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## Solicitation Notice

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**Status:** Posted

**Solicitation ID:** 720-1926

**Solicitation Title:** Third Party Administrator (TPA) Auto Claims Handling Services

[Modify Solicitation](#)

**Agency/Texas SmartBuy Member Name:** University Of Texas System - 720

**Posting Requirements:** 21+ Days for Solicitation Notice

**Solicitation Posting Date:** 7/8/2019

[Internal Notes](#)

**Response Due Date:** 8/7/2019

**Response Due Time:** 2:30 PM

[Cancel Solicitation](#)

**Solicitation Description:** The University contracts with a Third Party Administrator (TPA) to provide automobile liability and automobile physical damage Claims Handling, Payment Services and Other Related Services for the The University of Texas System.

**Class/Item Code:** 95327-Claims Processing Services  
95861-Insurance And Risk Management Services  
96116-Claims Processing Services

[Published Details](#)   [Internal Notes](#)

### Record Attachments

#	Name	Description
1	<a href="#">ESBD_File_166441_Bonfire Submission Instructions - UT System RFP 720-1926 TPA Auto Claims.docx</a>	Instructions and link to RFP document via Bonfire, the UT System RFP management software.



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## REQUEST FOR PROPOSAL

**RFP No. 720-1926 - Third Party Administrator (TPA) Auto Claims Handling Services**

**Proposal Submittal Deadline: Monday, July 8, 2019 at 2:30 PM CST**

The University of Texas System  
Office of Risk Management

Prepared by:  
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The University of Texas System  
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July 8, 2019

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 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 230,000 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 80,000 health care professionals, researchers, student advisors and support staff, the UT System is one of the largest employers in the state.

Life-changing research and invention of new technologies at UT institutions places the UT System among the [top 10 “World’s Most Innovative Universities,”](#) according to Reuters. The UT System [ranks eighth 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 No. 3 in the nation in federal research expenditures.

In addition, the UT System is home to three 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. And the UT System is the only System in the country to have four Clinical and Translational Science Awards (CTSA) from the National Institutes of Health.

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 2015. And UT was the only system of higher education in the nation that established not one, but two 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 to do so thanks to our generous donors and the leadership of the [Chancellor](#), [Board of Regents](#) and [UT presidents](#).

#### 1.2 Background and Special Circumstances

The University's Office of Risk Management is responsible for the administration of the University's Automobile Self-Insured Retention program.

### 1.3 Objective of Request for Proposal

The University contracts with a Third Party Administrator (TPA) to provide automobile liability and automobile physical damage Claims Handling, Payment Services and Other Related Services for the The University of Texas System.

The University is soliciting proposals in response to this Request for Proposal, RFP 720-1926 (this "RFP"); from qualified vendors to provide automobile Claims Handling Services, Payment Services and Other Related Services for its self-insured retention automobile program.

### 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 under this RFP. In particular, Proposer should note that University is part of The University of Texas System (**UT System**), which is comprised of fourteen 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 RFP could give rise to additional purchase volumes. As a result, in submitting its proposal, Proposer should consider proposing a pricing model and other commercial terms that take into account the higher volumes and other expanded opportunities that could result from the eventual inclusion of other institutions in the purchase contemplated by this RFP. Any purchases made by other institutions based on this RFP will be the sole responsibility of those institutions.

## SECTION 2

### NOTICE TO PROPOSER

#### 2.1 Submittal Deadline

University will accept proposals submitted in response to this RFP via Bonfire until 2:30 p.m., Central Standard Time (“CST”) on Wednesday, July 30, 2019 (the “**Submittal Deadline**”).

#### 2.2 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:

##### 2.2.1 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.

##### 2.2.2 Scored Criteria

- A. Pricing for Services Offered (30%);
- B. Vendor Experience (20%);
- C. Operations (35%);
- D. System Capabilities (15%).

#### 2.3 Key Events Schedule

Issuance of RFP	July 8, 2019
Deadline for Questions / Concerns	2:30 p.m. CST on Tuesday, July 30th, 2019
Submittal Deadline (ref. <b>Section 2.1</b> of this RFP)	2:30 p.m. CST on Wednesday, August 7, 2019



## 2.4 Historically Underutilized Businesses

- 2.4.1 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 2.4** 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.
- 2.4.2 University has reviewed this RFP in accordance with [Title 34, Texas Administrative Code, Section 20.285](#), and has determined that subcontracting opportunities (HUB and/or Non-HUB) are probable under this RFP. The HUB participation goal for this RFP is 26%.
- 2.4.3 A HUB Subcontracting Plan (“**HSP**”) is required as part of, *but submitted separately from*, Proposer’s proposal. The HSP will be developed and administered in accordance with University’s Policy on Utilization of Historically Underutilized Businesses and incorporated for all purposes.

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

*Questions regarding the HSP may be directed to:*

Contact: Kyle Hayes  
HUB Coordinator  
Phone: 512-322-3745  
Email: [khayes@utsystem.edu](mailto:khayes@utsystem.edu)

Contractor will not be permitted to change its HSP after the deadline submittal date unless: (1) Contractor completes a new HSP, setting forth all modifications requested by Contractor, (2) Contractor provides the modified HSP to University, (3) University HUB Program Office approves the modified HSP in writing, and (4) all agreements resulting from this RFP are amended in writing to conform to the modified HSP.

### **Instructions on completing an HSP**

Proposer must visit <https://www.utsystem.edu/offices/historically-underutilized-business/hub-forms> to download the most appropriate HUB Subcontracting Plan (HSP) / Exhibit H form for use with this Request for Proposal. Proposer will find, on the HUB Forms webpage, a link to “[Guide to Selecting the Appropriate HSP Option](#)”. **Click on this link and read the Guide first before selecting an HSP Option.** Proposer shall select, from

the four (4) Options available, the Option that is most applicable to Proposer's subcontracting intentions. These forms are in **fillable** PDF format and must be downloaded and opened with *Adobe Acrobat / Reader* to utilize the fillable function. If Proposer has any questions regarding which Option to use, Proposer shall submit the question via Bonfire portal.

Proposer must complete the HSP, then print, sign and scan *all pages* of the HSP Option selected, with additional support documentation\*, **and submit via Bonfire portal.** NOTE: signatures must be "wet" signatures. Digital signatures are not acceptable.

Any proposal submitted in response to this RFP that does not have a corresponding HSP meeting the above requirements may be rejected by University and returned to Proposer as non-responsive due to material failure to comply with advertised specifications.

Each Proposer's HSP will be evaluated for completeness and compliance prior to opening the proposal to confirm Proposer compliance with HSP rules and standards. Proposer's failure to submit one (1) completed and signed HUB Subcontracting Plan **to the Bonfire portal** may result in University's rejection of the proposal as non-responsive due to material failure to comply with advertised specifications.

**\*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 submit copies of those pages with the HSP sent to the Bonfire Portal. In addition, all solicitation emails to potential subcontractors must be included as backup documentation to the Proposer's HSP to demonstrate Good Faith Effort.** Failure to do so will slow the evaluation process and may result in DISQUALIFICATION.

## SECTION 3

### SUBMISSION OF PROPOSAL

#### 3.1 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.

#### 3.2 Terms and Conditions

3.2.1 Proposer must comply with the requirements and specifications contained in this RFP, including the 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:

3.2.1.1. Specifications and Additional Questions (ref. **Section 5** of this RFP);

3.2.1.2. Agreement (ref. **Section 4** and **APPENDIX TWO**);

3.2.1.3. Proposal Requirements (ref. **APPENDIX ONE**);

3.2.1.4. Notice to Proposers (ref. **Section 2** of this RFP).

## SECTION 4

### GENERAL TERMS AND CONDITIONS

The terms and conditions contained in the attached 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 submit redlined **APPENDIX TWO** as part of its proposal in accordance with **Section 5.3.1** 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.

