023, GOVERNMENT CODE](#), INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER [§559.004, GOVERNMENT CODE](#), INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

**Submitted and Certified By:**

\_\_\_\_\_  
(Proposer Institution's Name)

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

\_\_\_\_\_  
(Printed Name / Title)

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

\_\_\_\_\_  
(Proposer's Street Address)

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

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

\_\_\_\_\_  
(FAX Number)

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

SECTION 3

**PROPOSER'S GENERAL QUESTIONNAIRE**

**NOTICE:** WITH FEW EXCEPTIONS, INDIVIDUALS ARE ENTITLED ON REQUEST TO BE INFORMED ABOUT THE INFORMATION THAT GOVERNMENTAL BODIES OF THE STATE OF TEXAS COLLECT ABOUT SUCH INDIVIDUALS. UNDER §§552.021 AND 552.023, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO RECEIVE AND REVIEW SUCH INFORMATION. UNDER §559.004, GOVERNMENT CODE, INDIVIDUALS ARE ENTITLED TO HAVE GOVERNMENTAL BODIES OF THE STATE OF TEXAS CORRECT INFORMATION ABOUT SUCH INDIVIDUALS THAT IS INCORRECT.

Proposals must include responses to the questions contained in this Proposer's General Questionnaire. Proposer should reference the item number and repeat the question in its response. In cases where a question does not apply or if unable to respond, Proposer should refer to the item number, repeat the question, and indicate N / A (Not Applicable) or N / R (No Response), as appropriate. Proposer will explain the reason when responding N / A or N / R.

**3.1 Proposer Profile**

3.1.1 Legal name of Proposer company:

\_\_\_\_\_

Address of principal place of business:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address of office that would be providing service under the Agreement:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Number of years in Business: \_\_\_\_\_

State of incorporation: \_\_\_\_\_

Number of Employees: \_\_\_\_\_

Annual Revenues Volume: \_\_\_\_\_

Name of Parent Corporation, if any \_\_\_\_\_

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

3.1.2 State whether Proposer will provide a copy of its financial statements for the past two (2) years, if requested by University.

3.1.3 Proposer will provide a financial rating of the Proposer entity and any related documentation (such as a Dunn and Bradstreet analysis) that indicates the financial stability of Proposer.

3.1.4 Is Proposer currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, Proposer will explain the expected impact, both in organizational and directional terms.

3.1.5 Proposer will provide any details of all past or pending litigation or claims filed against Proposer that would affect its performance under the Agreement with University (if any).

3.1.6 Is Proposer currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, Proposer will specify the pertinent date(s), details, circumstances, and describe the current prospects for resolution.

3.1.7 Proposer will provide a customer reference list of no less than three (3) organizations with which Proposer currently has contracts and / or to which Proposer has previously provided services (within the past five (5) years) of a type and scope similar to those required by University's RFP. Proposer will include in its customer reference list the customer's company name, contact person, telephone number, project description, length of business relationship, and background of services provided by Proposer.

- 3.1.8 Does any relationship exist (whether by family kinship, business association, capital funding agreement, or any other such relationship) between Proposer and any employee of University? If yes, Proposer will explain.
- 3.1.9 Proposer will provide the name and Social Security Number for each person having at least 25% ownership interest in Proposer. This disclosure is mandatory pursuant to [§231.006, Family Code](#), and will be used for the purpose of determining whether an owner of Proposer with an ownership interest of at least 25% is more than 30 days delinquent in paying child support. Further disclosure of this information is governed by the *Texas Public Information Act* (ref. [Chapter 552, Government Code](#)), and other applicable law.

### 3.2 Approach to Project Services

- 3.2.1 Proposer will provide a statement of the Proposer's service approach and will describe any unique benefits to University from doing business with Proposer. Proposer will briefly describe its approach for each of the required services identified in **Section 5.3** Scope of Work of this RFP.
- 3.2.2 Proposer will provide an estimate of the earliest starting date for services following execution of the Agreement.
- 3.2.3 Proposer will submit a work plan with key dates and milestones. The work plan should include:
- 3.2.3.1 Identification of tasks to be performed;
  - 3.2.3.2 Time frames to perform the identified tasks;
  - 3.2.3.3 Project management methodology;
  - 3.2.3.4 Implementation strategy; and
  - 3.2.3.5 The expected time frame in which the services would be implemented.
- 3.2.4 Proposer will describe the types of reports or other written documents Proposer will provide (if any) and the frequency of reporting, if more frequent than required in this RFP. Proposer will include samples of reports and documents if appropriate.
- 3.2.5 In completing **APPENDIX TWO**, Proposer must include intended Treatment Facilities in Exhibit C, Transporters in Exhibit D, and intended Disposal Facilities in addition to WCS in Exhibit E

### 3.3 General Requirements

- 3.3.1 Proposer will provide summary resumes for its proposed key personnel who will be providing services under the Agreement with University, including their specific experiences with similar service projects, and number of years of employment with Proposer.
- 3.3.2 Proposer will describe any difficulties it anticipates in performing its duties under the Agreement with University and how Proposer plans to manage these difficulties. Proposer will describe the assistance it will require from University.

### 3.4 Service Support

Proposer will describe its service support philosophy, how it is implemented, and how Proposer measures its success in maintaining this philosophy.

### 3.5 Quality Assurance

Proposer will describe its quality assurance program, its quality requirements, and how they are measured.

### 3.6 Miscellaneous

- 3.6.1 Proposer will provide a list of any additional services or benefits not otherwise identified in this RFP that Proposer would propose to provide to University. Additional services or benefits must be directly related to the goods and services solicited under this RFP.
- 3.6.2 Proposer will provide details describing any unique or special services or benefits offered or advantages to be gained by University from doing business with Proposer. Additional services or benefits must be directly related to the goods and services solicited under this RFP.
- 3.6.3 Does Proposer have a contingency plan or disaster recovery plan in the event of a disaster? If so, then Proposer will provide a copy of the plan.

**SECTION 4**

**ADDENDA CHECKLIST**

**Proposal of:** \_\_\_\_\_  
(Proposer Company Name)

**To:** The University of Texas System

**Ref.:** Low-Level Radioactive Waste Treatment and Disposal Services

**RFP No.:** 720-1713

Ladies and Gentlemen:

The undersigned Proposer hereby acknowledges receipt of the following Addenda to the captioned RFP (initial if applicable).

**Note: If there was only one (1) Addendum, initial just the first blank after No. 1, not all five (5) blanks below.**

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

Respectfully submitted,

**Proposer:** \_\_\_\_\_

**By:** \_\_\_\_\_  
(Authorized Signature for Proposer)

**Name:** \_\_\_\_\_

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

**Date:** \_\_\_\_\_

**APPENDIX TWO**  
**SAMPLE AGREEMENT**  
**(INCLUDED AS SEPARATE ATTACHMENT)**

**APPENDIX THREE**  
**HUB SUBCONTRACTING PLAN**  
**(INCLUDED AS SEPARATE ATTACHMENT)**

**APPENDIX FOUR**

**ANTICIPATED CATEGORIES AND ESTIMATED QUANTITIES OF REGULATED WASTE**

The following are anticipated categories and annual containers shipped of radioactive and related waste material generated at the Generating Institutions. One or more of the Generating Institutions may elect not to use any agreement that results from this RFP. NEITHER UTS NOR THE GENERATING INSTITUTIONS WARRANT OR REPRESENT, AND UTS AND THE GENERATING INSTITUTIONS HEREBY DISCLAIM ANY WARRANTY OR REPRESENTATION THAT THE ANTICIPATED CATEGORIES OR ESTIMATED VOLUMES OF COVERED WASTE WILL IN FACT BE GENERATED IN ANY GIVEN YEAR OR TRANSPORTED OR DISPOSED OF UNDER ANY AGREEMENT RESULTING FROM THIS RFP.

<b>Category</b>	<b>Unit</b>	<b>Containers Shipped 2015/2016</b>	<b>Weight Shipped</b>
Dry Solid Waste Incineration in boxes	Pound		
Dry Solid Waste Incineration in 3 yd boxes	Pound		
Drums under 151 pounds	Drum		
Drums over 151 pounds	Drum	1	140
85-gal drum, direct burial	Drum	5	1161
Pails Solidified Compounds	Pail	1	60
Drums for Compaction	Pounds		
Biological Waste for incineration fiber	Pounds		
Biological Waste for direct burial	30/55 gallon Drum		
Aqueous Liquids for incineration	gallon		
<b>Scintillation Vials</b>			
Incineration Non-Hazardous Scintillation Vials	Pounds		
Exempt H-3 and C-14	55-gallon		
	30-gallon	4	400
<30-day vials	55-gallon		
	30-gallon	4	400
Regulated 30-109	55-gallon		
	30-gallon	1	100
Regulated over 109 Day half life	55-gallon		
	30-gallon		
<b>Bulked Scintillation</b>			
Exempt H-3 and C-14	55-gallon		
	30-gallon		
Regulated 30-109	55-gallon		
	30-gallon		
Regulated over 109 Day half life	55-gallon		
	30-gallon		
Bulk Mixed Waste	Pounds		
Mixed waste lab pack	Pounds	3	360
Sources	Lot	1	



## NON-EXCLUSIVE LOW-LEVEL RADIOACTIVE WASTE SERVICES SAMPLE AGREEMENT

This Agreement between University and Contractor (**Agreement**) is made and entered into effective as of \_\_\_\_\_, 20\_\_\_\_ (**Effective Date**), by and between **The University of Texas System**, an agency and institution of higher education established under the laws of the State of Texas (**University**), and \_\_\_\_\_, a \_\_\_\_\_ (**Contractor**) Federal Tax Identification Number \_\_\_\_\_

**WHEREAS**, University needs certain waste management, treatment, handling, transportation, and disposal services;

**WHEREAS**, Contractor specializes in providing the services desired by University; and

**WHEREAS**, University wishes to purchase and Contractor agrees to provide the Covered Services (as hereinafter defined) subject to the terms and conditions of this Agreement.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and also in consideration of the premises and mutual promises herein contained, University and Contractor agree as follows:

### 1. Definitions.

Term	Definition
"Contractor Coordinator"	means the person designated by UTS in <b>EXHIBIT A</b> to coordinate the communications between Contractor and UTS or that person's delegate.
"Covered Wastes"	means and refers to any and all generated radioactive wastes up to the concentration limits established under 10 Code of Federal Regulation, Subpart D, Section 61.55, (as it may be amended or restated from time to time) by the Generating Institutions, and any related or associated wastes a Generating Institution may request Contractor to manage, treat, handle, transport or dispose. "Covered Wastes" shall include, without limitation, biological wastes (i.e. animal carcasses) and mixed wastes, (i.e. containing both radioactive materials and EPA listed or characteristic hazardous waste).
"DOT"	means the United States Department of Transportation or any successor agency thereto.
"DSHS"	means the Texas Department of State Health Services or any successor agency thereto.
"EPA"	means the United States Environmental Protection Agency or any successor agency thereto.
"Generating Institution"	means the UTS institution that generated the Covered

	Wastes.
"Hazardous Waste"	means any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency in accordance with the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code, §§6901 <i>et seq.</i>
"Institution Coordinator"	means the person designated by the Generating Institution in <b>EXHIBIT A</b> to coordinate communications between Contractor and the Generating Institution, or that person's delegate
"Mixed Low-Level Waste (LLMW)"	Means mixed low-level radioactive and hazardous waste, which has two components: <ol style="list-style-type: none"> <li>1. radioactively contaminated industrial or research waste such as paper, rags, plastic bags, or water-treatment residues. Its categorization does not depend the level of radioactivity it contains. (See the regulatory definition in the Low-Level Radioactive Waste Policy Amendments Act of 1985 (LLRWPA) It is waste that does not meet the criteria for any of three other categories of radioactive waste: <ul style="list-style-type: none"> <li>• spent nuclear fuel and high-level radioactive waste,</li> <li>• transuranic radioactive waste, and</li> <li>• uranium.</li> </ul> </li> <li>2. hazardous waste that falls into either of the following classes under the Resource Conservation and Recovery Act (RCRA): <ul style="list-style-type: none"> <li>• listed hazardous wastes (Subpart D of 40 CFR Part 261)</li> <li>• characteristic hazardous wastes (Subpart C of 40 CFR Part 261).</li> </ul> </li> </ol>
"NRC"	means the United States Nuclear Regulatory Commission or any successor agency thereto.
"OSHA"	means the Occupational Safety and Health Administration or any successor agency thereto.
"TCEQ"	means the Texas Commission on Environmental Quality or any successor agency thereto.

