



THE TEXAS A&M UNIVERSITY SYSTEM

Office of HUB & Procurement Programs

REQUEST FOR PROPOSAL
RFP Number: CHAN-21-100
RELLIS Fireworks

PROPOSAL MUST BE RECEIVED PRIOR TO:
2:00 P.M. Central time (CDT) on October 30, 2020

EMAIL RFP RESPONSES TO:
soprocurement@tamus.edu
SUBJECT LINE: RFP01 CHAN-21-100 – RELLIS Fireworks
Attn: Jeff Zimmermann

NOTE: PROPOSAL must be received by **The Texas A&M University System Office of Procurement & HUB Programs** before the date and time specified for receipt of proposal as specified in Section 2.3.

After the due date and time, only the names of Respondents will be made public.

REFER INQUIRIES TO:
Jeff Zimmermann, Director
The Texas A&M University System
Office of HUB & Procurement Programs
Email: soprocurement@tamus.edu

All proposals shall become the property of the State of Texas upon receipt. Proposals may be subject to public review after contracts have been executed. Refer to Section 5R for more information regarding confidential and proprietary information.

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SECTION 1 - INTRODUCTION

1.1 Scope

The Texas A&M University System (“A&M System”) is soliciting proposals to provide a fireworks display (“Show”) on the evening of Sunday, July 4, 2021 at the RELIS Campus as well as options for additional years. It is the intent of the A&M System to establish an agreement with a qualified vendor for the requirements listed in this RFP.

By submitting responses, each RESPONDENT (also referred to herein as “Vendor”) certifies that it understands this RFP and has full knowledge of the scope, nature, quality, and quantity of the work to be performed, the detailed requirements of the services to be provided, and the conditions under which the services are to be performed. Each RESPONDENT also certifies that it understands that all costs relating to preparing and responding to this RFP will be the sole responsibility of the RESPONDENT.

1.2 Background

The A&M System is one of the largest systems of higher education in the nation, with a budget of \$6.3 billion. Through a statewide network of 11 universities; a comprehensive health science center; eight state agencies, including the Texas Division of Emergency Management; and the RELIS Campus (also referred to herein as “Members”), the A&M System educates more than 151,000 students and makes more than 22 million additional educational contacts through service and outreach programs each year. System-wide, research and development expenditures exceeded \$1 billion in FY 2019 and helped drive the state’s economy. More information about the A&M System and all of its members can be found at <http://www.tamus.edu/about/>.

1.3 Priorities/Expectations

RESPONDENTS should note the following priorities/expectations with regard to the possibility of A&M System establishing a contractual relationship with any RESPONDENT:

- (a) *Ensuring a Quality Level of Service.* This priority encompasses the quality of the level of service that can be provided to all A&M System customers in a timely, cost effective manner. A&M System is seeking a RESPONDENT that will ensure the provision of such quality in its delivery of service through proven training techniques and established metrics.
- (b) *Level of Experience and Expertise.* RESPONDENT must demonstrate its capabilities in providing the utmost level of experience and expertise to ensure a successful solution as determined by A&M System. RESPONDENT shall provide information describing the RESPONDENT’S managed services and project execution experience, including the experience of the resources, account managers, and other key personnel on similar engagements, including past experience within the A&M System.
- (c) *Delivery Efficiency as it Relates to Total Costs.* RESPONDENT must demonstrate its ability to deliver the required solution in a cost-effective and timely manner while not sacrificing the quality required by the A&M System.

1.4 Calendar of Events

<u>Activity</u>	<u>Date</u>
Release of Request for Proposal	October 15, 2020
Deadline to Submit Questions	October 20, 2020
Release of Addendum (if applicable)	October 22, 2020
Responses Due	October 30, 2020 by 2:00 p.m. CDT

Presentation (at A&M System's option)

November 2020

Selection of Respondent

Anticipated by November 30, 2020

A&M System will make every effort to adhere to the above schedule. The schedule, however, is subject to change. This may be in the event that further clarification of responses or terms of contract are in the best interest of A&M System and/or in the event A&M System requires more time to assure that the selection of the RESPONDENT is in accordance with its policies, rules and regulations, as well as actual timing needs.