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## 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 2.2** 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 a five (5) year term, expiring \_\_\_\_\_, 2024.

**Disclosure of Existing Agreement:** University has an existing Third Party Administrator (TPA) Claims Handling Services, service agreement with Gallagher Bassett Services, Inc., which is scheduled to expire September 7, 2019.

#### 5.2 Each Proposal must include information that clearly indicates that Proposer meets each of the following minimum qualification requirements:

5.2.1 Does Proposer have, or is willing to open a claims office in the State of Texas?

5.2.2 Does Proposer have experience as a TPA handling Texas Automobile Liability claims and Automobile Comprehensive and Collision claims?

#### 5.3 Specifications

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

If Proposer takes exception to any terms or conditions set forth in the Agreement (ref. **APPENDIX TWO**), Proposer must redline APPENDIX TWO and include **APPENDIX TWO** as part of its Proposal. If Proposer agrees with terms or conditions set forth in the **APPENDIX TWO**, Proposer will submit a written statement acknowledging it.

#### 5.4 Scope of Work

Contractor will provide the following services to University:

5.4.1 **Claims Handling Services.** The TPA shall provide and be in compliance with all Texas Department of Insurance claims handling requirement to include, but not limited to:

5.4.1.1 Adjust and manage claims in accordance with established University policy and applicable Texas Department of Insurance state requirements and rules;

5.4.1.2 Complete and document three/four-point contact for each claim (employee, claimant and witness), if applicable, within 24 hours of receipt of the claim;

5.4.1.3 Make and document daily attempts (unsuccessful and successful) to complete recorded statement as soon as possible to finalize the claim investigation and make the appropriate liability determination;

5.4.1.4 Correspond and strategize with University;

5.4.1.5 Receive approval from University prior to denying any claim.

5.4.1.6 Complete claim investigation promptly.

5.4.1.7 Seek and receive approval from University prior to assigning outside vendors on any claim; requesting services could include, but are not limited to Private Investigation and Medical Review services where necessary;

- 5.4.1.8 Identify and take necessary steps to report potential fraud;
  - 5.4.1.9 Use surveillance, following approval from University, where length or extent of injuries is questioned. Outside investigation services, such as a private investigator, will be employed only where necessary. Documentation of assignment will include specific reasons for referral. Direction and control will be exercised over the investigator's activities;
  - 5.4.1.10 Analyze medical documents and correspondence promptly upon receipt and take appropriate action based on the analysis and its effect on the claim;
  - 5.4.1.11 Maintain accurate, current and professional documentation on each claim;
  - 5.4.1.12 Respond to telephone or written inquiries from attorneys, injured claimants and University staff;
  - 5.4.1.13 Assign a value for adequate reserves based on generally accepted claims handling procedures;
  - 5.4.1.14 Assist and cooperate with the University, University's Office of General Counsel and the Office of the Attorney General on any claim that is in the dispute resolution process or litigation.
  - 5.4.1.15 Identify and pursue subrogation recovery opportunities.
  - 5.4.1.16 Provide a claims reporting system capable of receiving claim notices twenty-four (24) hours a day, 365 days per year, and capable of integrating the appropriate data entry into a Risk Management Information System (RMIS) to begin the claims handling process from the University and its institutions.
  - 5.4.1.17 Claims reporting system shall be capable of generating "real time" reports to analyze claims handling performance;
  - 5.4.1.18 Provide the University with appearance hours as needed at no additional charge to address issues associated with claims handling activity or other aspects of the related services in the contract;
  - 5.4.1.19 Meet quarterly with the University if necessary to discuss claims and processes on open and closed claims.
  - 5.4.1.20 Forward reports on claims in litigation quarterly monthly to the University;
  - 5.4.1.21 Maintain accurate reserves and provide reserve reports to the University upon request;
- 5.4.2 **Payment Services.** Contractor will provide the following Payment Services to University to include, but may not be limited to:
- 5.4.2.1 Determine liability for and coverage payment of property damage and bodily injury of claimants;
  - 5.4.2.2 Provide the mechanisms for the electronic submission and processing of claim payments;
  - 5.4.2.3 Have the capabilities to provide an integrated digital imaging system;
  - 5.4.2.4 Issue checks tied to a zero balance checking account;
  - 5.4.2.5 Balance and reconcile the account monthly;
  - 5.4.2.6 Identify, report, and reimburse overpayments and duplicate payments to the University;
  - 5.4.2.7 Produce IRS Forms 1099-Misc for all vendors and mail the forms to the appropriate vendors; and
  - 5.4.2.8 The TPA shall not add fees or profit sharing to the actual cost to the TPA for subcontractor services.
- 5.4.3 **Other Related Services.** Contractor will provide the following Other Related Services to University to include, but may not be limited to:

- 5.4.3.1 Provide implementation status reports quarterly to University until program start date;
- 5.4.3.2 Keep apprised of changes in TDI rules and regulations that affect processing and claims handling and make necessary adjustments in operating procedures to promptly comply with these changes;
- 5.4.3.3 Submit to and cooperate with onsite visits by University staff and claims and operational audits performed by third-party consultants or University staff;
- 5.4.3.4 Provide periodic information to and cooperate with the University's actuarial service provider;
- 5.4.3.5 Provide annual audited financial statements following the end of the University's fiscal year;
- 5.4.3.6 Provide data as requested by University;
- 5.4.3.7 Provide electronic claims submission to Centers for Medicare and Medicaid Services/Medicare Secondary Payer;
- 5.4.3.8 Provide responses to inquiries from Centers for Medicare and Medicaid Services/Medicare Secondary Payer;
- 5.4.3.9 Have a local state (City in Texas) office;
- 5.4.3.10 Provide ad hoc reporting;
- 5.4.3.11 Provide loss run reports quarterly;
- 5.4.3.12 Transmit claim and payment information daily to the University at no additional cost;
- 5.4.3.13 Designate a dedicated account manager to University;
- 5.4.3.14 The TPA shall be financially responsible for any penalties or costs resulting from a security breach; and
- 5.4.3.15 Provide a [UTS 165](#) compliant, secure electronic infrastructure for all activities involving confidential information exchange and storage.

**5.4.4 General Duties of the Parties.** Contractor shall perform the following general duties:

- 5.4.4.1 Assume responsibility for all services described in the preceding provisions of this Agreement, including payments of its subcontractors' fees. The University will establish a method by which to review or audit Contractor's performance to determine sufficiency of performance and compliance with the requirements of this Agreement, and may, in its discretion, establish sanctions for non-compliance in addition to those sanctions specified in this Agreement.
- 5.4.4.2 Provide Contractor with an initial claim file built on historical claims in the record layout format described in Exhibit A.
- 5.4.4.3 At any time during the term of this Agreement and for a period of four (4) years thereafter the University or a duly authorized audit representative of the University, or the State of Texas, at its expense and at reasonable times, shall have the right to audit Contractor's records and books relevant to all services provided under this Agreement. In the event such an audit reveals any overpayments by the University, Contractor shall refund to the University the full amount of such overpayments within thirty (30) days of such audit findings, or the University, at its option, shall have the right to deduct such amounts owed to the University from any payments due Contractor. Contractor will be given a notice of at least five (5) working days in the event an audit shall be performed under this section.

5.4.4.4 Contractor shall allow the Comptroller General of the United States, the U.S. Department of Health and Human Services and their duly authorized representatives to have access, during and for a period of not less than four (4) years after the expiration or earlier termination or cancellation of the Agreement, to (1) the Agreement and Contractor's books, documents, and records related to the Agreement; and (2) all agreements between Contractor and its subcontractors or related organizations, including books, documents and records relating to same.