University and Contractor hereby agree as follows:

## 2. Scope of Work.

### 2.1 Covered Services.

2.1.1 Contractor will perform the scope of the work ("Work") set forth in **EXHIBIT B**, the "Covered Services", attached and incorporated for all purposes, to the satisfaction of UTS and in accordance with the schedule ("Schedule") for the Work set forth in **EXHIBIT B**, Schedule, attached and incorporated for all purposes. Time is of the essence in connection with this Agreement. UTS will have no obligation to accept late performance or waive timely performance by Contractor.

2.1.2 **Contractor's Performance of Covered Services.** UTS is entering into this Agreement in reliance on Contractor's special skills and expertise with respect to

performing the Covered Services. Contractor accepts the relationship of trust and confidence established between UTS and Contractor by this Agreement. Contractor agrees to use its best efforts, skill, judgment, and abilities in performing the Covered Services, and to cooperate with UTS in providing the Covered Services. Contractor acknowledges and agrees that waste minimization and the implementation of safe, alternative packaging or treatment options that would provide cost savings are important aspects of this Agreement. Contractor agrees to use all reasonable efforts, within the limits of Applicable Laws (defined in Section 5.1), to propose safe, alternative routing, packaging and treatment of UTS and Generating Institution waste to minimize wastes requiring disposal or to reduce costs.

2.1.3 Contractor will obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local laws, regulations or ordinances, for the performance of the Work.

2.1.4 **Industry Practices.** Contractor shall perform the Covered Services in accordance with the terms and provisions of this Agreement and pursuant to best industry standards and practices.

2.1.5 **Facility Assessments.** At any time and from time to time upon reasonable notice to Contractor, Contractor shall provide UTS or Generating Institution personnel access to all Facilities (defined in Section 2.3.5) listed in **EXHIBIT C** for the purpose of performing an assessment of facilities used or to be used by Contractor in connection with performance of the Covered Services.

## 2.2 **Covered Waste Pick-Ups.**

2.2.1 **Pick-up on Request.** Contractor shall pick up Covered Wastes from any Generating Institution upon the request of the Institution Coordinator or their delegate. Unless otherwise agreed to in writing by the Institution Coordinator of the Generating Institution, Contractor shall coordinate the pick-up with the Institution Coordinator of the Generating Institution and such pick-up shall occur within ten (10) working days of the request; provided, however, if UTS notifies Contractor in writing of the potential for severe inclement weather (including but not limited to tornado, hurricane, flood or other severe weather), such pick-up shall occur within three (3) calendar days of the request. If Contractor fails to arrive at the Generating Institution with proper personnel and equipment for completion of the services, or to notify the Institution Coordinator of the Generating Institution of a delay, within two (2) hours of the agreed upon time on the agreed upon date, then the amount payable under this Contractor for such shipment from the Generating Institution shall be reduced by a five percent (5%) discount. Each failure of Contractor to make a timely waste pick-up shall result in such a discount; provided, however, that in no event shall the amount payable for anyone shipment be reduced more than twenty percent (20%).

2.2.2 **Pick-up Locations.** Contractor shall make Covered Waste pick-ups at locations designated by the Institution Coordinator of the Generating Institution.

2.2.3 **Normal Work Hours.** Covered Services will be provided between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday (except holidays), unless otherwise agreed in advance by the parties. If a pick-up cannot be completed in a single day, Contractor shall provide the same personnel to complete the pick-up the following day.

## 2.3 **Management, Treatment, Transportation and Disposal of Covered Wastes.**

2.3.1 **Labeling Covered Wastes.** At the written request of the Generating Institution, Contractor shall label all Covered Wastes in accordance with all Applicable Laws, including without limitation EPA, NRC, TCEQ, DSHS and DOT regulations.

- 2.3.2 **Manifests.** Contractor shall prepare and provide to the Institution Coordinator a properly completed manifest or other shipping document prior to removal of Covered Wastes from the Generating Institution, unless documentation is not required by law. The manifest must be typed and must include Covered Waste profile numbers. Contractor shall provide the Institution Coordinator with adequate time to review and approve a completed copy of the shipping documents, manifests, land disposal restriction notifications, and any other documentation prior to shipment. Within 35 days after pick-up, Contractor must provide to Generating Institution a copy of all manifests signed by a duly authorized representative of the Facility.
- 2.3.3 **Dedicated Cargo Beds.** Contractor and its subcontractors shall transport Covered Wastes only in vehicles dedicated to Covered Waste shipments or in vehicles with cargo beds that are so dedicated.
- 2.3.4 **UTS-Approved Transporters.** Contractor shall transport Covered Wastes itself or subcontract such transportation to a UTS-approved transporter listed in **EXHIBIT D**. UTS reserves the right to withdraw its approval of any transporter at any time by giving written notification to Contractor.
- 2.3.5 **UTS-Approved Treatment Facilities.** Contractor shall transport Covered Wastes only to a properly registered, permitted, or licensed treatment, storage or disposal facility ("Facility") that maintains adequate insurance, operates in compliance with all Applicable Laws, and has been pre-approved in writing by the Contract Coordinator or the Institution Coordinator for the Generating Institution, in the sole discretion of the Contract Coordinator or the Institution Coordinator. UTS hereby approves those Facilities listed in **EXHIBIT C**, no more than five (5) facilities. Upon request, Contractor shall provide to the Contract Coordinator or the Institution Coordinator copies of all information reasonably requested by the Contract Coordinator or the Institution Coordinator to confirm that any such disposal facility is properly registered, permitted, or licensed, maintains adequate insurance, and operates in compliance with all Applicable Laws. UTS reserves the right to withdraw its approval of any Facility by giving written notification to Contractor. If Contractor becomes aware of any regulatory action, including without limitation an administrative action taken or pending, with respect to any Facility owned or operated by Contractor or listed in **EXHIBIT C**, Contractor shall notify the Contract Coordinator and each Institution Coordinator immediately but no later than twenty-four (24) hours after becoming aware of such an occurrence.
- 2.3.6 **Certificates of Disposal or Destruction.** As soon as reasonably possible, Contractor shall provide to the Institution Coordinator for the Generating Institution a fully executed Certificate of Disposal or Certificate of Destruction (each a "CD") furnished by the applicable Facility. Until a CD is so provided, Contractor shall provide to the Institution Coordinator for the Generating Institution documentation evidencing the location, possessor and status of Covered Wastes as required under Section 2.3.13. In all cases, Contractor shall provide a complete CD to the Institution Coordinator for the Generating Institution within 180 days after the date the Contractor picked up the Covered Wastes. CDs from disposal facilities will include the original UTS or Generating Institution outbound manifest and drum numbers, inbound (to disposal facility) manifest number (if different from UTS or Generating Institution manifest number), disposal date (i.e., date of actual destruction, not the date of receipt at disposal facility), management method, and the handling code which designates the method of disposal.
- 2.3.7 **UTS-Approved Disposal Facilities.** Contractor shall permanently dispose of Covered Wastes only at a properly registered, permitted, or licensed disposal facility ("Disposal Facility") that maintains adequate insurance, that operates in compliance with all Applicable Laws, that has been pre-approved in writing by the Contract Coordinator or the Institution Coordinator for the Generating Institution, at the sole

discretion of the Contract Coordinator of the Institution Coordinator, and that is listed in **EXHIBIT E**. Upon request, Contractor (i) shall provide to the Contract Coordinator or the Institution Coordinator copies of all information reasonably requested by the Contract Coordinator or the Institution Coordinator to confirm that any such Disposal Facility is properly registered, permitted or licensed, maintains adequate insurance, and operates in compliance with all Applicable Laws, and (ii) shall semi-annually report to a meeting of the Institution Coordinators any significant changes in the business policies and practices of such Disposal Facility and any compliance problems or issues associated with such Disposal Facility. UTS reserves the right to withdraw its approval of any Disposal Facility listed in **EXHIBIT E** by giving written notification to Contractor. If Contractor becomes aware of any regulatory action, including without limitation an administrative action taken or pending, with respect to any Disposal Facility owned or operated by Contractor or listed in **EXHIBIT E**, Contractor shall notify the Contract Coordinator and each Institution Coordinator immediately but no later than twenty-four (24) hours after becoming aware of such an occurrence.

- 2.3.8 **Disposal Methods.** Disposal by land-fill method shall generate appropriate documentation including acceptance by land-fill of disposed waste. Contractor shall ensure UTS and Generating Institutions fill out appropriate licensing, registration, or other related paperwork with land-fill site or supervisory authority. Unless otherwise agreed to in writing by the Contract Coordinator, liquid scintillation fluids (including vials) shall be disposed of by incineration.
- 2.3.9 **Procedural Changes.** All of Contractor's internal procedures for the management, packaging, storage, handling, treatment, transportation and disposal of Covered Wastes must be acceptable to UTS and the Generating Institutions in all respects. Contractor may implement changes to such procedures only with the prior written approval of the UTS Contract Coordinator and the Institution Coordinator for the Generating Institution, which approval shall not be unreasonably withheld.
- 2.3.10 **Contractor's Employees.** Providing Covered Services. A Generating Institution may request that Contractor provide a specific field crew supervisor to supervise the Covered Services. In such event, Contractor shall make all reasonable efforts to accommodate such request. On the request of the Institution Coordinator for the Generating Institution, Contractor shall provide a description of the training received by, and the experience of, each of Contractor's employees providing Covered Services.
- 2.3.11 **Packaging Instructions.** Contractor will provide each Generating Institution with all necessary and appropriate instructions for proper packaging of Covered Wastes and all other information necessary to insure that the appropriate Facility will accept each type of Covered Waste.
- 2.3.12 **Drum Disposal.** Contractor shall ensure that all drums or other containers that previously contained Covered Wastes shall have all their markings defaced and be permanently destroyed so that they cannot be reused for any purpose.
- 2.3.13 **Segregation and Tracking of Covered Wastes.** Contractor shall assure that all Covered Wastes shipped pursuant to this Agreement are properly labeled in accordance with all Applicable Laws. Contractor shall provide a tracking system to allow UTS and the Generating Institution to determine each party who possessed or possesses each Covered Waste on a per drum basis from the time of pick-up until the Generating Institution receives a CD or, in the case of delivery to UTSISF, a signed manifest. Such tracking system shall include a schedule acceptable to the Contract Coordinator for notifying the Institution Coordinator of the Generating Institution of each change in location, status, or the party in possession of each Covered Waste on a per-drum basis.

- 2.3.14 **Providing Supplies.** Upon the request of the Generating Institution, Contractor shall deliver to the Generating Institution appropriate DOT regulation drums, innerliners, labels, absorbent materials such as vermiculite and other necessary materials for the storage and transportation of Covered Wastes at the same time a waste pick-up is made.
- 2.3.15 **Agreement Amendments to Change or Add Services.** UTS and Contractor acknowledge that the laws and regulations relating to Covered Wastes and the options for disposing, managing, transporting, handling or treating such wastes will likely change during the term of this Agreement. Upon written terms mutually agreed upon by the Contract Coordinator and Contractor, this Agreement may be modified to change or add any services required by UTS or Generating Institutions that relate to radioactive wastes or materials, regardless of whether such wastes or materials meet the present definition of "Covered Wastes." Such amendments may include, without limitation, adding additional facilities to the lists set forth in **EXHIBITS C and E**, adding new radioactive waste streams, and adding or changing the method of disposal, treatment, transportation, management or handling of "Covered Wastes."

### **3. Time for Commencement and Completion.**

The term (**Initial Term**) of this Agreement will begin on the Effective Date and expire on August 31, 2018. University will have the option to renew this Agreement for four (4) additional one (1) year terms (each a **Renewal Term**). The Initial Term and each Renewal Term are collectively referred to as the **Term**.