1.5 Performance Period

Should A&M System, in its sole discretion, enter into an agreement with the successful RESPONDENT as a result of this RFP, the resultant agreement shall be for one (1) year. The resultant agreement may be extended for up to an additional five (5) years, one year at a time, providing all parties mutually agree in writing on the extension. Any renewals shall be at the same terms and conditions plus any approved changes to be determined by the A&M System and negotiated in writing with the successful RESPONDENT. The A&M System reserves the right to amend the terms of the resultant agreement as necessary to meet state or federal requirements.

SECTION 2 – INSTRUCTIONS FOR RESPONDENTS

2.1 General Information

The A&M System is seeking competitive proposals for a fireworks display at the RELIS campus of The Texas A&M University System in Bryan, TX. This Request for Proposal (RFP) provides sufficient information for interested parties to prepare and submit proposals for consideration by A&M System. Proposals and any other information submitted by RESPONDENT in response to this RFP shall become the property of A&M System.

Submittals are to be in accordance with the outline and specifications contained herein, are to remain in effect a minimum of 120 days from the date of submission, and may be subject to further extensions as negotiated. A statement to this effect should be contained in the RESPONDENT's cover letter.

This RFP contains specific requests for information. RESPONDENTS are encouraged to examine all sections of this RFP carefully, in that the degree of interrelationship between sections is critical. In responding to this RFP, RESPONDENTS are encouraged to provide any additional information they believe relevant.

Clause headings appearing in this RFP have been inserted for convenience and ready reference. They do not purport to define, limit or extend the scope of intent of the respective clauses. Whenever the terms "must" "shall" "will" "is required" or "are required" are used in the RFP, the subject being referred to is to be a required feature of this RFP and critical to the resulting submittal.

In those cases where mandatory requirements are stated, material failure to meet those requirements could result in disqualification of the RESPONDENT's response. Any deviation or exception from RFP specifications must be clearly identified by the RESPONDENT in its submittal.

Expenses for developing and presenting proposals shall be the entire responsibility of the RESPONDENT and shall not be chargeable to the A&M System. All documentation submitted with the proposal response will become the property of the A&M System.

2.2 Examination of the Request for Proposal

Before submitting, each RESPONDENT will be held to have examined A&M System requirements outlined in Section 3 and satisfied itself as to the existing conditions under which it will be obligated to perform in accordance with specifications of this RFP.

No claim for additional compensation will be allowed due to unfamiliarity with the specifications and/or existing conditions. It shall be understood that the RESPONDENT has full knowledge of all of the existing and/or revised conditions and accepts them "as is."

2.3 Submittal Instructions

All proposals must be received by the A&M System, no later than **2:00:00 p.m. CDT, October 30, 2020** electronically via email to soprocurement@tamus.edu with the subject line of "**RFP01 CHAN-21-100 – RELIS Fireworks**". The sent time indicated within the A&M System email server shall be used for the receipt and acceptance of the response. A file sharing tool may be used to submit the proposal response if large file sizes are an issue. If opting to use a file sharing tool it is recommend to send a test file prior to the due date.

It is each Respondents responsibility to ensure that the entire submittal response is received by the A&M System by the deadline stated above regardless of submission method. **Late submittals will not be considered under any circumstances.**

Submittal File Format: Submission shall be saved as two (2) separate files in Adobe Portable Document Format (PDF) according to the items listed below and named as such; I) "**company name – Proposal**" and II) "**company name – Forms**". In addition, submit all video files in a format supported for Windows Media Player and named as "**company name – Video Sample**".

2.4 Proposal Components

The following documents and all requirements from noted sections are to be returned as part of your proposal submittal. Failure to include these documents will be basis for response disqualification.

I. Proposal

- ✓ Cover Letter to include a brief introduction with interest and capability of the Respondent.
- ✓ Table of Contents
- ✓ Proposal, to include Sections 4.1 – 4.4
- ✓ Video(s) as required in Section 4.3.5

II. Forms

- ✓ Signed Execution of Offer (Exhibit A)
- ✓ Non-Collusion Affidavit (Exhibit B) – signed and notarized

Proposal format: The proposal response shall be presented in the order listed above with sections noted accordingly for easy reference. The Table of Contents shall provide page numbers for each section of the proposal.