5.4.4.5 Contractor must reimburse the University for any overpayments made to Contractor caused by or resulting from the acts or omissions of Contractor, its employees, subcontractors, or agents. Additionally, Contractor must refund audit fee charges for treatments, services or equipment improperly recommended for payment. The University will identify overpayments and notify Contractor in writing. Contractor shall respond in writing to any notice of overpayment within thirty (30) days after notice is given. If Contractor is unable to justify the payment, then the University will credit the overpayment against future service fees due Contractor. The University will be the final arbiter on the issue of overpayments.

## 5.5 Additional Questions Specific to this RFP

Proposer must submit the following information as part of Proposer's proposal via the Bonfire Questionnaires tab.

### **Vendor Experience (20%)**

1. Provide the location of Proposer's corporate headquarters;
2. Provide a list of each full-service claim office in the State of Texas;
3. Provide a synopsis of Proposer's qualifications and credentials to render the services described in the "Scope of Work.";
4. Provide a list and biography, including number of years of experience, of the principal officers and employees who will be responsible for the work product provided to the University.
5. Provide a summary of the experience Proposer's organization has providing TPA services to other self-insured programs, particularly in the arena of higher education and in Texas.
6. Provide references from three (3) of Proposer's customers from the past five (5) years for services that are similar in scope, size, and complexity to the Services described in this RFP.

Provide the following information for each customer:

- Customer name and address;
  - Contact name with email address and phone number;
  - Time period in which work was performed;
  - Short description of work performed.
7. Has Proposer worked with University institutions in the past five (5) years? If "yes," state University Institution name, department name, department contact, and provide a brief description of work performed.
  8. Describe Proposer's timeframe and plan for implementation.
  9. Describe Proposer's quality improvement strategies.
  10. Describe Proposer's business continuity plan for system failure, staffing, or other work stoppages.



## **Operations (35%)**

11. Provide a flowchart describing the claims process from first notice of a claim to conclusion of a claim.
12. Provide report capabilities and samples to the University.
13. Describe how claim reserves are established and monitored.
14. Describe the adjuster's process to document work already performed or yet to be performed on the file.
15. Describe how Proposer monitors regulatory and legislative developments, at both the state and federal level, and how important issues, updates and / or changes are communicated to affected clients and staff.
16. Describe whether or not the dedicated claims personnel on the University's account will also be involved in on-site investigations and other outside claims adjusting functions. Provide some detail as to when and who would perform these outside functions.
17. Describe Proposer's secure process for identifying and pursuing third party claims, and subrogation opportunities.
18. Describe Proposer's claims handling philosophy and preferred adjuster claim load for effectiveness; and state Proposer's adjuster turnover rate and average tenure with Proposer for each of the last three (3) years.
19. Provide contingency plan for events resulting in potential work stoppage (i.e. natural disaster, system outage, turnover, etc.).

## **System Capabilities (15%)**

20. The University has multiple locations throughout Texas. Is Proposer's system a true web-based system accessible anywhere by anyone with proper authority?
21. Does Proposer's system allow different levels of authority based on different users? Are there limitations to the number of users allowed?
22. Provide an overview of the security and privacy controls detailed in the HECVAT responses (ref. Section 5.3.4 of the RFP document). Detailed response will be used during scoring of System Capabilities.
23. Describe the process for providing notice to University in instances where data is mishandled, access in an unauthorized manner, or lost or stolen. Explain the time to notification, types of incidents University will be notified on.
24. Describe availability for University employees to maintain full access to system for claims review.

25. Explain the type of computer reports that are included in the claims servicing contract. Provide sample copies of all reports, forms utilized and other such items.
26. Does Proposer's system allow clients individual users to access and run reports?
27. Provide examples of a standard trend analysis / graph, if any.
28. Describe capabilities for custom reports and ad hoc reports and the associated costs.
29. Provide a sample loss run report. Explain how loss runs are reconciled. Describe Proposer's loss run auditing procedures.
30. Can Proposer's system provide reports on loss development and forecasting reports, which will allow options for maintenance of loss development? Explain.
31. Can Proposer's system provide reports that indicate reserve change analysis to monitor reserve practices? If so, provide a sample report.
32. Describe litigation support capabilities of Proposer's system.
33. Can Proposer's system provide a custom narration on claims in litigation with diary dates for certain key events in order to track these cases? Explain.
34. Can Proposer's system provide ability to identify claims with a potential for subrogation? Can this information be retrieved and compiled in a report format?
35. Does Proposer's system allow claim tracking, review and data correction capabilities?
36. At the time a report is generated, how current is the information provided?
37. Can Proposer's system schedule and run recurring reports? Explain.
38. The University will require claim reports to be prepared by its fiscal year 9/1-8/31. Does Proposer's system have this flexibility?
39. Does Proposer's company have a bank transfer capability whereby drafts (or checks) can be issued and the account may be replenished daily/weekly/monthly? If yes, which type?
40. Proposer's check writing system should provide such information as check number, payee, claim number, entity charged, date, amount, and type of payment. Can Proposer provide this information? Attach a sample.
41. Does Proposer's system have automated check writing, bank account maintenance and form letter capabilities?
42. State bank reconciliation systems offered and how often these will be offered.
43. Will Proposer's system allow payments on closed files? If yes, are there any safeguards in place to identify files, with excessive payments, that may indicate the file should be reopened? Please describe.
44. Does Proposer provide helpdesk assistance by telephone or email for problem resolution for system users? Describe how this will be done.

45. Describe the file documentation capabilities Proposer's system has, e.g. electronic files and / or hard copies.
46. Can the system be customized to meet University specific needs? Explain.
47. Will Proposer's system allow University to download or integrate data to or from other systems?
48. Describe Proposer's secure process for reporting and responding to inquiries to Centers for Medicare and Medicaid Services, Medicare Secondary Payer.

**SECTION 6**

**PRICING AND DELIVERY SCHEDULE**

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

**To:** The University of Texas System

**RFP No.:** 720-1926 - Third Party Administrator (TPA) Auto Claims Handling 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 (30%)**

Proposed pricing should include the following assumptions:

1. Based on University 2016-2018 Claims History data in Section 3, Other Related Services;
2. The TPA selected will administer all claims.

**Annual Flat Fee for Service (Described in section 5.4 Scope of Work)** (Specify how the base price is computed, i.e. flat fee. Include any minimums and maximums, and any special services included in the base price):

\$ \_\_\_\_\_

**6.2 Discounts**

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

**6.3 Delivery Schedule of Events and Time Periods**

Indicate number of calendar days needed to *commence* the Services from the execution of the services agreement:

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

**6.4 Payment Terms**

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

University will be entitled to withhold \_\_\_\_\_ percent (\_\_\_\_%) of the total payment due under the Agreement until after University’s acceptance of the final work product.

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 & 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 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 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 Pricing and Delivery Schedule (ref. **Section 6** of this RFP), as part of its proposal. In the Pricing and Delivery 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 Pricing and Delivery Schedule.

In the Pricing and Delivery 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.*

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 2.5** of this RFP. University will not accept proposals submitted by email, 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.

## 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.
  - 2.1.13 Pursuant to [Chapter 2270, Government Code](#), Proposer certifies Proposer (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of the Agreement. Proposer acknowledges the Agreement may be terminated and payment withheld if this certification is inaccurate.
  - 2.1.14 Pursuant to [Subchapter F, Chapter 2252, Government Code](#), Proposer certifies Proposer is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Proposer acknowledges the Agreement may be terminated and payment withheld if this certification is inaccurate.
- 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.

**2.14 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.: 720-1926 Third Party Administrator (TPA) Auto Claims Handling 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 5.4** 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.