### **4. Contractor Qualifications.**

#### **4.1 Representations.**

Contractor represents and warrants that:

- 4.1.1 Contractor is a reputable firm regularly engaged in providing services such as the Covered Services. Contractor has experience with management, treatment, handling, transportation and disposal of Covered Wastes in the volumes and categories generated by UTS and the Generating Institutions.
- 4.1.2 Contractor has and shall maintain in good standing all required governmental permits, licenses, registrations, and approvals necessary to provide the Covered Services. Contractor has the necessary experience, knowledge, abilities, skills, and resources to perform the Covered Services.
- 4.1.3 Contractor is aware of, is fully informed about, and is in full compliance with all Applicable Laws, including without limitation Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000(D)), Executive Order 11246, as amended (41 CFR 60-1 and 60-2), the Vietnam Era Veterans Readjustment Act of 1974, as amended (41 CFR 60-250), the Rehabilitation Act of 1973, as amended (41 CFR 60-741), Age Discrimination Act of 1975 (42 USC 6101 et seq.), Non-segregated Facilities (41 CFR 60-1), the Omnibus Budget Reconciliation Provision, Section 952, Fair Labor Standards Act of 1938, Sections 6, 7, and 12, as amended, the Immigration Reform and Control Act of 1986, Utilization of Small Business Concerns and the Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals (PL 96-507), the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.), the Civil Rights Act of 1991 and all other applicable laws, regulations and executive orders.
- 4.1.4 Contractor understands the conditions under which it will be required to operate.
- 4.1.5 Contractor will not transfer, subcontract, delegate or assign any of its duties or responsibilities under this Agreement without the prior written approval of the Contract Coordinator or the Institution Coordinator for the Generating Institutions affected. Contractor understands that at a minimum, any subcontractor, assignee, delegate or transferee must fully satisfy all the conditions and terms required of Contractor in Sections 4.1 (this section) and 4.2 (the following section) of this Agreement before approval will be

granted. Any attempt to transfer, subcontract, delegate or assign Contractor's duties or responsibilities hereunder without having first obtained such written approval shall be null and void.

- 4.1.6 Contractor will at all times maintain an adequate staff of experienced and qualified employees to ensure the efficient performance of the Covered Services and its other obligations under this Agreement. Each pickup made by the Contractor shall be under the direction of a supervisor employed by the Contractor who has expertise in the managing, handling, labeling, packaging, transporting, storing, and disposing of Covered Wastes. All personnel directly involved with the handling of Covered Wastes shall be trained regarding the use of safety equipment, protective equipment, and respirators (if applicable) and have at least six (6) months of field experience. None of the services performed hereunder shall be provided by trainees (i.e., personnel with less training or experience than that required herein) without the prior written consent of the Institution Coordinator of the Generating Institution, which consent can be withheld for any or no reason. The Institution Coordinator of the Generating Institution may restrict in any manner he or she deems appropriate the activities of any trainee on the premises of the Generating Institution. Trainees shall be under the supervision of an individual experienced in the management, treatment, handling, transportation and disposal of Covered Wastes and training shall be completed at the expense of Contractor.

#### 4.2 **Documentation.**

Contractor has submitted and from time to time upon UTS's request will submit to the Contract Coordinator the following materials, which Contractor represents are current, complete, and accurate:

- 4.2.1 References of five (5) clients of Contractor with similar waste streams and volumes including client name, current contact name, current address, and current telephone number for each.
- 4.2.2 Copies of all applicable federal, state, and local transporter licenses and any other licenses, registrations or certifications from any governmental entity with jurisdiction, allowing Contractor to perform any Covered Service. If Contractor should lose any applicable license or authorization, be prohibited from handling any Covered Wastes, be prohibited from performing any Covered Service, or receive notice from a regulatory agency of a violation or a change in Contractor's compliance status, Contractor shall promptly notify the Contract Coordinator and each Institution Coordinator. Prompt notice shall mean (a) immediate telephone notification upon Contractor's receipt of such information to Contract Coordinator and each Institution Coordinator and (b) delivery of written notification to Contract Coordinator and each Institution Coordinator within forty-eight (48) hours of Contractor's receipt of such information.
- 4.2.3 Contractor's history of federal and state regulatory compliance for all of its activities with regard to Covered Wastes for the last five (5) years. UTS reserves the right to review, directly or through its agents, Contractor's records, facilities, work and regulatory history, and other relevant information at any time during the term of this Agreement.
- 4.2.4 Contractor's internal procedures relating to the management, packaging, handling, transportation, storage, treatment, or disposal of Covered Wastes. Contractor shall provide copies of any changes or additions to such internal guidelines and procedures to the Contract Coordinator and the Institution Coordinator of each Generating Institution immediately upon such change or addition.
- 4.2.5 Contractor will provide copies of license/permits for approved treatment and disposal facilities listed in **EXHIBIT C and E** initially and for each renewal amendment.
- 4.2.6 Approved registration documentation from the Texas Department of State Health Services to be a Transporter of Low-Level Radioactive Waste inside the State of Texas to transport to the Texas Low-Level Radioactive Waste Disposal site.

- 4.2.7 Approved registration documentation from the Texas Department of State Health Services to be a Shipper of Low-Level Radioactive Waste inside the State of Texas to ship to the Texas Low-Level Radioactive Waste Disposal site.

## 5. Contractor's Obligations.

- 5.1 Contractor will perform Work in compliance with (a) all Applicable Laws, regulations, ordinances, orders, executive orders and directives (collectively, "Applicable Laws") of any governmental authority, including without limitation EPA, TCEQ, NRC, DSHS, OSHA and DOT, and shall be in compliance with all applicable registration, license, and permit requirements at all times and (b) the Board of Regents of The University of Texas System *Rules and Regulations* (<http://www.utsystem.edu/offices/board-regents/regents-rules-and-regulations>) the policies of The University of Texas System (<http://www.utsystem.edu/board-of-regents/policy-library>); and the institutional rules, regulations and policies of University (collectively, **University 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 University's procurement solicitation to any competitor or any other person engaged in a similar line of business during the procurement process for this Agreement.

### 5.2 Emergency Equipment Availability and Safety.

- 5.2.1 Emergencies. Contractor shall respond to all emergencies that may occur while performing any Covered Services. Contractor shall ensure that there is no danger to the public health, safety, or welfare due to the release of any Covered Wastes in any way connected with the Covered Services provided hereunder.
- 5.2.2 Safety Provisions. Contractor shall provide to its employees, subcontractors, and material personnel any and all safety equipment necessary for performing the Covered Services and shall cause its employees, subcontractors, and material personnel to use such safety equipment. Contractor's safety equipment shall consist of all appropriate personal protective equipment and at a minimum those items described in **EXHIBIT F**.
- 5.2.3 Contractor represents, warrants and agrees that (a) it will use commercially reasonable efforts to perform the Work in a good and workmanlike manner and in accordance with commercially reasonable standards of Contractor's profession or business, and (b) all of the Work to be performed will be of the quality that prevails among similar businesses engaged in providing similar services in major United States urban areas under the same or similar circumstances.
- 5.2.4 Contractor will call to University's attention in writing all information in any materials supplied to Contractor (by University or any other party) that Contractor regards as unsuitable, improper or inaccurate in connection with the purposes for which the material is furnished.
- 5.2.5 University at all times is relying on Contractor's skill and knowledge in performing Work. Contractor represents and warrants that Work 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 University. Contractor will not be released from any liability by reason of any approval by University.
- 5.2.6 Contractor will, at its own cost, correct all material defects in Work as soon as practical after Contractor becomes aware of the defects. If Contractor fails to correct material defects in Work within a reasonable time, then University may correct the defective Work at Contractor's expense. This remedy is in addition to, and not in substitution for, any other remedy for defective Work that University may have at law or in equity.

- 5.2.7 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 Work 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 Work.
- 5.2.8 Contractor represents and warrants it is duly organized, validly existing and in good standing under the laws of the state of its organization; it is duly authorized and in good standing to conduct business in the State of Texas; it has all necessary power and has received all necessary approvals to execute and deliver this Agreement; and the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and bind Contractor.
- 5.2.9 Contractor represents and warrants that: (i) Work will be performed solely by Contractor, its full-time or part-time employees during the course of their employment, or independent contractors who have assigned in writing all right, title and interest in their work to Contractor (for the benefit of University); (ii) University 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.
- 5.2.10 Premises Rules. If this Agreement requires Contractor's presence on UTS's premises or in UTS'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 UTS rules and policies, including those relative to personal health, security, environmental quality, safety, fire prevention, noise, smoking, and access restrictions.

## **6. The Contract Amount.**

- 6.1 University will pay Contractor for the performance of Work in accordance with **EXHIBIT B**, Payment for Services.
- 6.2 The Contract Amount includes all applicable federal, state or local sales or use taxes payable as a result of the execution or performance of this Agreement.
- 6.3 University (a State agency) is exempt from Texas Sales & Use Tax on Work in accordance with §151.309, *Texas Tax Code* and 34 *Texas Administrative Code (TAC)* §3.322. Pursuant to 34 TAC §§3.322(c)(4) and (g)(3), this Agreement is sufficient proof of University's tax exempt status and University is not required to provide further evidence of its exempt status.

## **7. Payment Terms.**

- 7.1 Five days before the end of each month during the Term, Contractor will submit to University an invoice covering Work performed for University to that date, in compliance with **EXHIBIT B**, Payment for Services. Each invoice will be accompanied by documentation that University may reasonably request to support the invoice amount. University will, within forty-five (45) days from the date it receives an invoice and supporting documentation, approve or disapprove the amount reflected in the invoice. If University approves the amount or any portion of the amount, University will promptly pay (each a **Progress Payment**) to Contractor the amount approved so long as Contractor is not in default under this Agreement. If University disapproves any invoice amount, University will give Contractor specific reasons for its disapproval in writing.
- 7.2 Invoices shall, among other things, (1) set forth a description of the Covered Services performed, (2) reference the Generating Institution's purchase order/release number, and (3) be

accompanied by a properly completed and legible shipping manifest signed by a duly authorized representative of the Facility.

- 7.3 Notwithstanding any provision of this Agreement to the contrary, University will not be obligated to make any payment (whether a Progress Payment or Final Payment) to Contractor if Contractor is in default under this Agreement.
- 7.4 No payment made by University will (a) be construed to be final acceptance or approval of that part of the Work to which the payment relates, or (b) relieve Contractor of any of its duties or obligations under this Agreement.
- 7.5 The acceptance of Final Payment by Contractor will constitute a waiver of all claims by Contractor except those previously made in writing and identified by Contractor as unsettled at the time of the Final Invoice for payment.
- 7.6 University will have the right to verify the details in Contractor's invoices and supporting documentation, either before or after payment, by (a) inspecting the books and records of Contractor at mutually convenient times; (b) examining any reports with respect to the Project; and (c) other reasonable action.
- 7.7 *Section 51.012, Texas Education Code*, authorizes University to make payments through electronic funds transfer methods. Contractor agrees to accept payments from University through those methods, including the automated clearing house system (ACH). Contractor agrees to provide Contractor's banking information to University in writing on Contractor letterhead signed by an authorized representative of Contractor. Prior to the first payment, University will confirm Contractor's banking information. Changes to Contractor's bank information must be communicated to University in accordance with **Section 13.14** in writing at least thirty (30) days before the effective date of the change and must include an IRS Form W-9 signed by an authorized representative of Contractor.

## **8. Ownership and Use of Work Material.**

- 8.1 All drawings, specifications, plans, computations, sketches, data, photographs, tapes, renderings, models, publications, statements, accounts, reports, studies, and other materials prepared by Contractor or any subcontractors in connection with Work (collectively, **Work Material**), whether or not accepted or rejected by University, are the sole property of University and for its exclusive use and re-use at any time without further compensation and without any restrictions.
- 8.2 Contractor grants and assigns to University all rights and claims of whatever nature and whether now or hereafter arising in and to Work Material and will cooperate fully with University in any steps University may take to obtain or enforce patent, copyright, trademark or like protections with respect to Work Material.
- 8.3 Contractor will deliver all Work Material to University upon expiration or termination of this Agreement. University will have the right to use Work Material for the completion of Work or otherwise. University may, at all times, retain the originals of Work Material. Work Material will not be used by any person other than University on other projects unless expressly authorized by University in writing.
- 8.4 Work Material will not be used or published by Contractor or any other party unless expressly authorized by University in writing. Contractor will treat all Work Material as confidential.