Note: Additional information regarding the Execution of Offer and Non-Collusion Affidavit.

- Execution of Offer: The signature in the Execution of Offer within the electronic copy shall serve as the official signature of record. Signature can be done electronically with DocuSign, Adobe or another similar tool.
- Non-Collusion Affidavit: The Respondent signature on this document may be done electronically with DocuSign, Adobe or another similar tool. While the document must also be notarized, this may be done at a later date due to the COVID-19 pandemic. An agreement may not be executed with the awarded Respondent until this document is fully signed and notarized.

2.5 Inquiries and Interpretations

All questions concerning this RFP are to be directed, in writing, to Jeff Zimmermann, Director, Procurement and Business Services to soprocurement@tamus.edu. RESPONDENT may not contact other individuals at A&M System to discuss any aspect of this RFP, unless expressly authorized by the A&M System Procurement office to do so. Questions regarding the RFP, including questions for more data or information beyond that included in this RFP and any attachment, should be presented in writing. **Deadline for submission of questions is October 20, 2020.**

Responses to inquiries which directly affect an interpretation or change to this RFP will be issued in writing by addendum/amendment and posted to the Electronic State Business Daily (ESBD) according to the schedule in Section 1.5.

<http://www.txsmartbuy.com/sp> (Input Agency Number “710” and select “Posted” for the Status)

All such addenda/amendments issued by the A&M System prior to the time that proposals are received shall be considered part of the RFP, and the RESPONDENT shall consider and acknowledge receipt of such in their proposal. Only those A&M System replied to inquiries which are made by formal written addenda shall be binding. Oral and other interpretations or clarification will be without legal effect.

2.6 Selection Process

A&M System will base its choice on criteria to include but not limited to the following: demonstrated competence,

experience, and qualifications of the Respondent in respect to the services offered; as well as the quality, design, and duration of the proposed Show; and on the reasonableness of the proposed fee.

The RESPONDENT selected will be the one who's experience and qualifications, as presented in response to this RFP, establish them, in the opinion of A&M System, as well qualified and offering the greatest benefits, experience and value to A&M System. A&M System may cancel this RFP or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous. Should A&M System determine in its sole discretion that only one RESPONDENT is fully qualified, or that one RESPONDENT is clearly more highly qualified than the others under consideration, a contract may be negotiated and executed with that RESPONDENT. The contract will be an agreement incorporating by reference all the requirements, terms and conditions of the solicitation and the RESPONDENT's proposal as negotiated.

The most qualified RESPONDENTS as determined by A&M System MAY BE REQUIRED to present the Solution proposed to the evaluation committee before the final selection(s). If presentations/demonstrations are required they will be done online only through video conferencing. A&M System will not provide compensation to RESPONDENTS for any expenses incurred by the RESPONDENT(S) for proposal preparation, evaluations or demonstrations that may be made.

Submission of proposals indicates RESPONDENT's acceptance of the evaluation techniques and the recognition that subjective judgments must be made by A&M System during the evaluation process.

The selection of the successful proposal may be made by A&M System on the basis of the proposals initially submitted, without discussion, clarification, or modification. In the alternative, selection of the successful proposal may be made by A&M System on the basis of negotiation with any of the RESPONDENTS. A&M System shall not disclose any information derived from the proposals submitted by competing RESPONDENTS in conducting such discussions.

All proposals must be complete and convey all of the information requested to be considered responsive. If a proposal fails to conform to the essential requirements of the RFP, A&M System alone will determine whether the variance is significant enough to consider the proposal susceptible to being made acceptable, and therefore a candidate for further consideration, or not susceptible and therefore not considered for award.

A&M System may perform reference checks and seek further information, as needed from all RESPONDENTS whose proposals A&M System, at its discretion, considers viable, based on the initial evaluation and scoring. The RESPONDENT's response to this requirement officially authorizes A&M System to contact these organizations to discuss the services and other considerations which the RESPONDENT has provided to such organizations and authorizes the organizations to provide such information to A&M System and RESPONDENT shall and hereby does release and hold harmless A&M System, the state of Texas, and the organization of any and all liability whatsoever, in connection with providing and receiving all such information. Any negative responses received from reference checks may be grounds for disqualification of the proposal.