**3.3 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.:** Third Party Administrator (TPA) Auto Claims Handling Services

**RFP No.:** No. 720-1926

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)**





# REQUEST FOR PROPOSAL

V2. July 18, 2019

**RFP No. 720-1926 - Third Party Administrator (TPA) Auto Claims Handling Services**

**Proposal Submittal Deadline: Monday, July 8, 2019 at 2:30 PM CST**

The University of Texas System  
Office of Risk Management

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July 18, 2019



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 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 230,000 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 80,000 health care professionals, researchers, student advisors and support staff, the UT System is one of the largest employers in the state.

Life-changing research and invention of new technologies at UT institutions places the UT System among the [top 10 “World’s Most Innovative Universities,”](#) according to Reuters. The UT System [ranks eighth 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 No. 3 in the nation in federal research expenditures.

In addition, the UT System is home to three 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. And the UT System is the only System in the country to have four Clinical and Translational Science Awards (CTSA) from the National Institutes of Health.

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 2015. And UT was the only system of higher education in the nation that established not one, but two 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 to do so thanks to our generous donors and the leadership of the [Chancellor](#), [Board of Regents](#) and [UT presidents](#).

#### 1.2 Background and Special Circumstances

The University's Office of Risk Management is responsible for the administration of the University's Automobile Self-Insured Retention program.

### 1.3 Objective of Request for Proposal

The University contracts with a Third Party Administrator (TPA) to provide automobile liability and automobile physical damage Claims Handling, Payment Services and Other Related Services for the The University of Texas System.

The University is soliciting proposals in response to this Request for Proposal, RFP 720-1926 (this "RFP"); from qualified vendors to provide automobile Claims Handling Services, Payment Services and Other Related Services for its self-insured retention automobile program.

### 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 under this RFP. In particular, Proposer should note that University is part of The University of Texas System (**UT System**), which is comprised of fourteen 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 RFP could give rise to additional purchase volumes. As a result, in submitting its proposal, Proposer should consider proposing a pricing model and other commercial terms that take into account the higher volumes and other expanded opportunities that could result from the eventual inclusion of other institutions in the purchase contemplated by this RFP. Any purchases made by other institutions based on this RFP will be the sole responsibility of those institutions.

## SECTION 2

### NOTICE TO PROPOSER

#### 2.1 Submittal Deadline

University will accept proposals submitted in response to this RFP via Bonfire until 2:30 p.m., Central Standard Time (“CST”) on Wednesday, July 30, 2019 (the “**Submittal Deadline**”).

#### 2.2 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:

##### 2.2.1 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.

##### 2.2.2 Scored Criteria

- A. Pricing for Services Offered (30%);
- B. Vendor Experience (20%);
- C. Operations (35%);
- D. System Capabilities (15%).

#### 2.3 Key Events Schedule

Issuance of RFP	July 8, 2019
Deadline for Questions / Concerns	2:30 p.m. CST on Tuesday, July 30th, 2019
Submittal Deadline (ref. <b>Section 2.1</b> of this RFP)	2:30 p.m. CST on Wednesday, August 7, 2019

## 2.4 Historically Underutilized Businesses

- 2.4.1 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 2.4** 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.
- 2.4.2 University has reviewed this RFP in accordance with [Title 34, Texas Administrative Code, Section 20.285](#), and has determined that subcontracting opportunities (HUB and/or Non-HUB) are probable under this RFP. The HUB participation goal for this RFP is 26%.
- 2.4.3 A HUB Subcontracting Plan (“**HSP**”) is required as part of, *but submitted separately from*, Proposer’s proposal. The HSP will be developed and administered in accordance with University’s Policy on Utilization of Historically Underutilized Businesses and incorporated for all purposes.

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

*Questions regarding the HSP may be directed to:*

Contact: Kyle Hayes  
HUB Coordinator  
Phone: 512-322-3745  
Email: [khayes@utsystem.edu](mailto:khayes@utsystem.edu)

Contractor will not be permitted to change its HSP after the deadline submittal date unless: (1) Contractor completes a new HSP, setting forth all modifications requested by Contractor, (2) Contractor provides the modified HSP to University, (3) University HUB Program Office approves the modified HSP in writing, and (4) all agreements resulting from this RFP are amended in writing to conform to the modified HSP.

### **Instructions on completing an HSP**

Proposer must visit <https://www.utsystem.edu/offices/historically-underutilized-business/hub-forms> to download the most appropriate HUB Subcontracting Plan (HSP) / Exhibit H form for use with this Request for Proposal. Proposer will find, on the HUB Forms webpage, a link to “[Guide to Selecting the Appropriate HSP Option](#)”. **Click on this link and read the Guide first before selecting an HSP Option.** Proposer shall select, from

the four (4) Options available, the Option that is most applicable to Proposer's subcontracting intentions. These forms are in **fillable** PDF format and must be downloaded and opened with *Adobe Acrobat / Reader* to utilize the fillable function. If Proposer has any questions regarding which Option to use, Proposer shall submit the question via Bonfire portal.

Proposer must complete the HSP, then print, sign and scan *all pages* of the HSP Option selected, with additional support documentation\*, **and submit via Bonfire portal.** NOTE: signatures must be "wet" signatures. Digital signatures are not acceptable.

Any proposal submitted in response to this RFP that does not have a corresponding HSP meeting the above requirements may be rejected by University and returned to Proposer as non-responsive due to material failure to comply with advertised specifications.

Each Proposer's HSP will be evaluated for completeness and compliance prior to opening the proposal to confirm Proposer compliance with HSP rules and standards. Proposer's failure to submit one (1) completed and signed HUB Subcontracting Plan **to the Bonfire portal** may result in University's rejection of the proposal as non-responsive due to material failure to comply with advertised specifications.

**\*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 submit copies of those pages with the HSP sent to the Bonfire Portal. In addition, all solicitation emails to potential subcontractors must be included as backup documentation to the Proposer's HSP to demonstrate Good Faith Effort.** Failure to do so will slow the evaluation process and may result in DISQUALIFICATION.



## SECTION 3

### SUBMISSION OF PROPOSAL

#### 3.1 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.

#### 3.2 Terms and Conditions

3.2.1 Proposer must comply with the requirements and specifications contained in this RFP, including the 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:

3.2.1.1. Specifications and Additional Questions (ref. **Section 5** of this RFP);

3.2.1.2. Agreement (ref. **Section 4** and **APPENDIX TWO**);

3.2.1.3. Proposal Requirements (ref. **APPENDIX ONE**);

3.2.1.4. Notice to Proposers (ref. **Section 2** of this RFP).

## SECTION 4

### GENERAL TERMS AND CONDITIONS

The terms and conditions contained in the attached 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 submit redlined **APPENDIX TWO** as part of its proposal in accordance with **Section 5.3.1** 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.

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## 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 2.2** 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 a five (5) year term, expiring \_\_\_\_\_, 2024.

**Disclosure of Existing Agreement:** University has an existing Third Party Administrator (TPA) Claims Handling Services, service agreement with Gallagher Bassett Services, Inc., which is scheduled to expire September 7, 2019.

#### 5.2 Each Proposal must include information that clearly indicates that Proposer meets each of the following minimum qualification requirements:

5.2.1 Does Proposer have, or is willing to open a claims office in the State of Texas?

5.2.2 Does Proposer have experience as a TPA handling Texas Automobile Liability claims and Automobile Comprehensive and Collision claims?

#### 5.3 Specifications

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

If Proposer takes exception to any terms or conditions set forth in the Agreement (ref. **APPENDIX TWO**), Proposer must redline APPENDIX TWO and include **APPENDIX TWO** as part of its Proposal. If Proposer agrees with terms or conditions set forth in the **APPENDIX TWO**, Proposer will submit a written statement acknowledging it.