## **9. Default and Termination**

- 9.1 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 fifteen (15) 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 fifteen-day (15-day) period.

- 9.2 University may, without cause, terminate this Agreement at any time upon giving seven (7) days' advance written notice to Contractor. Upon termination pursuant to this Section, Contractor will be entitled to payment of an amount that will compensate Contractor for Work 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 University. Notwithstanding any provision in this Agreement to the contrary, University 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.
- 9.3 Termination under **Sections 9.1** or **9.2** will not relieve Contractor from liability for any default or breach under this Agreement or any other act or omission of Contractor.
- 9.4 If Contractor fails to cure any default within fifteen (15) days after receiving written notice of the default, University will be entitled (but will not be obligated) to cure the default and will have the right to offset against all amounts due to Contractor under this Agreement, any and all reasonable expenses incurred in connection with University's curative actions.

## **10. Indemnification**

- 10.1 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS UNIVERSITY RESPECTIVE AFFILIATED ENTERPRISES, REGENTS, OFFICERS, DIRECTORS, ATTORNEYS, EMPLOYEES, REPRESENTATIVES AND AGENTS (COLLECTIVELY, **INDEMNITEES**) FROM AND AGAINST ALL DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, EXPENSES, AND OTHER CLAIMS OF ANY NATURE, KIND, OR DESCRIPTION, INCLUDING REASONABLE ATTORNEYS' FEES INCURRED IN INVESTIGATING, DEFENDING OR SETTLING ANY OF THE FOREGOING (COLLECTIVELY, **CLAIMS**) BY ANY PERSON OR ENTITY, ARISING OUT OF, CAUSED BY, OR RESULTING FROM CONTRACTOR'S PERFORMANCE UNDER OR BREACH OF THIS AGREEMENT AND THAT ARE CAUSED IN WHOLE OR IN PART BY ANY NEGLIGENT ACT, NEGLIGENT OMISSION OR WILLFUL MISCONDUCT OF CONTRACTOR, ANYONE DIRECTLY EMPLOYED BY CONTRACTOR OR ANYONE FOR WHOSE ACTS CONTRACTOR MAY BE LIABLE. THE PROVISIONS OF THIS SECTION WILL NOT BE CONSTRUED TO ELIMINATE OR REDUCE ANY OTHER INDEMNIFICATION OR RIGHT WHICH ANY INDEMNITEE HAS BY LAW OR EQUITY. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.
- 10.2 IN ADDITION, CONTRACTOR WILL AND DOES HEREBY AGREE TO INDEMNIFY, PROTECT, DEFEND WITH COUNSEL APPROVED BY UNIVERSITY, AND HOLD HARMLESS INDEMNITEES FROM AND AGAINST ALL CLAIMS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADEMARK OR OTHER PROPRIETARY INTEREST ARISING BY OR OUT OF THE PERFORMANCE OF SERVICES OR THE PROVISION OF GOODS BY CONTRACTOR, OR THE USE BY INDEMNITEES, AT THE DIRECTION OF CONTRACTOR, OF ANY ARTICLE OR MATERIAL; PROVIDED, THAT, UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR INFRINGEMENT, UNIVERSITY WILL PROMPTLY NOTIFY CONTRACTOR AND CONTRACTOR WILL BE GIVEN THE OPPORTUNITY TO NEGOTIATE A SETTLEMENT. IN THE EVENT OF LITIGATION, UNIVERSITY AGREES TO REASONABLY COOPERATE WITH CONTRACTOR. ALL PARTIES WILL BE ENTITLED TO BE REPRESENTED BY COUNSEL AT THEIR OWN EXPENSE.

## **11. Relationship of the Parties.**

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 University. Contractor will not bind nor attempt to bind University 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.

## 12. Insurance.

12.1 Contractor, consistent with its status as an independent contractor will carry and will cause its subcontractors to carry, at least the following insurance, with companies authorized to do insurance business in the State of Texas or eligible surplus lines insurers operating in accordance with the [Texas Insurance Code](#), having an A.M. Best Rating of A-:VII or better, and in amounts not less than the following minimum limits of coverage:

12.1.1 Workers' Compensation Insurance with statutory limits, and Employer's Liability Insurance with limits of not less than \$1,000,000:

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

Workers' Compensation policy must include under Item 3.A. of the information page of the Workers' Compensation policy the state in which Work is to be performed for University.

12.1.2 Commercial General Liability Insurance with limits of not less than:

Each Occurrence Limit	\$5,000,000
Damage to Rented Premises	\$ 300,000
Personal & Advertising Injury	\$1,000,000
General Aggregate	\$5,000,000
Products - Completed Operations Aggregate	\$2,000,000

The required Commercial General Liability policy will be issued on a form that insures Contractor's and subcontractor's liability for bodily injury (including death), property damage, personal, and advertising injury assumed under the terms of this Agreement.

12.1.3 Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$5,000,000 single limit of liability per accident for Bodily Injury and Property Damage; Pollution liability coverage equivalent to that provided under the ISO pollution liability broadened coverage for covered autos endorsement (CA 99 48), and the Motor Carrier Act endorsement (MCS 90) shall be attached as required or allowed by applicable state laws and if allowed by state law, the Motor Carrier Act endorsement (MCS 90) shall be added.

The contractor shall cause Certificates of Insurance evidencing the above coverage to be provided promptly upon request.

12.1.4 Umbrella/Excess Liability Insurance with limits of not less than \$5,000,000 per occurrence and aggregate with a deductible of no more than \$10,000. The Umbrella/Excess Liability policy will be excess over and at least as broad as the underlying coverage as required under **Sections 12.1.1** Employer's Liability; **12.1.2** Commercial General Liability; and **12.1.3** Business Auto Liability. Inception and expiration dates will be the same as the underlying policies. Drop down coverage will be provided for reduction or exhaustion of underlying aggregate limits and will provide a duty to defend for any insured

12.2 Contractor will deliver to University:

12.2.1 Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all required insurance policies after the execution and delivery of this Agreement and prior to the performance of any Work by Contractor under this Agreement. Additional evidence of insurance will be provided verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

12.2.1.1 **All insurance policies** (with the exception of workers' compensation, employer's liability and professional liability) will be endorsed and name the Board of Regents of The University of Texas System and University as Additional Insureds for liability caused in whole or in part by Contractor's acts or omissions with respect to its on-going and completed operations up to the actual liability limits of the required insurance policies maintained by Contractor. Commercial General Liability Additional Insured *endorsement* including ongoing and completed operations coverage will be submitted with the Certificates of Insurance. Commercial General Liability and Business Auto Liability will be *endorsed* to provide primary and non-contributory coverage.

12.2.1.2 **Contractor** hereby waives all rights of subrogation against the Board of Regents of The University of Texas System and University. **All insurance policies** will be *endorsed* to provide a waiver of subrogation in favor of the Board of Regents of The University of Texas System and University. No policy will be canceled until after thirty (30) days' unconditional written notice to University. **All insurance policies** will be *endorsed* to require the insurance carrier providing coverage to send notice to University thirty (30) days prior to any cancellation, material change, or non-renewal relating to any insurance policy required in this **Section 12**.

12.2.1.3 Contractor will pay any deductible or self-insured retention for any loss. Any self-insured retention must be declared to and approved by University prior to the performance of any Work by Contractor under this Agreement. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

12.2.1.4 Certificates of Insurance and *Additional Insured Endorsements* as required by this Agreement will be mailed, faxed, or emailed to the following University contact:

Name: Michelle Bost  
Address: 210 W 6<sup>th</sup> St, Room B.140E, Austin, TX 78701  
Facsimile Number: 512.499.4524  
Email Address: mbost@utsystem.edu

12.3 Contractor's or subcontractor's insurance will be primary to any insurance carried or self-insurance program established by University. Contractor's or subcontractor's insurance will be kept in force until all Work has been fully performed and accepted by University in writing.

**13. Miscellaneous.**

13.1 **Assignment and Subcontracting.** Except as specifically provided in **EXHIBIT G**, Historically Underutilized Business Subcontracting Plan, 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 University; 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 §§20.101 – 20.108](#). The benefits and burdens of this Agreement are assignable by University.

- 13.2 **Texas Family Code Child Support 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.
- 13.3 **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.
- 13.4 **Payment of Debt or Delinquency to the State.** Pursuant to [§§2107.008](#) and [2252.903, Texas Government Code](#), Contractor agrees any payments owing to Contractor under this Agreement may be applied directly toward any debt or delinquency Contractor owes the State of Texas or any agency of the State of Texas, regardless of when it arises, until paid in full.
- 13.5 **Loss of Funding.** Performance by University 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 University of Texas System (**Board**). If Legislature fails to appropriate or allot necessary funds, or Board fails to allocate necessary funds, then University will issue written notice to Contractor and University may terminate this Agreement without further duty or obligation. Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond University's control.
- 13.6 **Entire Agreement; Modifications.** This Agreement (including all exhibits, schedules, supplements and other attachments (collectively, **Exhibits**)) supersedes all prior agreements, written or oral, between Contractor and University and will constitute the entire Agreement and understanding between the parties with respect to its subject matter. This Agreement and each of its provisions will be binding upon the parties, and may not be waived, modified, amended or altered, except by a writing signed by University and Contractor. All Exhibits are attached to this Agreement and incorporated for all purposes.
- 13.7 **Force Majeure.** Neither party hereto will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character (**force majeure occurrence**). Provided, however, in the event of a force majeure occurrence, Contractor agrees to use its best efforts to mitigate the impact of the occurrence so that University may continue to healthcare, research and other mission critical services during the occurrence.
- 13.8 **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.
- 13.9 **Venue; Governing Law.** Travis County, Texas, will be the proper place of venue for suit on or in respect of this Agreement. This Agreement, all of its terms and conditions and all of the rights and obligations of its parties, will be construed, interpreted and applied in accordance with, governed by and enforced under, the laws of the State of Texas.
- 13.10 **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.
- 13.11 **Confidentiality and Safeguarding of University Records; Press Releases; Public Information.** Under this Agreement, Contractor may (1) create, (2) receive from or on behalf of University, or (3) have access to, records or record systems (collectively, **University Records**). However, it is expressly agreed that University will not provide to Contractor, and Contractor will never seek to access, any University Records that contain personally identifiable information regarding any individual that is not available to any requestor under the *Texas Public Information Act*, [Chapter 552, Texas Government Code](#), including "directory information" of any student who

has opted to prohibit the release of their "directory information" as that term is defined under the *Family Educational Rights and Privacy Act*, [20 USC §1232g](#) (**FERPA**) and its implementing regulations. Contractor represents, warrants, and agrees that it will: (1) hold University Records in strict confidence and will not use or disclose University Records except as (a) permitted or required by this Agreement, (b) required by Applicable Laws, or (c) otherwise authorized by University in writing; (2) safeguard University 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 University Records are safeguarded and the confidentiality of University Records is maintained in accordance with all Applicable Laws and the terms of this Agreement; and (4) comply with University Rules regarding access to and use of University's computer systems, including UTS 165 at <http://www.utsystem.edu/board-of-regents/policy-library/policies/uts165-information-resources-use-and-security-policy>. At the request of University, Contractor agrees to provide University with a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of University Records.