A&M System reserves the right to accept or reject any or all offers, to waive informalities and technicalities, to accept the offer considered most advantageous, and/or to make the award to the most responsive RESPONDENT.

SECTION 3 – SCOPE OF WORK

3.1 Scope of Fireworks Display

The Texas A&M University System (A&M System) is soliciting proposals for a fireworks display consisting of one (1) Show on the evening of Sunday, July 4th, 2021 as part of the 4th of July holiday. Spectators for the Show will be located inside or on the surrounding areas of the RELLIS Campus.

Show Requirements

- Sunday, July 4th 2021, approximately 9:00 p.m. (final time to be agreed upon by A&M System and the awarded Respondent)
- Duration of no less than 20 minutes

Location: A map of the campus can be viewed at the following site; <https://rellis.tamus.edu/map/>. The specific firing locations are pre-determined by the A&M System (see attached map). A site visit with designated A&M System personnel will be required after award to finalize details.

Respondents will be responsible for all the permitting, FAA clearances (if applicable), insurance and site visits necessary for producing an evening to remember. This is a turnkey project so the scope and subsequent cost must include all design, setup, tear down and clean-up after completion of the Show, and any additional requirements related to this fireworks display.

Budget – Anticipated budget for this proposed Show shall be around \$50,000. This amount shall be used in preparation of each Respondent's proposal and final scope and cost would be negotiated at a later date with the awarded Respondent.

3.2 Other Members

Other Members of the A&M System as defined in Section 1.2 may have interest in utilizing the awarded Respondent from this RFP for similar events at their respective locations. Please indicate within your proposal response your ability and willingness to provide services to the other Members, as defined in Section 4.3.6. Note that there is no current commitment from the other Members as this is only to understand each Respondents ability and willingness. Any interest other than that specified above for the RELLIS Campus would be negotiated directly with that Member.

SECTION 4 – PROPOSAL RESPONSE

The RESPONDENT recognizes that in its selection process A&M System will rely, in part, on the answers provided in response to this Section. Accordingly, RESPONDENT warrants to the best of its knowledge that all responses are true, correct and complete.

4.1 Qualifications

RESPONDENTS shall address all areas described below which will be considered in determining their qualifications:

- 4.1.1 The RESPONDENT's overall experience and expertise in the services offered.
- 4.1.2 The RESPONDENT's experience in the planning, design and execution of the services offered including that of personnel directly involved with each of these areas.
- 4.1.3 The RESPONDENT's safety and quality control process for providing these services to ensure the safety of the participants and campus.

4.2 Company Profile

- 4.2.1 Provide a contact name for this RFP response, including title, address, telephone number and email address.
- 4.2.2 Number of Years in Business
- 4.2.3 Number of Employees
- 4.2.4 Is your company currently for sale or involved in any transaction to expend or to become acquired by another business entity? If yes, please explain the impact both in organizational and directional terms.
- 4.2.5 Provide any details of all past or pending litigation or claims filed against your company that would negatively impact your company's performance under an agreement with the Agencies.
- 4.2.6 Is your company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity. If yes, specify date(s), details, circumstances, and prospects for resolution.

4.3 Technical Proposal

- 4.3.1 A detailed explanation and description of the proposed Show. This should include a detailed list of fireworks to be used such as number, size, type, etc.
- 4.3.2 Provide information on additional options such as drone shows, sky pictures, etc. These additional options should be priced separately from the main proposed Show as described in 4.3.1.
- 4.3.3 An implementation plan including a time schedule.
- 4.3.4 Tentative map of the layout area and safety zone required.
- 4.3.5 Provide at least one video (but no more than three) of a fireworks display similar to what is being proposed for this event.
- 4.3.6 Provide a statement regarding other Member interest as discussed in Section 3.2.

4.4 Pricing Proposal

- 4.4.1 RESPONDENT shall submit a pricing proposal based on the requirements and budget stated in Section 3.1 above that provides a detailed breakdown of costs for the proposed Show.

4.4.2 Provide costs for any additional options or services offered that may add value to the scope offered and as proposed in Section 4.3.1 above.