#### 5.4 Scope of Work

Contractor will provide the following services to University:

5.4.1 **Claims Handling Services.** The TPA shall provide and be in compliance with all Texas Department of Insurance claims handling requirement to include, but not limited to:

5.4.1.1 Adjust and manage claims in accordance with established University policy and applicable Texas Department of Insurance state requirements and rules;

5.4.1.2 Complete and document three/four-point contact for each claim (employee, claimant and witness), if applicable, within 24 hours of receipt of the claim;

5.4.1.3 Make and document daily attempts (unsuccessful and successful) to complete recorded statement as soon as possible to finalize the claim investigation and make the appropriate liability determination;

5.4.1.4 Correspond and strategize with University;

5.4.1.5 Receive approval from University prior to denying any claim.

5.4.1.6 Complete claim investigation promptly.

5.4.1.7 Seek and receive approval from University prior to assigning outside vendors on any claim; requesting services could include, but are not limited to Private Investigation and Medical Review services where necessary;

- 5.4.1.8 Identify and take necessary steps to report potential fraud;
- 5.4.1.9 Use surveillance, following approval from University, where length or extent of injuries is questioned. Outside investigation services, such as a private investigator, will be employed only where necessary. Documentation of assignment will include specific reasons for referral. Direction and control will be exercised over the investigator's activities;
- 5.4.1.10 Analyze medical documents and correspondence promptly upon receipt and take appropriate action based on the analysis and its effect on the claim;
- 5.4.1.11 Maintain accurate, current and professional documentation on each claim;
- 5.4.1.12 Respond to telephone or written inquiries from attorneys, injured claimants and University staff;
- 5.4.1.13 Assign a value for adequate reserves based on generally accepted claims handling procedures;
- 5.4.1.14 Assist and cooperate with the University, University's Office of General Counsel and the Office of the Attorney General on any claim that is in the dispute resolution process or litigation.
- 5.4.1.15 Identify and pursue subrogation recovery opportunities.
- 5.4.1.16 Provide a claims reporting system capable of receiving claim notices twenty-four (24) hours a day, 365 days per year, and capable of integrating the appropriate data entry into a Risk Management Information System (RMIS) to begin the claims handling process from the University and its institutions.
- 5.4.1.17 Claims reporting system shall be capable of generating "real time" reports to analyze claims handling performance;
- 5.4.1.18 Provide the University with appearance hours as needed at no additional charge to address issues associated with claims handling activity or other aspects of the related services in the contract;
- 5.4.1.19 Meet quarterly with the University if necessary to discuss claims and processes on open and closed claims.
- 5.4.1.20 Forward reports on claims in litigation quarterly monthly to the University;
- 5.4.1.21 Maintain accurate reserves and provide reserve reports to the University upon request;

5.4.2 **Payment Services.** Contractor will provide the following Payment Services to University to include, but may not be limited to:

- 5.4.2.1 Determine liability for and coverage payment of property damage and bodily injury of claimants;
- 5.4.2.2 Provide the mechanisms for the electronic submission and processing of claim payments;
- 5.4.2.3 Have the capabilities to provide an integrated digital imaging system;
- 5.4.2.4 Issue checks tied to a zero balance checking account;
- 5.4.2.5 Balance and reconcile the account monthly;
- 5.4.2.6 Identify, report, and reimburse overpayments and duplicate payments to the University;
- 5.4.2.7 Produce IRS Forms 1099-Misc for all vendors and mail the forms to the appropriate vendors; and
- 5.4.2.8 The TPA shall not add fees or profit sharing to the actual cost to the TPA for subcontractor services.

5.4.3 **Other Related Services.** Contractor will provide the following Other Related Services to University to include, but may not be limited to:

- 5.4.3.1 Provide implementation status reports quarterly to University until program start date;
- 5.4.3.2 Keep apprised of changes in TDI rules and regulations that affect processing and claims handling and make necessary adjustments in operating procedures to promptly comply with these changes;
- 5.4.3.3 Submit to and cooperate with onsite visits by University staff and claims and operational audits performed by third-party consultants or University staff;
- 5.4.3.4 Provide periodic information to and cooperate with the University's actuarial service provider;
- 5.4.3.5 Provide annual audited financial statements following the end of the University's fiscal year;
- 5.4.3.6 Provide data as requested by University;
- 5.4.3.7 Provide electronic claims submission to Centers for Medicare and Medicaid Services/Medicare Secondary Payer;
- 5.4.3.8 Provide responses to inquiries from Centers for Medicare and Medicaid Services/Medicare Secondary Payer;
- 5.4.3.9 Have a local state (City in Texas) office;
- 5.4.3.10 Provide ad hoc reporting;
- 5.4.3.11 Provide loss run reports quarterly;
- 5.4.3.12 Transmit claim and payment information daily to the University at no additional cost;
- 5.4.3.13 Designate a dedicated account manager to University;
- 5.4.3.14 The TPA shall be financially responsible for any penalties or costs resulting from a security breach; and
- 5.4.3.15 Provide a [UTS 165](#) compliant, secure electronic infrastructure for all activities involving confidential information exchange and storage.

**5.4.4 General Duties of the Parties.** Contractor shall perform the following general duties:

- 5.4.4.1 Assume responsibility for all services described in the preceding provisions of this Agreement, including payments of its subcontractors' fees. The University will establish a method by which to review or audit Contractor's performance to determine sufficiency of performance and compliance with the requirements of this Agreement, and may, in its discretion, establish sanctions for non-compliance in addition to those sanctions specified in this Agreement.
- 5.4.4.2 Provide Contractor with an initial claim file built on historical claims in the record layout format described in Exhibit A.
- 5.4.4.3 At any time during the term of this Agreement and for a period of four (4) years thereafter the University or a duly authorized audit representative of the University, or the State of Texas, at its expense and at reasonable times, shall have the right to audit Contractor's records and books relevant to all services provided under this Agreement. In the event such an audit reveals any overpayments by the University, Contractor shall refund to the University the full amount of such overpayments within thirty (30) days of such audit findings, or the University, at its option, shall have the right to deduct such amounts owed to the University from any payments due Contractor. Contractor will be given a notice of at least five (5) working days in the event an audit shall be performed under this section.

5.4.4.4 Contractor shall allow the Comptroller General of the United States, the U.S. Department of Health and Human Services and their duly authorized representatives to have access, during and for a period of not less than four (4) years after the expiration or earlier termination or cancellation of the Agreement, to (1) the Agreement and Contractor's books, documents, and records related to the Agreement; and (2) all agreements between Contractor and its subcontractors or related organizations, including books, documents and records relating to same.

5.4.4.5 Contractor must reimburse the University for any overpayments made to Contractor caused by or resulting from the acts or omissions of Contractor, its employees, subcontractors, or agents. Additionally, Contractor must refund audit fee charges for treatments, services or equipment improperly recommended for payment. The University will identify overpayments and notify Contractor in writing. Contractor shall respond in writing to any notice of overpayment within thirty (30) days after notice is given. If Contractor is unable to justify the payment, then the University will credit the overpayment against future service fees due Contractor. The University will be the final arbiter on the issue of overpayments.

## 5.5 Additional Questions Specific to this RFP

Proposer must submit the following information as part of Proposer's proposal via the Bonfire Questionnaires tab.

### **Vendor Experience (20%)**

1. Provide the location of Proposer's corporate headquarters;
2. Provide a list of each full-service claim office in the State of Texas;
3. Provide a synopsis of Proposer's qualifications and credentials to render the services described in the "Scope of Work.";
4. Provide a list and biography, including number of years of experience, of the principal officers and employees who will be responsible for the work product provided to the University.
5. Provide a summary of the experience Proposer's organization has providing TPA services to other self-insured programs, particularly in the arena of higher education and in Texas.
6. Provide references from three (3) of Proposer's customers from the past five (5) years for services that are similar in scope, size, and complexity to the Services described in this RFP.