- 13.11.1 **Notice of Impermissible Use.** If an impermissible use or disclosure of any University Records occurs, Contractor will provide written notice to University within one (1) business day after Contractor's discovery of that use or disclosure. Contractor will promptly provide University with all information requested by University regarding the impermissible use or disclosure.
- 13.11.2 **Return of University Records.** Contractor agrees that within thirty (30) days after the expiration or termination of this Agreement, for any reason, all University Records created or received from or on behalf of University will be (1) returned to University, with no copies retained by Contractor; or (2) if return is not feasible, destroyed. Twenty (20) days before destruction of any University Records, Contractor will provide University with written notice of Contractor's intent to destroy University Records. Within five (5) days after destruction, Contractor will confirm to University in writing the destruction of University Records.
- 13.11.3 **Disclosure.** If Contractor discloses any University 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 13.11**.
- 13.11.4 **Press Releases.** Except when defined as part of Work, Contractor will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor as an independent contractor of University in connection with the Project, or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of University.
- 13.11.5 **Public Information.** University 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 University, Contractor will make any information created or exchanged with University pursuant to this Agreement (and not otherwise exempt from disclosure under TPIA) available in a format reasonably requested by University that is accessible by the public.
- 13.11.6 **Termination.** In addition to any other termination rights in this Agreement and any other rights at law or equity, if University reasonably determines that Contractor has breached any of the restrictions or obligations in this Section, University may immediately terminate this Agreement without notice or opportunity to cure.
- 13.11.7 **Duration.** The restrictions and obligations under this Section will survive expiration or termination of this Agreement for any reason.

- 13.12 **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors.
- 13.13 **Records.** Records of Contractor's costs, reimbursable expenses pertaining to the Project and payments will be available to University or its authorized representative during business hours and will be retained for four (4) years after final Payment or abandonment of the Project, unless University otherwise instructs Contractor in writing.
- 13.14 **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 University:                   Dr. Scott Kelley  
 Executive Vice Chancellor for Business Affairs  
 The University of Texas System  
 201 West 7th Street  
 Austin, Texas 78701

*with copy to:*                   The Office of Risk Management  
 The University of Texas System  
 210 W 6<sup>th</sup> St, Room B.140E  
 Austin, TX 78701  
 Attention: Michelle Bost

If to Contractor:               \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

Attention: \_\_\_\_\_

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

Notwithstanding any other requirements for notices given by a party under this Agreement, if Contractor intends to deliver written notice to University pursuant to [§2251.054, Texas Government Code](#), then Contractor will send that notice to University as follows:

Dr. Scott Kelley  
 Executive Vice Chancellor for Business Affairs  
 The University of Texas System  
 201 West 7th Street  
 Austin, Texas 78701

*with copy to:*                   The Office of Risk Management  
 The University of Texas System  
 Attention: Michelle Bost  
 210 W 6<sup>th</sup> St, Room B.140E  
 Austin, TX 78701  
 FAX: 512/499-4524  
 Email: mbost@utsystem.edu

or other person or address as may be given in writing by University to Contractor in accordance with this Section.

- 13.15 **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.
- 13.16 **State Auditor's Office.** Contractor understands acceptance of funds under this Agreement constitutes acceptance of authority of the Texas State Auditor's Office or any successor agency (**Auditor**), to conduct an audit or investigation in connection with those funds (ref. §§[51.9335\(c\)](#), [73.115\(c\)](#) and [74.008\(c\)](#), *Texas Education Code*). Contractor agrees to cooperate with Auditor in the conduct of the audit or investigation, including providing all records requested. Contractor will include this provision in all contracts with permitted subcontractors.
- 13.17 **Limitation of Liability.** EXCEPT FOR UNIVERSITY'S OBLIGATION (IF ANY) TO PAY CONTRACTOR CERTAIN FEES AND EXPENSES UNIVERSITY 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 UNIVERSITY 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 UNIVERSITY, OR THE UNIVERSITY OF TEXAS SYSTEM, OR ANYONE CLAIMING UNDER UNIVERSITY 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.
- 13.18 **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, including **Sections 7.6, 10, 13.5, 13.9, 13.10, 13.11, 13.13, 13.16, 13.17, 13.19** and **13.21**.
- 13.19 **Breach of Contract Claims**
- 13.19.1 To the extent that [Chapter 2260, Texas Government Code](#), as it may be amended from time to time (**Chapter 2260**), is applicable to this Agreement and is not preempted by other Applicable Laws, the dispute resolution process provided for in [Chapter 2260](#) will be used, as further described herein, by University and Contractor to attempt to resolve any claim for breach of contract made by Contractor:
- 13.19.1.1 Contractor's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business will be submitted to the negotiation process provided in [subchapter B](#) of Chapter 2260. To initiate the process, Contractor will submit written notice, as required by [subchapter B](#) of Chapter 2260, to University in accordance with the notice provisions in this Agreement. Contractor's notice will specifically state that the provisions of [subchapter B](#) of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that University allegedly breached, the amount of damages Contractor seeks, and the method used to calculate the damages. Compliance by Contractor with [subchapter B](#) of Chapter 2260 is a required prerequisite to Contractor's filing of a contested case proceeding under [subchapter C](#) of Chapter 2260. The chief business officer of University, or another officer of University as may be designated from time to time by University by written notice to Contractor in accordance with the notice provisions in this Agreement, will examine Contractor's claim and any counterclaim and negotiate

with Contractor in an effort to resolve the claims.

13.19.1.2 If the parties are unable to resolve their disputes under **Section 13.19.1.1**, the contested case process provided in [subchapter C](#) of Chapter 2260 is Contractor's sole and exclusive process for seeking a remedy for any and all of Contractor's claims for breach of this Agreement by University.

13.19.1.3 Compliance with the contested case process provided in [subchapter C](#) of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under [Chapter 107, Texas Civil Practices and Remedies Code](#). The parties hereto specifically agree that (i) neither the execution of this Agreement by University nor any other conduct, action or inaction of any representative of University relating to this Agreement constitutes or is intended to constitute a waiver of University's or the state's sovereign immunity to suit and (ii) University has not waived its right to seek redress in the courts.

13.19.2 The submission, processing and resolution of Contractor's claim is governed by the published rules adopted by the Texas Attorney General pursuant to [Chapter 2260](#), as currently effective, thereafter enacted or subsequently amended.

13.19.3 University and Contractor agree that any periods provided in this Agreement for notice and cure of defaults are not waived.

13.20 **Undocumented Workers.** 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, University may terminate this Agreement in accordance with **Section 9**. 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.

13.21 **Limitations.** THE PARTIES ARE AWARE THERE ARE CONSTITUTIONAL AND STATUTORY LIMITATIONS (**LIMITATIONS**) ON THE AUTHORITY OF UNIVERSITY (A STATE AGENCY) TO ENTER INTO CERTAIN TERMS AND CONDITIONS THAT MAY BE PART OF THIS AGREEMENT, INCLUDING TERMS AND CONDITIONS RELATING TO LIENS ON UNIVERSITY'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, AND TERMS AND CONDITIONS RELATED TO LIMITATIONS WILL NOT BE BINDING ON UNIVERSITY EXCEPT TO THE EXTENT AUTHORIZED BY THE LAWS AND CONSTITUTION OF THE STATE OF TEXAS.

13.22 **Ethics Matters; No Financial Interest.** Contractor and its employees, agents, representatives and subcontractors have read and understand University's Conflicts of Interest Policy at <http://www.utsystem.edu/board-of-regents/policy-library/policies/int180->

[conflicts-interest-conflicts-commitment-and-outside-](http://www.utsystem.edu/sites/utsfiles/documents/policies-rules/ut-system-administration-standards-conduct-guide/ut-system-administration-standards-conduct-guide.pdf), University's Standards of Conduct Guide at <http://www.utsystem.edu/sites/utsfiles/documents/policies-rules/ut-system-administration-standards-conduct-guide/ut-system-administration-standards-conduct-guide.pdf>, and applicable state ethics laws and rules at <http://utsystem.edu/offices/general-counsel/ethics>. Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause University employees to violate University's Conflicts of Interest Policy, University's Standards of Conduct Guide, 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.

Further, Contractor agrees to comply with *§2252.908 Texas Government Code (Disclosure of Interested Parties Statute)*, and *1 TAC §§46.1 through 46.5 (Disclosure of Interested Parties Regulations)*, as implemented by the Texas Ethics commission (TEC), including, among other things, providing the TEC and University with information required on the form promulgated by TEC. Proposers may learn more about these disclosure requirements, including the use of TEC's electronic filing system, by reviewing the information on TEC's website at [https://www.ethics.state.tx.us/whatsnew/FAQ\\_Form1295.htm](https://www.ethics.state.tx.us/whatsnew/FAQ_Form1295.htm) 1.

- 13.23 **Enforcement.** Contractor agrees and acknowledges that University is entering into this Agreement in reliance on Contractor's special and unique knowledge and abilities with respect to performing Work. Contractor's services provide a peculiar value to University. University 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 University irreparable injury and damage. Contractor, therefore, expressly agrees that University 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.
- 13.24 **Historically Underutilized Business Subcontracting Plan.** Contractor agrees to use good faith efforts to subcontract Work in accordance with the Historically Underutilized Business Subcontracting Plan (HSP) (ref. **EXHIBIT G**). Contractor agrees to maintain business records documenting its compliance with the HSP and to submit a monthly compliance report to University in the format required by Texas Procurement and Support Services Division of the Texas Comptroller of Public Accounts or any successor agency (collectively, **TPSS**). Submission of compliance reports will be required as a condition for payment under this Agreement. If University determines that Contractor has failed to subcontract as set out in the HSP, University 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 University determines that Contractor failed to implement the HSP in good faith, University, in addition to any other remedies, may report nonperformance to the TPSS in accordance with 34 TAC [§§20.285\(g\)\(5\)](#), [20.585](#) and [20.586](#). University may also revoke this Agreement for breach and make a claim against Contractor.
- 13.24.1 **Changes to the HSP.** If at any time during the Term, Contractor desires to change the HSP, before the proposed changes become effective (a) Contractor must comply with [34 TAC §20.285](#); (b) the changes must be reviewed and approved by University; and (c) if University approves changes to the HSP, this Agreement must be amended in accordance with **Section 13.6** to replace the HSP with the revised subcontracting plan.
- 13.24.2 **Expansion of Work.** If University expands the scope of Work through a change order or any other amendment, University will determine if the additional Work contains probable subcontracting opportunities *not* identified in the initial solicitation for Work. If University determines additional probable subcontracting opportunities exist, Contractor will submit an amended subcontracting plan covering those opportunities. The amended subcontracting plan must comply with the provisions of [34 TAC](#)

[§20.285](#) before (a) this Agreement may be amended to include the additional Work; or (b) Contractor may perform the additional Work. If Contractor subcontracts any of the additional subcontracting opportunities identified by University without prior authorization and without complying with [34 TAC §20.285](#), Contractor will be deemed to be in breach of this Agreement under **Section 8** and will be subject to any remedial actions provided by Applicable Laws, including [Chapter 2161, Texas Government Code](#), and [34 TAC §20.285](#). University may report nonperformance under this Agreement to the TPSS in accordance with [34 TAC §§20.285\(g\)\(5\), 20.585](#) and [20.586](#).

- 13.25 **Responsibility for Individuals Performing Work; Criminal Background Checks.** Each individual who is assigned to perform Work 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 Work under this Agreement. Prior to commencing Work, Contractor will (1) provide University with a list (**List**) of all individuals who may be assigned to perform Work, and (2) have an appropriate criminal background screening performed on all the individuals. Contractor will determine on a case-by-case basis whether each individual assigned to perform Work is qualified to provide the services. Contractor will not knowingly assign any individual to provide services on University's campus who has a history of criminal conduct unacceptable for a university campus or healthcare center, including violent or sexual offenses. Contractor will update the List each time there is a change in the individuals assigned to perform Work.

Prior to commencing performance of Work under this Agreement, Contractor will provide University a letter signed by an authorized representative of Contractor certifying compliance with this Section. Contractor will provide University an updated certification letter each time there is a change in the individuals assigned to perform Work.

- 13.26 **Quality Assurance.** Contractor will (a) comply with all applicable standards of the Joint Commission (**Joint Commission**); (b) implement and monitor a quality assurance process that complies with Joint Commission standards; (c) comply with applicable Joint Commission privileging standards for licensed independent practitioners; (d) upon request, provide assurance to University of a licensed independent practitioner's privileging file; and (e) provide University with periodic reports of its quality assurance indicators and/or permit University to conduct periodic quality assurance audits of Work.