4.4.3 Note that for additional years if renewed, scope and cost will be negotiated annually.

4.5 References

RESPONDENT must furnish at least three (3) references from clients within the last two years that you provided a similar scope of work. Each reference shall contain at least the following:

- Brief scope of service provided
- Organization/Agency name & address:
- Contact Person Name & Title:
- Contact phone number:
- Contact email

SECTION 5 - GENERAL TERMS AND CONDITIONS

- A. **TERMS AND CONDITIONS:** A&M System reserves the right to accept, reject, modify, and/or negotiate any and all submittals received in conjunction with this RFP. It reserves the right to waive any defect or informality in the submittals on the basis of what it considers to be in its best interests. Any submittal which A&M System determines to be incomplete, conditional, obscure, or which has irregularities of any kind, may be rejected. A&M System reserves the right to award to the firm, or firms, which in our sole judgment, will best serve our long-term interest.

This RFP in no manner obligates A&M System to the eventual purchase of any products or services described, implied, or which may be proposed, until confirmed by written agreement, and may be terminated by A&M System without penalty or obligation at any time prior to the signing of a contract.

The RESPONDENT must include a formal copy of any RESPONDENT terms and conditions applicable to this transaction. Evaluation and acceptance and/or modification of these terms and conditions by A&M System Office of General Counsel are essential prior to the award of any resultant agreement. In the event the RESPONDENT does not supply terms and conditions with their submittal, A&M System terms and conditions will govern this transaction.

- B. **GOVERNING LAW:** RESPONDENT agrees that, in the event of a dispute, laws of the State of Texas will prevail.
- C. **NON-DISCRIMINATION:** The parties agree that in the performance of any contract they shall not discriminate in any manner on the basis of race, color, national origin, age, religion, sex, genetic information, veteran status or disability protected by law. Such action shall include, but is not limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation. By submitting a submittal, RESPONDENTS certify that they will conform to the provisions of the federal Civil Rights Act of 1964, as amended.
- D. **IMMIGRATION REFORM AND CONTROL ACT OF 1986:** By submitting a state of qualification, the RESPONDENTS certify that they do not and will not, during the performance of any resultant agreement, employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986, as amended.
- E. **DEBARMENT STATUS:** By submitting a proposal, RESPONDENTS certify that they are not currently debarred from submitting submittals on contracts nor are they an agent of any person or entity that is currently debarred from submitting bids on contracts.
- F. **INDEMNIFICATION AND HOLD HARMLESS:** The RESPONDENT shall defend, indemnify and hold harmless A&M System, its officers, employees and agents, against any and all liability of whatever nature which may arise directly or indirectly by reason of the RESPONDENT's performance under any resultant agreement. The RESPONDENT agrees to protect the State from claims involving infringement of patents or copyrights.
- G. **RESPONDENT LIABILITY:** The RESPONDENT will be liable for any associated costs of repairs for damage to buildings or other A&M System property caused by the negligence of the RESPONDENT's employees.
- H. **EARLY TERMINATION:** A&M System shall have the right to terminate any resultant agreement with the RESPONDENT without penalty after a (30) day written notice of termination to the RESPONDENT under the following circumstances:
1. **Default of RESPONDENT**

It shall be considered a default whenever the RESPONDENT shall:

- (a) Disregard or violate material provisions of any resultant agreement documents or A&M System instructions, or fail to execute the work according to the agreed upon schedule of completion and/or time of completion specified, including extensions thereof, or fail to reach agreed upon performance results.
- (b) Declare bankruptcy, become insolvent, or assign company assets for the benefit of creditors.

2. Convenience of A&M System

Termination of any resultant agreement if construed by A&M System to be in its best interest for serving the community and its students, faculty, and staff.

Note: Any contract cancellation notice shall not relieve the RESPONDENT of the obligation to deliver and/or perform prior to the effective date of cancellation.