Provide the following information for each customer:

- Customer name and address;
  - Contact name with email address and phone number;
  - Time period in which work was performed;
  - Short description of work performed.
7. Has Proposer worked with University institutions in the past five (5) years? If "yes," state University Institution name, department name, department contact, and provide a brief description of work performed.
  8. Describe Proposer's timeframe and plan for implementation.
  9. Describe Proposer's quality improvement strategies.
  10. Describe Proposer's business continuity plan for system failure, staffing, or other work stoppages.

## **Operations (35%)**

11. Provide a flowchart describing the claims process from first notice of a claim to conclusion of a claim.
12. Provide report capabilities and samples to the University.
13. Describe how claim reserves are established and monitored.
14. Describe the adjuster's process to document work already performed or yet to be performed on the file.
15. Describe how Proposer monitors regulatory and legislative developments, at both the state and federal level, and how important issues, updates and / or changes are communicated to affected clients and staff.
16. Describe whether or not the dedicated claims personnel on the University's account will also be involved in on-site investigations and other outside claims adjusting functions. Provide some detail as to when and who would perform these outside functions.
17. Describe Proposer's secure process for identifying and pursuing third party claims, and subrogation opportunities.
18. Describe Proposer's claims handling philosophy and preferred adjuster claim load for effectiveness; and state Proposer's adjuster turnover rate and average tenure with Proposer for each of the last three (3) years.
19. Provide contingency plan for events resulting in potential work stoppage (i.e. natural disaster, system outage, turnover, etc.).

## **System Capabilities (15%)**

20. The University has multiple locations throughout Texas. Is Proposer's system a true web-based system accessible anywhere by anyone with proper authority?
21. Does Proposer's system allow different levels of authority based on different users? Are there limitations to the number of users allowed?
22. Provide an overview of the security and privacy controls detailed in the HECVAT responses (ref. Section 5.3.4 of the RFP document). Detailed response will be used during scoring of System Capabilities.
23. Describe the process for providing notice to University in instances where data is mishandled, access in an unauthorized manner, or lost or stolen. Explain the time to notification, types of incidents University will be notified on.
24. Describe availability for University employees to maintain full access to system for claims review.

25. Explain the type of computer reports that are included in the claims servicing contract. Provide sample copies of all reports, forms utilized and other such items.
26. Does Proposer's system allow clients individual users to access and run reports?
27. Provide examples of a standard trend analysis / graph, if any.
28. Describe capabilities for custom reports and ad hoc reports and the associated costs.
29. Provide a sample loss run report. Explain how loss runs are reconciled. Describe Proposer's loss run auditing procedures.
30. Can Proposer's system provide reports on loss development and forecasting reports, which will allow options for maintenance of loss development? Explain.
31. Can Proposer's system provide reports that indicate reserve change analysis to monitor reserve practices? If so, provide a sample report.
32. Describe litigation support capabilities of Proposer's system.
33. Can Proposer's system provide a custom narration on claims in litigation with diary dates for certain key events in order to track these cases? Explain.
34. Can Proposer's system provide ability to identify claims with a potential for subrogation? Can this information be retrieved and compiled in a report format?
35. Does Proposer's system allow claim tracking, review and data correction capabilities?
36. At the time a report is generated, how current is the information provided?
37. Can Proposer's system schedule and run recurring reports? Explain.
38. The University will require claim reports to be prepared by its fiscal year 9/1-8/31. Does Proposer's system have this flexibility?
39. Does Proposer's company have a bank transfer capability whereby drafts (or checks) can be issued and the account may be replenished daily/weekly/monthly? If yes, which type?
40. Proposer's check writing system should provide such information as check number, payee, claim number, entity charged, date, amount, and type of payment. Can Proposer provide this information? Attach a sample.
41. Does Proposer's system have automated check writing, bank account maintenance and form letter capabilities?
42. State bank reconciliation systems offered and how often these will be offered.
43. Will Proposer's system allow payments on closed files? If yes, are there any safeguards in place to identify files, with excessive payments, that may indicate the file should be reopened? Please describe.
44. Does Proposer provide helpdesk assistance by telephone or email for problem resolution for system users? Describe how this will be done.



45. Describe the file documentation capabilities Proposer's system has, e.g. electronic files and / or hard copies.
46. Can the system be customized to meet University specific needs? Explain.
47. Will Proposer's system allow University to download or integrate data to or from other systems?
48. Describe Proposer's secure process for reporting and responding to inquiries to Centers for Medicare and Medicaid Services, Medicare Secondary Payer.

**SECTION 6**

**PRICING AND DELIVERY SCHEDULE**

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

**To:** The University of Texas System

**RFP No.:** 720-1926 - Third Party Administrator (TPA) Auto Claims Handling 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 (30%)**

Proposed pricing should include the following assumptions:

1. Based on University 2016-2018 Claims History data in Section 3, Other Related Services;
2. The TPA selected will administer all claims.
3. Price Per Claim:  
Auto Liability - Bodily Injury \$\_\_\_\_\_ / Claim  
Auto Liability – Property Damage \$\_\_\_\_\_ / Claim  
Auto Physical Damage (first party claims) \$\_\_\_\_\_ / Claim

**6.2 Discounts**

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

**6.3 Delivery Schedule of Events and Time Periods**

Indicate number of calendar days needed to *commence* the Services from the execution of the services agreement:

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

**6.4 Payment Terms**

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

University will be entitled to withhold \_\_\_\_\_ percent (\_\_\_\_%) of the total payment due under the Agreement until after University’s acceptance of the final work product.

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 & 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 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 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 Pricing and Delivery Schedule (ref. **Section 6** of this RFP), as part of its proposal. In the Pricing and Delivery 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 Pricing and Delivery Schedule.

In the Pricing and Delivery 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.*

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 2.5** of this RFP. University will not accept proposals submitted by email, 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.

## 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.
  - 2.1.13 Pursuant to [Chapter 2270, Government Code](#), Proposer certifies Proposer (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of the Agreement. Proposer acknowledges the Agreement may be terminated and payment withheld if this certification is inaccurate.
  - 2.1.14 Pursuant to [Subchapter F, Chapter 2252, Government Code](#), Proposer certifies Proposer is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Proposer acknowledges the Agreement may be terminated and payment withheld if this certification is inaccurate.
- 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.

**2.14 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.: 720-1926 Third Party Administrator (TPA) Auto Claims Handling 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 5.4** 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.

**3.3 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.:** Third Party Administrator (TPA) Auto Claims Handling Services

**RFP No.:** No. 720-1926

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)**

**AGREEMENT BETWEEN UNIVERSITY AND CONTRACTOR**  
Third Party Administrator (TPA) Auto Claims Handling Services

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 [**Awarded Contractor**], a \_\_\_\_\_ [Note: Insert type of organization (corporation, partnership, etc.) and State in which Contractor is organized.] (**Contractor**), Federal Tax Identification Number \_\_\_\_\_.

University and Contractor hereby agree as follows:

**1. Scope of Work.**

- 1.1 Contractor will perform the scope of the work (**Work**) in **Exhibit A**, Scope of Work, to the satisfaction of University and in accordance with the schedule (**Schedule**) for Work in **Exhibit B**, Schedule. Time is of the essence in connection with this Agreement. University will have no obligation to accept late performance or waive timely performance by Contractor.
- 1.2 Contractor will obtain, at its own cost, any and all approvals, licenses, filings, registrations and permits required by federal, state or local, laws, statutes, regulations and ordinances (collectively, **Applicable Laws**), for the performance of Work.

**2. The Project.**

The Work will be provided in connection with Third Party Administrator (TPA) to provide automobile liability and automobile physical damage Claims Handling, Payment Services and Other Related Services for The University of Texas System. (**Project**).

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

University intends to enter into an agreement with the Contractor to perform the Services for a five (5) year term, expiring \_\_\_\_\_, 2024.