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

**THE UNIVERSITY OF TEXAS SYSTEM**

By: \_\_\_\_\_  
Name: Dr. Scott Kelley  
Title: Executive Vice Chancellor For Business Affairs

**Approved as to Content:**

By: \_\_\_\_\_  
Name: Patrick Durbin  
Title: Assistant Director of Risk Control

**CONTRACTOR:**

By (signature): \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_

**Attach:**

- EXHIBIT A – Name and Addresses of Contractor, UT System, and Institutional Coordinators**
- Exhibit B – Contractor Rate Schedule**
- EXHIBIT C – UTS Approved Treatment Facilities**
- EXHIBIT D – UTS Approved Transporters**
- EXHIBIT E – UTS Approved Disposal Facilities**
- EXHIBIT F – Contractor’s Safety Equipment**
- EXHIBIT G – HUB Subcontracting Plan**

**EXHIBIT A**

**Institution Coordinators**

**CONTRACTOR COORDINATOR:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**UTS CONTRACT COORDINATOR:**

Ms. Michelle Bost  
The University of Texas System  
Claudia Taylor Johnson Hall  
210 W. 6th Street, Suite B.140E  
Austin, TX 78701  
Phone: 512/499-4211  
Fax: 512/499-4524

**INSTITUTION COORDINATORS:**

Ms. Leah Hoy  
**UT Arlington**  
P.O. Box 19257  
Arlington, TX 76019-0257  
Phone: 817/272-2185  
Fax: 817/272-2144

Mr. John Salsman  
**UT Austin**  
Service Building 202  
Austin, TX 78712-1024  
Phone: 512/471-1171  
Fax: 512/471-6918

Mr. Shane Solis  
**UT Dallas**  
Assistant Director  
Office of Research Compliance  
The University of Texas at Dallas  
Phone: 972/883-4730  
Fax: 972/883-2310

**INVOICE ROUTING ADDRESS (for campus and off site locations):**

Ramon Ruiz, REM  
**UT Arlington**  
Environmental Health and Safety (BOX 19257)  
500 Summit Ave.  
Arlington, TX 76019

Ms. I. Anderson  
**UT Austin**  
PO Box 7729, M/C 2600  
Austin, TX 78713

Dorian Evans  
**UT Dallas**  
Manager, Environmental & Hazardous Waste Programs  
800 W. Campbell Rd. RL 10  
Richardson, TX 75080  
Phone: 972/883-5739 or 214/ 563-4955

**INSTITUTION COORDINATORS:**

Mr. Bruce Brown, Dr PH  
**UT Southwestern Medical Center**  
5323 Harry Hines Blvd.  
Dallas, TX 75390-9013  
Phone: 214/648-2250  
Fax: 214/648-8320

Mr. Richard Costello, Dr PH  
**UT Rio Grande Valley**  
1201 West University Drive  
Edinburg, TX 78539  
Phone: 956/665-3690  
956/665-2699

Mr. Robert Moss  
**UT El Paso**  
Carl Hertzog Bldg., Room 170  
500 West University Avenue  
El Paso, TX 79968-0537  
Phone: 915/747-7188  
Fax: 915/747-7118

Mrs. Paula Tate  
**UT Tyler**  
3900 University Blvd.  
Tyler, TX 75799  
Phone: 903/566-7011  
Fax: 903/565-5829

Mr. Jack Tarpley  
**UT Medical Branch at Galveston**  
301 University Blvd  
Galveston, TX 77555-1108  
Phone: 409/772-8136  
Fax: 409/772-8501

Mr. Scott Patlovich  
**UT Health Science Center at Houston**  
P. O. Box 20036  
Houston, TX 77225  
Phone: 713/500-8100  
Fax: 713/500-8111

Mr. Matthew Berkheiser, DrPH  
**UT M.D. Anderson Cancer Center**  
1515 Holcombe Blvd., Box 035  
Houston, TX 77030  
Phone: 713/792-3775  
Fax: 713/745-2025

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Office 214/648-2250  
[Patrick.conley@utsouthwestern.edu](mailto:Patrick.conley@utsouthwestern.edu)

As specified by Institution Coordinator

As specified by Institution Coordinator

Mrs. Paula Tate  
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3900 University Blvd.  
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Mr. Sergio Garcia  
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Environmental Protection Management / EHS  
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Galveston, TX 77555-108

Mr. Alan Lucas  
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1851 Crosspoint, OCB1.330, PO Box 20036  
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Mr. Mike Pokluda  
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Environmental Health and Safety  
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Houston, TX 77230-1439  
Phone: 713/794-4178

**INSTITUTION COORDINATORS:**

Mr. Lail Grant  
**UT Permian Basin**  
4901 E. University  
Odessa, TX 79762-0001  
Phone: 915/552-2778  
Fax: 915/552-2770

Mr. Michael Charlton, PhD  
**UT Health Science Center at San Antonio**  
7703 Floyd Curl Drive  
San Antonio, TX 78229-3900  
Phone: 210/567-2955  
Fax: 210/567-2965

Mr. Brian Moroney  
**UT San Antonio**  
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San Antonio, TX 78249-672  
Phone: 210/458-5250  
Fax: 210/458-5813

Mr. Maurice Finsterwald  
**UT Health Science Center at Tyler**  
11937 US Hwy 271  
Tyler, TX 75708-3154  
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Fax: 512/499-4524

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Phone: 915/552-2778

Mr. Mike Gilmer  
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Environmental Health & Safety Dept.  
MC 7928  
7703 Floyd Curl Drive  
San Antonio, TX 78229-3900

Mr. Richard Garza  
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Mr. Maurice Finsterwald  
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Tyler, TX 75708-3154  
Phone: 903/877-2854

Ms. Michelle Bost  
**UT System**  
Claudia Taylor Johnson Hall  
210 W. 6th Street, Suite B.140E  
Austin, TX 78701  
Phone: 512/499-4211

**EXHIBIT B**

**CONTRACTOR RATE SCHEDULE**

Prices include all costs associated with providing the Covered Services, including without limitation, replacement supplies, travel, labor, administrative or overhead costs, insurance, taxes, and profit. Rate for Sealed Sources includes the encapsulation of the sources.

**PICKUP AND CONTAINER FEES:** The minimum amount of a pickup is \$\_\_\_\_\_. If the Invoiced amount of a pickup is less than \$\_\_\_\_\_ the Invoice may reflect the minimum fee. Each container shipped for processing will be a minimum of \$\_\_\_\_\_.

**DISPOSAL — WASTE FOR BURIAL AT WCS:**

*These are the current maximum rates based on the Interim Disposal Rates set by TCEQ. Contractor will charge less than the rates below if authorized by the contract with WCS. Prices are for prepackaged waste.*

***Includes State and County Fees and DSHS Transport Fees:***

Dry Solids <sup>1</sup>	\$ _____	per 55 gallon drum
Absorbed Liquids <sup>2</sup>	\$ _____	per 55 gallon drum
Class A low level waste (LLW)	\$ _____	per cubic foot
Class A low level waste (LLW) shielded	\$ _____	per cubic foot
Class B and C low level waste (LLW)	\$ _____	per cubic foot
Sealed Sources (see next section)	\$ _____	per cubic foot
Animal Carcasses <sup>3</sup> (30 gallon, Class A)	\$ _____	per 55 gallon drum
Thorium, Uranium or Uranyl Nitrates	\$ _____	per concreted 5 gallon pail

***Surcharges to base rates:***

Millicurie Charge	\$ _____	per mCi
C-14 Charge	\$ _____	per mCi
SNM Charge	\$ _____	per gram

**Sealed Sources**

Contractor is required by the burial site Waste Acceptance Criteria to encapsulate Sealed Sources in concrete prior to burial at the WCS facility. Costs for packaging and disposal of Sources is determined based on the type, isotope, activity and recycling or disposal option and determined on a case by case basis.

Sealed sources meeting the definition of Class, A, B and C can be sent for disposal. Total activity of sources in a container cannot exceed 6 curies or the Class C limits. A pail will hold up to .6 cubic feet of waste, which is equal to the cavity of a 30-gallon source drum.

<sup>1</sup> Includes Thorium, Uranium or Uranyl Acetates when present in dry form. Volume discounts may apply.

<sup>2</sup> Includes Thorium, Uranium or Uranyl Acetates as a liquid when not included in the definition of RCRA hazardous waste.

<sup>3</sup> Defined to include biological waste. Cost is based on the final disposal volume of over-pack container at \$475 per cubic foot. Waste shall be packaged in accordance with disposal site waste acceptance criteria (WAC). Typically packaging is 30-gal over-packed in 55-gal. Volume discounts may apply.

<b>5-gallon Drum</b>	Base Cost	\$ _____
	Millicurie surcharge	\$ _____
	Per Item Charge	\$ _____
	Check Sources	\$ _____
	Industrial Gauges, Large Sources	\$ _____
	Brachytherapy Seeds and Tubes (No item or millicurie charge)	\$ _____

**30-gallon Source Drum, maximum cost**, for a with 4 inches of concrete surrounding the sources \$ \_\_\_\_\_

**WASTE FOR PROCESSING:**

*No disposal volume attributed to UTS*

*Subject to export approval from the Texas Compact Commission*

Dry Waste in Boxes for Incineration	\$ _____	per pound
Animal Carcasses in fiber boxes for Incineration	\$ _____	per pound
Aqueous Liquids (bulk) for Incineration	\$ _____	per 5 gallon
Aqueous Liquids (bulk) for Incineration	\$ _____	per 30 gallon drum
Aqueous Liquids (bulk) for Incineration	\$ _____	per 55 gallon drum
Thorium and/or Uranyl Nitrates	\$ _____	per pound

Nitrates are considered an Oxidizer Mixed Waste, this is a minimum price

**LIQUID SCINTILLATION MATERIALS:**

Material must be classified as Scintillation. Prices must include State Tax on Hazardous waste. All supplies must include reconditioned drums, liners and absorbent.

**Waste Category**

Volume Pricing			
55-gallon	30-gallon	Plastic in fiber box	Glass in fiber box
Exempt <sup>4</sup> Vials			
Exempt <sup>4</sup> Liquid Bulk			
Radioactive Vials with < 30 day ½ life			
Radioactive Bulk Liquid with <30 day ½ life			
Radioactive Vials/Bulk >30-<109 day ½ life			
Radioactive Vials/Bulk > 109 day ½ life			
Exempt or Radioactive Plates			

**MIXED WASTES:**

Pricing for Mixed Wastes is based on a number of chemical and radioactive parameters and can be estimated once a Profile Sheet is completed. Prices will range from \$\_\_\_\_ per gallon on up to \$\_\_\_\_\_ per gallon. There is a minimum price of \$\_\_\_\_\_ for containers with less than 5 gallons of Flammable Liquids and \$\_\_\_\_\_ for all other Flammable containers. Containers are billed on the volume of the container,

<sup>4</sup> <0.05 uCi per gram of Scintillation media of H-3, C-14, (I-125 is not considered an NRC Exempt material)

not the volume of actual contents. Any nuclide activity above 10 millicuries for H-3 and C-14 will cause an increase in costs associated with disposal.

**Minimum Pricing**

Flammable Liquids <sup>5</sup>	\$ _____	for less than 5 gallons
	\$ _____	for less than 30 gallons
	\$ _____	for less than 55 gallons
Corrosive Liquids	\$ _____	for less than 30 gallons
	\$ _____	for less than 5 gallons
Oxidizer	\$ _____	for less than 30 gallons
	\$ _____	for less than 5 gallons

**Activity Surcharges/Shipment**

10-100 mCi \$ \_\_\_\_\_ for H-3

Examples of Pricing Application	30-gallon	5-gallon Lab Pack
Flammable Solvent; less than 50% Water, 2% Halogens, all other constituents at minims levels	\$ _____	\$ _____
Flammable Solvent; less than 50% Water, 5% Halogens, all other constituents at minims levels	\$ _____	\$ _____
Flammable Solvent with D002 code, less than 50% Water, 5% Halogens, all other constituents at minims levels	\$ _____	\$ _____

**SUPPLIES:**

Replacement supplies are included in the Unit prices. A Reconditioned drum, liner and when needed absorbent will be provided. If new drums are desired add \$\_\_\_\_.00 to the item's unit price. New boxes will be provided for solid and animal wastes for incineration. **If additional supplies over the one for one exchange are needed, they will be invoiced at the following rates.**

Recon open top 55 gallon	\$ _____
New open top 55 gallon	\$ _____
Recon open top 30 gallon	\$ _____
New open top 30 gallon	\$ _____
New tight head 30 gallon metal	\$ _____
New tight head 30 gallon plastic	\$ _____
Plastic Open Top 30-gallon	\$ _____
Incineration Boxes-Cardboard	\$ _____
Incineration Boxes-Hat Box	\$ _____
Bag Vermiculite	\$ _____
Case 3 mil liners 100/case	\$ _____
Case 4 mil liners 50/case	\$ _____

**TRANSPORTATION SERVICES:** (include all fees and conditions)

Stop Fees (in addition to Transportation Rate): \$ \_\_\_\_\_

<sup>5</sup> This price is inclusive of RCRA mixed waste, to include Thorium and/or Uranyl Acetates when mixed with acids or other organic compounds meeting the RCRA definition of hazardous.