- I. RESPONDENT PAYMENT/BILLING TERMS: Payment of invoices will be made thirty (30) days after receipt of a correct invoice and approval by the applicable department within A&M System.
- J. CIVIL RIGHTS REQUIREMENTS: All RESPONDENTS must comply with applicable civil rights laws.
- K. NON-COLLUSION CLAUSE: The Non-Collusion Affidavit found in **APPENDIX B** must be executed as a part of the RESPONDENT's submittal.
- L. ENTIRE AGREEMENT: Any resultant agreement, when fully executed, shall supersede any and all prior and existing agreements, either oral or in writing, and will contain all the covenants and agreements between the parties with respect to the subject matter of any resultant agreement. Any amendment or modification to any resultant agreement must be in writing and signed by the parties hereto.
- M. SEVERABILITY: It is understood and agreed that if any part, term, or provision of any resultant agreement is by the courts held to be illegal or in conflict with any law of the State of Texas, the validity of the remaining portions or provisions shall be construed and enforced as if any resultant agreement did not contain the particular part, term, or provision held to be invalid.
- N. MODIFICATION OF SERVICE: A&M System reserves the right to modify the services during the course of any resultant agreement. Any changes in pricing and rates proposed by the RESPONDENT resulting from such changes are subject to acceptance by A&M System.

In the event prices and rates cannot be negotiated to the satisfaction of both parties, resultant agreement may be subject to competitive bidding based upon the new specifications.

- O. PUBLICITY: RESPONDENTS must refrain from giving any reference to this project, whether in the form of press releases, brochures, photographic coverage, or verbal announcements, without specific written approval from A&M System.

Information provided to RESPONDENT by A&M System, including but not limited to information from the members, officers, agents, or employees of The Texas A&M University System or any of its members, and information provided to RESPONDENT by members of the public or any other third party shall belong to A&M System.

- P. INDEPENDENT CONTRACTOR: The successful RESPONDENT agrees that in all respects its relationship with A&M System will be that of an independent contractor, and that it will not act or represent that it is acting as an agent of A&M System or incur any obligation on the part of A&M System without written authority of A&M System. As an independent contractor, RESPONDENT will be solely responsible for determining the means and methods for

performing the services described. RESPONDENT shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to, those of A&M System relative to conduct on its premises.

- Q. CONFIDENTIALITY: In accordance with the Texas Public Information Act, Submittals could be subject to public review after any resultant agreements have been executed. RESPONDENTS responding to this submittal are cautioned not to include any proprietary information as part of their submittal unless such proprietary information is carefully identified as such in writing, and A&M System accepts, in writing, the information as proprietary.

Information created, derived, or otherwise produced by RESPONDENT shall remain the exclusive property of RESPONDENT. RESPONDENT acknowledges any final report or papers will be provided in accordance with this Agreement, and that any information contained in any report or papers, which RESPONDENT believes is confidential under Texas law will be clearly designated as such by RESPONDENT. In the event A&M System receives a request for public information for any portion of any final report or papers that have been designated by RESPONDENT to be confidential, A&M System will provide notice to RESPONDENT and RESPONDENT may submit a brief to the Office of the Attorney General, as provided by Chapter 552, Texas Government Code.

- R. PUBLIC INFORMATION ACT:

- (a) RESPONDENT acknowledges that A&M System is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this RFP, as well as any other disclosure of information required by applicable Texas law.
- (b) Upon A&M System's written request, RESPONDENT will promptly provide specified contracting information exchanged or created under this Agreement for or on behalf of A&M System.
- (c) RESPONDENT acknowledges that A&M System may be required to post a copy of the fully executed agreement as a result of this RFP on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.
- (d) The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to any resultant agreement and the RESPONDENT agrees that the resultant agreement can be terminated if the RESPONDENT knowingly or intentionally fails to comply with a requirement of that subchapter.

- S. OWNERSHIP OF DOCUMENTS: Upon completion or termination of any resultant agreement, all documents prepared by the RESPONDENT for the benefit of A&M System shall become the property of A&M System. At A&M System's option, such documents will be delivered to A&M System Procurement Office. A&M System acknowledges that the documents are prepared only for the contracted services specified. Prior to completion of the contracted services, A&M System shall have a recognized proprietary interest in the work product of the RESPONDENT.

- T. SUBCONTRACTING: No subcontract or third party personnel will be permitted to perform services described herein, without the written consent of A&M System. Upon written request, the RESPONDENT shall provide copies of all applicable licenses and other written approvals, which may be held by its subcontractors in order to perform the services described herein.