**4. Contractor's Obligations.**

- 4.1 Contractor will perform Work in compliance with (a) all Applicable Laws, 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.
- 4.2 Contractor represents and warrants that (a) it will use its best efforts to perform Work in a good and workmanlike manner and in accordance with the highest standards of Contractor's profession or business, and (b) all Work to be performed will be of the quality that prevails among similar businesses of superior knowledge and skill engaged in providing similar services in major United States urban areas under the same or similar circumstances.

- 4.3 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.
- 4.4 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.
- 4.5 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.
- 4.6 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.
- 4.7 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.
- 4.8 Contractor represents and warrants that neither the execution and delivery of this Agreement by Contractor nor the performance of its duties and obligations under this Agreement will (a) result in the violation of any provision of its organizational documents; (b) result in the violation of any provision of any agreement by which it is bound; or (c) conflict with any order or decree of any court or other body or authority having jurisdiction.
- 4.9 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. **The Contract Amount.**

- 5.1 So long as Contractor has provided University with its current and accurate Federal Tax Identification Number in writing, University will pay Contractor for the performance of Work in accordance with **Exhibit C**, Payment for Services.
- 5.2 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.
- 5.3 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.

6. **Payment Terms.**

- 6.1 At least ten (10) 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 C**, Payment for Services. Each invoice will be accompanied by documentation that University may reasonably request to support the invoice amount. University will, within twenty-one (21) 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.
- 6.2 Within ten (10) days after final completion and acceptance of Work by University or as soon thereafter as possible, Contractor will submit a final invoice (**Final Invoice**) setting forth all amounts due and remaining unpaid to Contractor. Upon approval of the Final Invoice by University, University will pay (**Final Payment**) to Contractor the amount due under the Final Invoice.
- 6.3 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.
- 6.4 The cumulative amount of all Progress Payments and the Final Payment (defined below) will not exceed the Contract Amount in **Exhibit C**, Payment for Services.
- 6.5 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.
- 6.6 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.
- 6.7 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.
- 6.8 [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 12.14** 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.

- 6.9 Notwithstanding any other provision of this Agreement, University is entitled to a discount of     % (**Prompt Payment Discount**) off of each payment that University submits within      days after University's receipt of Contractor's invoice for that payment.

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

- 7.1 All tools, software, programs, 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.
- 7.2 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.
- 7.3 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.
- 7.4 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.

## **8. Default and Termination**

- 8.1 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.
- 8.2 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.

- 8.3 Termination under **Sections 8.1** or **8.2** will not relieve Contractor from liability for any default or breach under this Agreement or any other act or omission of Contractor.
- 8.4 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.
- 8.5 In the event that this Agreement is terminated, then within thirty (30) days after termination, Contractor will reimburse University for all fees paid by University to Contractor that were (a) not earned by Contractor prior to termination, or (b) for goods or services that University did not receive from Contractor prior to termination.

## **9. Indemnification**

- 9.1 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 AND 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.
- 9.2 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.

## **10. 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.

11. **Insurance.**

11.1 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:

11.1.1 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. on the information page of the Workers' Compensation policy the state in which Work is to be performed for University.

In the event watercraft is used in the course of performing Work, the maritime coverage endorsement must be added unless separate Protection & Indemnity coverage is maintained. In the event operations are conducted in relation to navigable waters which may qualify employees for United States Longshore & Harbor Workers Compensation Act (**USL&H**) benefits, the USL&H endorsement must be added.

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

Each Occurrence Limit	\$1,000,000
Damage to Rented Premises	\$ 300,000
Personal & Advertising Injury	\$1,000,000
General Aggregate	\$2,000,000
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.

11.1.3 Business Auto Liability Insurance covering all owned, non-owned or hired automobiles, with limits of not less than \$1,000,000 single limit of liability per accident for Bodily Injury and Property Damage;

If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.

11.1.4 Umbrella/Excess Liability Insurance with limits of not less than \$2,000,000 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 11.1.1 Employer's Liability; 11.1.2 Commercial General Liability; and 11.1.3 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.

- 11.1.5 Professional Liability (Errors & Omissions) Insurance with limits of not less than \$1,000,000 each occurrence, \$3,000,000 aggregate. Such insurance will cover all Work performed by or on behalf of Contractor and its subcontractors under this Agreement. Renewal policies written on a claims-made basis will maintain the same retroactive date as in effect at the inception of this Agreement. If coverage is written on a claims-made basis, Contractor agrees to purchase an Extended Reporting Period Endorsement, effective twenty-four (24) months after the expiration or cancellation of the policy. No Professional Liability policy written on an occurrence form will include a sunset or similar clause that limits coverage unless such clause provides coverage for at least twenty-four (24) months after the expiration or termination of this Agreement for any reason.
- 11.1.6 Contractor's Employee Dishonesty Insurance will be endorsed with a Client's Property Endorsement (or equivalent) to protect the assets and property of University with limits of not less than \$500,000 per claim. If Contractor has property of University in its care, custody or control away from University's premises, Contractor will provide bailee coverage for the replacement cost of the property. Contractor's Employee Dishonesty policy will name University as Loss Payee.
- 11.1.7 Directors' and Officers' Liability Insurance with limits of not less than \$1,000,000 per claim. The coverage will be continuous for the duration of this Agreement and for not less than twenty-four (24) months following the expiration or termination of this Agreement.
- 11.1.8 Cyber Liability Insurance with limits of not less than \$10,000,000 for each wrongful act. This policy must cover:
- Liability for network security failures or privacy breaches, including loss or unauthorized access, use or disclosure of University data, whether by Contractor or any of subcontractor or cloud service provider used by Contractor;
  - Costs associated with a privacy breach, including notification of affected individuals, customer support, forensics, crises management / public relations consulting, legal services of a privacy attorney, credit monitoring and identity fraud resolution services for affected individuals;
  - Expenses related to regulatory compliance, government investigations, fines, fees assessments and penalties;
  - Liability for technological products and services;
  - PCI fines, fees, penalties and assessments;
  - Cyber extortion payment and response costs;
  - First and Third Party Business Interruption Loss resulting from a network security failure;
  - Liability for technological products and services;
  - Costs of restoring, updating or replacing data; and
  - Liability losses connected to network security, privacy, and media liability.

If this policy is written on a claims-made basis, (a) the "retroactive date" must be prior to the commencement of Work under this Agreement; and (b) if this policy is cancelled, terminated or non-renewed at any time during the Term, Contractor will purchase an "extended reporting period" for at least a period of two (2) years beyond the termination or expiration of the Term.

Contractor's policy will provide a carve-back to the "Insured versus Insured" exclusion for claims brought by or on behalf of additional insureds.

11.2 Contractor will deliver to University:

11.2.1 After the execution and delivery of this Agreement and prior to the performance of any Work by Contractor, evidence of insurance on a Texas Department of Insurance (TDI) approved certificate form (the Acord form is a TDI-approved form) verifying the existence and actual limits of all required insurance policies; and, if the coverage period shown on the current certificate form ends during the Term, then prior to the end of the coverage period, a new certificate form verifying the continued existence of all required insurance policies.

11.2.1.1 **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.

11.2.1.2 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 11**.

11.2.1.3 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.

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

Name:  
Address:  
Facsimile Number:  
Email Address:

- 11.3 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.
- 11.3.1 Professional Liability Insurance coverage written on a claims-made basis requires Contractor to purchase an Extended Reporting Period Endorsement, effective for twenty-four (24) months after the expiration or cancellation of the policy.
- 11.3.2 Directors and Officers Liability Insurance coverage written on a claims-made basis requires Contractor to purchase an Extended Reporting Period Endorsement, effective for twenty-four (24) months after the expiration or cancellation of the policy.

## 12. **Miscellaneous.**

- 12.1 **Assignment and Subcontracting.** Except as specifically provided in **Exhibit E**, 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 §§20.285\(g\)\(5\), 20.585 and 20.586](#). The benefits and burdens of this Agreement are assignable by University.
- 12.2 **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.
- 12.3 **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.
- 12.4 **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.
- 12.5 **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.
- 12.6 **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.