**WASTE PROCESSING SERVICES:**

Services are all inclusive in the rates on page one of the pricing. For additional services such as packaging and overpacking the rates for these services would be established after a review of the project including the isotopes and waste streams. Our standard rates are as follows:

Technician	\$ _____
Per Diem	\$ _____
Travel	\$ _____

**Price Increase or Decreases**

The rates on disposal at WCS are capped by the current Interim Disposal Rates established by TCEQ. These rates are subject to change pending the resolution of the rate case hearing with the State Office of Administrative Hearings, other legal action, or changes to the contractor's contract with WCS.

## EXHIBIT C

### **UTS APPROVED TREATMENT FACILITIES**

Pursuant to **Section 2.3.5** of this Agreement, the "UTS-Approved Treatment Facilities" are the facilities listed below and shall not exceed five (5) facilities.

**EXHIBIT D**

**UTS-APPROVED TRANSPORTERS**

Pursuant to **Section 2.3.4** of this Agreement, the "UTS-Approved Transporters" are the transporters listed below and shall not exceed two (2) transporters.

**EXHIBIT E**

**UTS APPROVED DISPOSAL FACILITIES**

Pursuant to **Section 2.3.7** of this Agreement, the "UTS-Approved Disposal Facilities" are the facilities listed below.

**Shallow Land Burial of Radioactive Waste**

Waste Control Specialists License # TX R05807  
9998 W. Hwy. 176  
Andrews, TX 79714  
Michael Burney 888-789-2783

## EXHIBIT F

### CONTRACTOR SAFETY EQUIPMENT

#### Emergency Response and Spill Control:

- Portable Geiger-Mueller Survey Instrument (for contamination surveys)
- 85 Gallon Overpack Drum
- Shovels and Broom
- Fire Extinguisher
- Absorbents, Pads and Oil Dry Evacuation Horn

#### Personnel Protective Clothing

- Regular and Poly Coated Tyvek Coveralls
- Safety Glasses and Goggles
- Steel Toed Boots (leather and chemical resistant)
- Full Face Respirators and Cartridges
- Gloves (leather and chemical resistant)
- Duct Tape
- First Aid Kit

**EXHIBIT G**

**HUB SUBCONTRACTING PLAN**

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# THE UNIVERSITY OF TEXAS SYSTEM ADMINISTRATION

OCTOBER 1, 2016

## APPENDIX III

### POLICY ON UTILIZATION

### HISTORICALLY UNDERUTILIZED BUSINESSES

### VENDOR/COMMODITIES



**The University of Texas System Office  
of HUB Programs  
Policy on Utilization of Historically Underutilized Businesses (HUBs)**

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-----------------

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• HUB Subcontracting Opportunity Notification Form Minority and Trade Organizations contact information is available online at: <a href="https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php">https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php</a>	Page 18
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The University of Texas System  
Office of HUB Programs

**POLICY ON UTILIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES (HUBS)**

**Introduction**

In accordance with the Texas Government Code, Sections 2161.181-182 and Title 34, Section 20.13 of the Texas Administrative Code (TAC), the Board of Regents of The University of Texas System, acting through the Office of HUB Development shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction services, including professional and consulting services; and commodities contracts. The HUB Rules promulgated by the Texas Comptroller of Public Accounts (the "Texas Comptroller"), set forth in 34 TAC Sections 20.10-20.28, encourage the use of HUBs by implementing these policies through race, ethnic and gender-neutral means.

The purpose of the HUB Program is to promote full and equal business opportunities for all business in State contracting in accordance with the following goals as specified in the State of Texas Disparity Study:

- 11.2% for heavy construction other than building contracts;
- 21.1% for all building construction, including general contractors and operative builder's contracts;
- 32.9% for all special trade construction contracts;
- 23.7% for professional services contracts;
- 26% for all other services contracts, and
- 21.1% for commodities contracts.

The University of Texas System shall make a good faith effort to meet or exceed the above stated goals to assist HUBs in receiving a portion of the total contract value of all contracts that UT System expects to award in a fiscal year. The University of Texas System may achieve the annual program goals by contracting directly with HUBs or indirectly through subcontracting opportunities in accordance with the Texas Government Code, chapter 2161, Subchapter F.

**NOTE:** The goals above are the State of Texas HUB goals. For purposes of this procurement, The University of Texas System goals listed in the Special Instructions on page 11 will apply.

**SUMMARY OF REQUIREMENTS**  
**Historically Underutilized Business (HUBs) Subcontracting Plan (HSP)**

It is the policy of The University of Texas System and each of its component institutions, to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUBs) in all contracts. Accordingly, UT System has adopted “**EXHIBIT H, Policy on Utilization of Historically Underutilized Businesses**”. The policy applies to all contracts with an expected value of \$100,000 or more. The Board of Regents of The University of Texas System is the contracting authority.

1. In all contracts for professional services, contracting services, and/or commodities with an expected value of \$100,000 or more, The University of Texas System, “UT System” or the “University” will indicate in the purchase solicitation (e.g. RFQ, RFP, or CSP) whether or not subcontracting opportunities are probable in connection with the contract. A HUB Subcontracting Plan is a required element of the architect, contractor or vendor Response to the purchase solicitation. The HUB Subcontracting Plan shall be developed and administered in accordance with the Policy. **Failure to submit a required HUB Subcontracting Plan (HSP) will result in rejection of the Response.**
2. If subcontracting opportunities are probable UT System will declare such probability in its invitations for bids, requests for proposals, or other purchase solicitation documents, and shall require submission of the appropriate HUB Subcontracting Plan with the Response.
  - a. When subcontracting opportunities are probable, and the Respondent proposes to subcontract any part of the work, the Respondent shall submit a **HUB Subcontracting Plan as prescribed by the Texas Comptroller** identifying subcontractors **[34 TAC §20.14 (d) (1)(A)(B)(C)(D) (2) (3)(A)(B)(C)(D)(E)(F) (4)(A)(B)]**.
  - b. When subcontracting opportunities are probable, but the Respondent can perform such opportunities with its employees and resources, the Respondent’s HUB Subcontracting Plan shall include **Section 3 –Self Performance [34 TAC §20.14 (d) (5) (A) (B) (C) (D)]**.
3. If subcontracting opportunities are not probable UT System will declare such probability in its invitations or bids, requests for proposals, or other purchase solicitation documents and shall require submission of the appropriate HUB Subcontracting Plan with the Response.
  - a. When subcontracting opportunities are not probable, and the Respondent proposes to perform all the work with its employees and resources, the Respondent shall submit a HUB Subcontracting Plan that includes **Section 3 – Self Performance Justification**.
  - b. When subcontracting opportunities are not probable, but the Respondent proposes to subcontract any part of the work, the Respondent shall submit a **HUB Subcontracting Plan as prescribed by the Texas Comptroller** identifying subcontractors.
4. Respondents shall follow, but are not limited to, procedures listed in the Policy when developing a HUB Subcontracting Plan.
5. **Competitive Sealed Proposals (CSP):** Respondents shall submit a HUB Subcontracting Plan (packaged separately) twenty-four (24) hours following the Response submission date and time or as prescribed by the project manager. Submit one (1) original and one (1) PDF copy on CD, DVD, or flash drive of the HUB Subcontracting Plan (HSP).
6. In making a determination whether a good faith effort has been made in the development of the required HUB Subcontracting Plan, UT System shall follow the procedures listed in the Policy. If accepted by the University, the HUB Subcontracting Plan shall become a provision of the Respondent’s contract with UT System.

**Revisions necessary to clarify and enhance information submitted in the original HUB subcontracting plan may be made in an effort to determine good faith effort.** Any revisions after the submission of the HSP shall be approved by the HUB Coordinator.

7. **Design Build (DB) and Construction Manager @ Risk (CM@R) responses:** Respondents to a “design build” or “construction manager-at-risk” purchase solicitation shall include the Letter of HUB Commitment in their Response attesting that the Respondent has read and understands the Policy on Historically Underutilized Businesses (HUBs), and a HUB Subcontracting Plan for all preconstruction and construction services including a HUB Subcontracting Plan as prescribed by the Texas Comptroller specific to construction services identifying first, second and third tier subcontractors. Respondents proposing to perform Part 1 pre construction services with their own resources and employees shall submit, as part of their HSP, the Self Performance Justification. Submit one (1) original and one (1) PDF copy on CD, DVD, or flash drive of the HUB Subcontracting Plan (HSP).
8. **DB and CM@R HUB Contract Requirements:** Contractors engaged under design-build and construction manager-at-risk contracts shall submit a HUB Subcontracting Plan for all preconstruction and construction Phase Services, and, must further comply with the requirements of this Policy by developing and submitting a HUB Subcontracting Plan for each bid package issued in buying out the guaranteed maximum or lump sum price of the project. The HSP shall identify first, second and third tier subcontractors.
9. The University of Texas System shall reject any Response that does not include a fully completed HSP as required. **An incomplete HUB Subcontracting Plan is considered a material failure to comply with the solicitation for proposals.**
10. **Changes to the HUB Subcontracting Plan:** Once a Respondent’s HSP is accepted by UT System and becomes a provision of the contract between Respondent and UT System, the Respondent can only change that HSP if (a) the Respondent complies with 34 TAC Section 20.14; (b) the Respondent provides its proposed changes to UT System for review; (c) UT System (including UT System’s HUB Coordinator) approves Respondent’s proposed changes to its HSP; and (d) UT System and the Respondent amend their contract (in writing signed by authorized officials of both parties) in order to replace the contract’s existing HSP with a revised HSP containing the changes approved by UT System.
11. **Expansion of Work:** If, after entering into a contract with a Respondent as a result of a purchase solicitation subject to the Policy, UT System wishes to expand the scope of work that the Respondent will perform under that contract through a change order or any other contract amendment (the “additional work”), UT System will determine if the additional work contains probable subcontracting opportunities not identified in the initial purchase solicitation for that contract. If UT System determines that probable subcontracting opportunities exist for the additional work, then the Respondent must submit to UT System an amended HUB Subcontracting Plan covering those opportunities that complies with the provisions of 34 TAC Section 20.14. Such an amended HSP must be approved by UT System and the Respondent (including UT System’s HUB Coordinator) before (a) the contract may be amended by UT System and the Respondent to include the additional work and the amended HSP and (b) the Respondent performs the additional work. If a Respondent subcontracts any of the additional subcontracting opportunities identified by UT System for any additional work (i) without complying with 34 TAC Section 20.14 or (ii) before UT System and that Respondent amend their contract to include a revised HSP that authorizes such subcontracting, then the Respondent will be deemed to be in breach of its contract with UT System. As a result of such breach, UT System will be entitled to terminate its contract with the Respondent, and the Respondent will be subject to any remedial actions provided by Texas law, including those set forth in Chapter 2161, Texas Government Code, and 34 TAC

Section 20.14. The University may report a Respondent’s nonperformance under a contract between that Respondent and UT System to the Texas Comptroller in accordance with 34 TAC Sections 20.10 through 20.18.