- 12.7 **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 provide auto liability and physical damage claim services and other mission critical services during the occurrence.
- 12.8 **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.
- 12.9 **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, all rights and obligations of the parties, and all claims arising out of or relating to this Agreement, will be construed, interpreted and applied in accordance with, governed by and enforced under, the laws of the State of Texas.
- 12.10 **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.
- 12.11 **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**). Among other things, University Records may contain social security numbers, credit card numbers, or data protected or made confidential or sensitive by Applicable Laws. 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 as well as the Payment Card Industry Data Security Standards) that are no less rigorous than the standards by which Contractor protects its own confidential information; (3) continually monitor its operations and take any action necessary to assure that University Records are safeguarded and the confidentiality of 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 UTS165 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.
- 12.11.1 **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.



12.11.2 **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.

12.11.3 **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 12.11**.

12.11.4 **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.

12.11.5 **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.

12.11.6 **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.

12.11.7 **Duration.** The restrictions and obligations under this Section will survive expiration or termination of this Agreement for any reason.

12.12 **Binding Effect.** This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective permitted assigns and successors.

12.13 **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.

12.14 **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 mail, 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: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Attention: \_\_\_\_\_

with copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Fax: \_\_\_\_\_  
Email: \_\_\_\_\_  
Attention: \_\_\_\_\_

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.

- 12.15 **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.
- 12.16 **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.
- 12.17 **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.
- 12.18 **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 6.7, 9, 12.5, 12.9, 12.10, 12.11, 12.13, 12.16, 12.17, 12.19** and **12.21**.
- 12.19 **Breach of Contract Claims.** To the extent that [Chapter 2260, Texas Government Code](#), is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas

Attorney General pursuant to Chapter 2260, will be used by University and Contractor to attempt to resolve any claim for breach of contract made by Contractor that cannot be resolved in the ordinary course of business. The chief business officer of University will examine Contractor's claim and any counterclaim and negotiate with Contractor in an effort to resolve the claims. The parties specifically agree (i) neither 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.

12.19.1 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:

12.19.1.1 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.

12.19.1.2 If the parties are unable to resolve their disputes under **Section 12.19.1.1**, 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.

12.19.1.3 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.

- 12.19.2 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.
- 12.19.3 University and Contractor agree that any periods provided in this Agreement for notice and cure of defaults are not waived.
- 12.20 **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 8**. 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.
- 12.21 **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.
- 12.22 **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->, University's Standards of Conduct Guide at <https://www.utsystem.edu/documents/docs/policies-rules/ut-system-administration-standards-conduct-guide>, and applicable state ethics laws and rules at <https://www.utsystem.edu/offices/systemwide-compliance/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.
- 12.23 **Access by Individuals with Disabilities.** Contractor represents and warrants (**EIR Accessibility Warranty**) the electronic and information resources and all associated information, documentation, and support Contractor provides to University under this

Agreement (**EIRs**) comply with applicable requirements in [1 TAC Chapter 213](#) and [1 TAC §206.70](#) (ref. [Subchapter M, Chapter 2054, Texas Government Code](#)). To the extent Contractor becomes aware the EIRs, or any portion thereof, do not comply with the EIR Accessibility Warranty, then Contractor represents and warrants it will, at no cost to University, either (1) perform all necessary remediation to make the EIRs satisfy the EIR Accessibility Warranty or (2) replace the EIRs with new EIRs that satisfy the EIR Accessibility Warranty. If Contractor fails or is unable to do so, University may terminate this Agreement and, within thirty (30) days after termination, Contractor will refund to University all amounts University paid under this Agreement. Contractor will provide all assistance and cooperation necessary for performance of accessibility testing conducted by University or University's third party testing resources, as required by [1 TAC §213.38\(g\)](#).

12.24 **Historically Underutilized Business Subcontracting Plan.** Contractor will use good faith efforts to subcontract work performed under this Agreement in accordance with the Historically Underutilized Business Subcontracting Plan (**HSP**) (ref. **Exhibit D**). Except as specifically provided in the HSP, Contractor will not subcontract any of its duties or obligations under this Agreement, in whole or in part. This Agreement is subject to [34 TAC §20.285](#). Contractor will comply with all of its duties and obligations under [34 TAC §20.285](#). In addition to other rights and remedies, University may exercise all rights and remedies authorized by [34 TAC §20.285](#).

12.24.1 **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 12.6** to replace the HSP with the revised subcontracting plan.

12.24.2 **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 SPSS in accordance with [34 TAC §§20.285\(g\)\(5\), 20.585](#) and [20.586](#).**]**

12.25 **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 on University's premises and (2) have an appropriate criminal background screening performed on all the individuals on the List. 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 premises 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 on University's premises.

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 on the List.

12.26 **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.

12.27 **Contractor Certification regarding Boycotting Israel.** Pursuant to [Chapter 2270, Texas Government Code](#), Contractor certifies that either (i) Contractor meets an exemption criteria under Section 2270.002; or (ii) Contractor does not boycott Israel and will not boycott Israel during the term of the Agreement. If Contractor meets an exemption, Contractor will provide the University written notice of the exemption before commencing work.

12.28 **Contractor Certification regarding Business with Certain Countries and Organizations.** Pursuant to [Subchapter F, Chapter 2252, Texas Government Code](#), Contractor certifies Contractor is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

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

**UNIVERSITY:**

THE UNIVERSITY OF TEXAS SYSTEM

By: \_\_\_\_\_

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

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

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

**CONTRACTOR:**

AWARDED CONTRACTOR

By: \_\_\_\_\_

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

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

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

**Attach:**

**EXHIBIT A – Scope of Work**

**EXHIBIT B – Schedule**

**EXHIBIT C – Payment for Services**

**EXHIBIT D – HUB Subcontracting Plan**

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



**EXHIBIT B**  
**SCHEDULE**

**EXHIBIT C**

**PAYMENT FOR SERVICES**

**SERVICE FEES:**

Notwithstanding the foregoing, the cumulative amount of Service Fees remitted by University to Contractor will not exceed \$ \_\_\_\_\_ (**Fee Cap**) without the prior written approval of University. In addition, total fees for each Phase of Work will not exceed the following specified amounts without the prior written approval of University:

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

If University submits, in advance, a written request for additional services not contemplated or reasonably inferred by this Agreement, Contractor will be paid for actual hours incurred by Contractor's personnel directly and solely in support of the additional services at the Rates provided above.

**EXPENSES AND DISBURSEMENTS:** Contractor will be reimbursed without mark-up for reasonable expenses (including meals, rental car or mileage, coach class airfare, and lodging) validly incurred directly and solely in support of the Project and approved by University in advance. Provided, however, Contractor agrees and acknowledges that Contractor will be subject to the then-current Travel Reimbursement Rates promulgated by the Comptroller of Public Accounts for the State of Texas at <https://fm.x.cpa.state.tx.us/fm/travel/travelrates.php> with regard to meals, mileage, rental car, airfare, lodging and all other expenses related to travel. Contractor agrees and acknowledges that Contractor will not be reimbursed by University for expenses that are prohibited or that exceed the allowable amounts provided in the then-current Travel Reimbursement Rates. As a condition precedent to receiving reimbursement for expenses and disbursements, Contractor will submit to University receipts, invoices, and other documentation as requested University.

Notwithstanding the foregoing, reimbursement for expenses and disbursements will not exceed a maximum of \$ \_\_\_\_\_ (**Expense Cap**) without the prior written approval of University.

The Fee Cap and the Expense Cap are sometimes collectively referred to as the **Contract Amount**.

**EXHIBIT D**

**HUB SUBCONTRACTING PLAN**