12. A Response may state that the Respondent intends to perform all the subcontracting opportunities with its own employees and resources in accordance with the Policy. However, if such a Respondent enters into a contract with UT System as a result of such a Response but later desires to subcontract any part of the work set forth in that contract, before the Respondent subcontracts such work it must first change its HUB Subcontracting Plan in accordance with the provisions of Section 10 above.
13. The University of Texas System shall require a professional services firm, contractor or vendor to whom a contract has been awarded to report the identity and the amount paid to its subcontractors on a monthly basis using a **HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report (PAR)** as a condition for payment.
14. If the University of Texas System determines that the successful Respondent failed to implement an approved HUB Subcontracting Plan in good faith, UT System, in addition to any other remedies, may report nonperformance to the Texas Comptroller in accordance with 34 TAC Section 20.14, (g) (1) related remedies of nonperformance to professional services firms, contractor and vendor implementation of the HSP.
15. In the event of any conflict between this "Summary of Requirements" and the remainder of the HUB Policy, the remainder of the HUB Policy will control.
16. These requirements, including the attachments referred to above, may be downloaded over the internet from: <http://utsystem.edu/offices/historically-underutilized-business/hub-forms>. For additional information contact: The University of Texas System  
Office of HUB Programs  
201 West Sixth Street, Room B.140E  
Austin, TX 78701  
(512) 499-4530

**Other Services/Vendor/Commodities HSP  
Summary of Attachments Required from Respondents**

	Letter of Transmittal Page 8	Letter of HUB Commitment Page 9	HUB Subcontracting Plan (HSP) Pages 11-18	Progress Assessment Report (PAR) Page 19
<b>1. UT SYSTEM DETERMINES THAT SUBCONTRACTING OPPORTUNITIES ARE PROBABLE.</b>				
<b>1. A. Respondent Proposes Subcontractors:</b> Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are probable</u> .	X		X	
<b>1. B. Respondent Proposes Self-Performance:</b> Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are probable</u> , but the Respondent can perform such opportunities with its employees and resources.	X		X	
<b>2. UT SYSTEM DETERMINES THAT SUBCONTRACTING OPPORTUNITIES ARE NOT PROBABLE.</b>				
<b>2. A. Respondent Proposes Self-Performance:</b> Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are not probable</u> , but the Respondent can perform such opportunities with its employees and resources.	X		X	
<b>2. B. Respondent Proposes Subcontractors:</b> Attachments required from the Respondent for the HUB Subcontracting Plan if the solicitation states that <u>subcontracting opportunities are not probable</u> , but the Respondent proposes to subcontract any part of the work.	X		X	
<b>3. INDEFINITE DURATION/INDEFINITE QUANTITY CONTRACTS:</b> Submit with initial qualifications. Attachments required from the Respondent prior to contract execution for each contract associated with a solicitation for miscellaneous services.		X	X	
<b>4. CHANGES IN THE HUB SUBCONTRACTING PLAN AFTER AWARD:</b> Attachments required from the Respondent to whom a contract has been awarded if it desires to make changes to the approved HUB Subcontracting Plan.			X	
<b>5. REPORTING :</b> Progress Assessment Report (PAR) required with all payment requests. The submittal of this attachment is a condition of payment.				X

(RESPONDENT’S BUSINESS LETTERHEAD)

Date

Regional HUB Coordinator  
Office of HUB Programs  
The University of Texas System  
201 West Sixth St., Room B.140E  
Austin, Texas 78701

RE: Historically Underutilized Business Plan for  
(Project Title): \_\_\_\_\_  
Project Number \_\_\_\_\_

Dear ,

In accordance with the requirements outlined in the specification section “HUB Participation Program,” I am pleased to forward this HUB Subcontracting Plan as an integral part of our response in connection with your invitation for Request for Proposals referencing the above project.

I have read and understand The University of Texas System Policy on Utilization of Historically Underutilized Businesses (HUBs). I also understand the State of Texas Annual Procurement Goal according to 34 Texas Administrative Code Section 20.13, and the goal as stated in the Agency Special Instructions section of the HUB Subcontracting Plan, page 11.

26% for all other services contracts

\_\_\_\_\_  
\_\_\_\_\_

Subcontractors	No. of Subcontractors	Total Subcontract \$ Value	Total Estimated HUB %	% Minority Owned	% Woman Owned	% Service Disabled Veteran
HUB						
NON-HUB						
TOTAL						

I understand the above HUB percentages must represent Texas Comptroller HUB certification standards. For each of the listed HUB firms, I have attached a Texas Comptroller HUB Certification document.

Should we discover additional subcontractors claiming Historically Underutilized Business status during the course of this contract we will notify you of the same. In addition, if for some reason a HUB is unable to fulfill its contract with us, we will notify you immediately in order to take the appropriate steps to amend this contractual obligation.

Sincerely,

(Project Executive)

cc: Contract Administrator

RESPONDENT'S BUSINESS LETTERHEAD

Date

Regional HUB Coordinator  
Office of HUB Programs  
The University of Texas System  
201 West Sixth St., Room B.140E  
Austin, Texas 78701

RE: Historically Underutilized Business Plan for (Project Title \_\_\_\_\_  
Project Number: \_\_\_\_\_

Dear :

In accordance with the requirements outlined in the specification section "HUB Participation Program", I am pleased to forward this HUB Subcontracting Plan as an integral part of our proposal in connection with your invitation for request for proposals, referencing Project Number \_\_\_\_\_.

I have read and understand The University of Texas System Policy on Utilization of Historically Underutilized Businesses (HUBs).

Good Faith Effort will be documented by a two-part HUB Subcontracting Plan (HSP) process. Part one (1) of the HSP submission will reflect self-performance with the appropriate sections completed per the instructions in Option One of the HSP Quick Checklist located on page 10 of The University of Texas Exhibit H Policy on Utilization of Historically Underutilized Businesses (HUBs).

As the scope of work/project is defined under this ID/IQ contract, part two (2) of the process will require a revised HUB Subcontracting Plan (HSP) and the Good Faith Effort will be documented per instructions in Attachment B (page 16-17) and Option Three of the HSP Quick Check List. The revised HUB Subcontracting Plan will be submitted to the HUB Coordinator prior to execution of each contract process. Documentation of subcontracted work will be provided with each pay request.

Sincerely,

Project Executive

cc: Project Manager



# HUB Subcontracting Plan (HSP) QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- **If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:**
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - Yes, I will be subcontracting portions of the contract.
  - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
  - Section 2 c. - Yes
  - Section 4 - Affirmation
  - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract\* in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - Yes, I will be subcontracting portions of the contract.
  - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
  - Section 2 c. - No
  - Section 2 d. - Yes
  - Section 4 - Affirmation
  - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract\* in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - Yes, I will be subcontracting portions of the contract.
  - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
  - Section 2 c. - No
  - Section 2 d. - No
  - Section 4 - Affirmation
  - GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:**
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
  - Section 3 - Self Performing Justification
  - Section 4 - Affirmation

**\*Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



# HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

**NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).**

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

**- - Agency Special Instructions/Additional Requirements - -**

*In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent **does not** have a **continuous contract\*** in place for **more than five (5) years** shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

In accordance with 34 TAC §20.13(d)(1)(D)(iii), the goals below are the applicable goals for the University of Texas Administration only.

**Other Services Goal – 26%**

- Responses for Special Trades construction shall submit a HUB Subcontracting Plan (HSP) that meet the Good Faith Effort (GFE) prescribed in Method B, Attachment B. See instructions for Option Three on the HSP Quick Check List. No other Good Faith Effort method will be accepted.
- Responses for Miscellaneous Services Agreements for indefinite duration/indefinite quantity is a two (2) part process:
  1. Submit a Letter of HUB Commitment (page 9) and a GFE described in Option Four.
  2. Submit a revised HSP prior to the execution of each contract process as described in Option Three of the Quick Check List.
- Respondents shall submit a completed HSP to be considered responsive. Failure to submit a completed HSP shall result in the bid, proposal or other expression of interest to be considered non-responsive.
- Respondents who intend to self-perform all of their work shall submit an HSP for Self Performance HSP as described in Option Four.
- Prime Contractor Progress Assessment Report (PAR) shall be submitted with each request for payments as a condition of payment.
- Acceptable documentation of the GFE include fax, email or certified letter.

**SECTION 1: RESPONDENT AND REQUISITION INFORMATION**

a. Respondent (Company) Name: \_\_\_\_\_ State of Texas VID #: \_\_\_\_\_  
 Point of Contact: \_\_\_\_\_ Phone #: \_\_\_\_\_  
 E-mail Address: \_\_\_\_\_ Fax #: \_\_\_\_\_

b. Is your company a State of Texas certified HUB?    - Yes     - No

c. Requisition #: \_\_\_\_\_ Bid Open Date: \_\_\_\_\_ (mm/dd/yyyy)

Enter your company's name here: \_\_\_\_\_ Requisition #: \_\_\_\_\_

**SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS**

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.11, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b of this SECTION and continue to Item c of this SECTION.)
- **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If **No**, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <b>do not</b> have a <b>continuous contract*</b> in place for <b>more than five (5) years</b> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <b>continuous contract*</b> in place for <b>more than five (5) years</b> .	Percentage of the contract expected to be subcontracted to Non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>).

c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified HUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, Item b.

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract **with Texas certified HUBs** with which you **do not** have a **continuous contract\*** in place with for **more than five (5) years**, **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the "**Agency Special Instructions/Additional Requirements**."

- **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- **No** (If **No**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed.)

**\*Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: \_\_\_\_\_ Requisition #: \_\_\_\_\_

**SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)**

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <b>do not</b> have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

Enter your company's name here: \_\_\_\_\_ Requisition #: \_\_\_\_\_

**SECTION 3: SELF PERFORMING JUSTIFICATION** (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

**SECTION 4: AFFIRMATION**

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report - PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature	Printed Name	Title	Date <small>(mm/dd/yyyy)</small>
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**Reminder:**

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.



# HSP Good Faith Effort - Method B (Attachment B)

Rev. 10/16

Enter your company's name here: _____	Requisition #: _____
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**IMPORTANT:** If you responded "**No**" to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

## SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: \_\_\_\_\_ Description: \_\_\_\_\_

## SECTION B-2: MENTOR PROTEGE PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protege Program, submitting its Protege (Protege must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in **SECTION B-1**, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protege.

- Yes (If *Yes*, continue to SECTION B-4.)
- No / Not Applicable (If *No* or *Not Applicable*, continue to SECTION B-3 and SECTION B-4.)

## SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmlbsearch/index.jsp>. HUB status code "**A**" signifies that the company is a Texas certified HUB.
- b.** List the **three (3) Texas certified HUBs** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID <small>(Do not enter Social Security Numbers.)</small>	Date Notice Sent <small>(mm/dd/yyyy)</small>	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

- d.** List **two (2) trade organizations or development centers** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent <small>(mm/dd/yyyy)</small>	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

# HSP Good Faith Effort - Method B (Attachment B) Cont.

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Enter your company's name here: \_\_\_\_\_ Requisition #: \_\_\_\_\_

## SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in **SECTION 2, Item b**, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: \_\_\_\_\_ Description: \_\_\_\_\_

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID I EIN, leave their VID I EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

**REMINDER:** As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.



# HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in Section B has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.14 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.11(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in Section C, Item 2, reply no later than the date and time identified in Section C, Item 1. Submit your response to the point-of-contact referenced in Section A.

## SECTION A: PRIME CONTRACTOR'S INFORMATION

Company	Name: _____	State of Texas VID #: _____
Point-of-Contact: _____		Phone #: _____
E-mail Address: _____		Fax #: _____

## SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: _____		
Point-of-Contact: _____		Phone #: _____
Requisition #: _____		Bid Open Date: _____ (mm/dd/yyyy)

## SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION

### 1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2, we must receive your bid response no later than \_\_\_\_\_ on \_\_\_\_\_  
Central Time Date (mm/dd/yyyy)

*In accordance with 34 TAC §20.14, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.11(19)(C).*

*(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)*

### 2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:  - Not Applicable

4. Bonding/Insurance Requirements:  - Not Applicable

5. Location to review plans/specifications:  - Not Applicable