The RESPONDENT shall be fully responsible for all work performed under any resultant agreement from this RFP. The RESPONDENT shall describe who will be, if any, subcontractor(s) for the resultant agreement. No subcontract, which the RESPONDENT entered into with respect to performance under any resultant agreement, shall in any way relieve the RESPONDENT of any responsibility for the performance of its duties under the terms of the resultant agreement. The RESPONDENT shall notify the agency in writing of any changes in subcontracting.

- U. INSURANCE: The RESPONDENT shall obtain and maintain, for the duration of this Agreement or longer, the minimum insurance coverage set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do

business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to A&M System. By requiring such minimum insurance, A&M System shall not be deemed or construed to have assessed the risk that may be applicable to RESPONDENT under this Agreement. RESPONDENT shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. RESPONDENT is not relieved of any liability or other obligations assumed pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to A&M System at least ten days before the effective date of the cancellation.

Coverage

Limit

1. **Worker's Compensation**

Statutory Benefits (Coverage A)	Statutory
Employers Liability (Coverage B)	\$1,000,000 Each Accident \$1,000,000 Disease/Employee \$1,000,000 Disease/Policy Limit

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 A&M System. Workers' compensation insurance is required, and no "alternative" forms of insurance will be permitted

2. **Automobile Liability**

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.

3. **Commercial General Liability**

Each Occurrence Limit	\$1,000,000
General Aggregate Limit	\$2,000,000
Products / Completed Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to rented Premises	\$300,000
Medical Payments	\$5,000

The required commercial general liability policy will be issued on a form that insures RESPONDENT's or its subcontractors' liability for bodily injury (including death), property damage, personal and advertising injury assumed under the terms of this Agreement.

4. **Umbrella Liability**

Limit \$5,000,000

5. **Additional Endorsements**

The Auto and Commercial General Liability Policies shall name the Texas A&M University System Board of Regents for and on behalf of The Texas A&M University System and the RESPONDENT as additional insured's.

6. RESPONDENT will deliver to A&M System:

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by RESPONDENT under this Agreement. Additional evidence of insurance will be

provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

All insurance policies, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents for and on behalf of The Texas A&M University System, The Texas A&M University System and A&M System as Additional Insureds up to the actual liability limits of the policies maintained by RESPONDENT. Commercial General Liability and Business Auto Liability will be endorsed to provide primary and non-contributory coverage. The Commercial General Liability Additional Insured endorsement will include on-going and completed operations and will be submitted with the Certificates of Insurance.

All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System, The Texas A&M University System and A&M System. No policy will be canceled without unconditional written notice to A&M System at least ten days before the effective date of the cancellation.

All insurance policies will be endorsed to require the insurance carrier providing coverage to send notice to A&M System ten (10) days prior to the effective date of cancellation, material change, or non-renewal relating to any insurance policy required in this Section.

Any deductible or self-insured retention must be declared to and approved by A&M System prior to the performance of any services by RESPONDENT under this Agreement. RESPONDENT is responsible to pay any deductible or self-insured retention for any loss. All deductibles and self-insured retentions will be shown on the Certificates of Insurance.

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

The Texas A&M University System
301 Tarrow Street
College Station, TX 77840
Attn: Jeff Zimmermann
Facsimile Number: 979-458-6101
Email Address: zimmermann@tamus.edu

The insurance coverage required by this Agreement will be kept in force until all services have been fully performed and accepted by A&M System in writing.

- V. **DISPUTE RESOLUTION**: The resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by A&M System and RESPONDENT to attempt to resolve any claim for breach of contract made by RESPONDENT that cannot be resolved in the ordinary course of business. RESPONDENT shall submit written notice of a claim of breach of contract under this Chapter to the Deputy Chancellor and Chief Financial Officer for A&M System, who shall examine RESPONDENT's claim and any counterclaim and negotiate with RESPONDENT in an effort to resolve the claim.
- W. **VENUE**: Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against A&M System shall be in the county in which the primary office of the chief executive officer of A&M System is located.
- X. **STATE AUDITOR'S OFFICE**: RESPONDENT understands that acceptance of funds under this Agreement constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. RESPONDENT agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. RESPONDENT will include this provision in all

contracts with permitted subcontractors.

- Y. RESPONDENT shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of A&M System.
- Z. RESPONDENT hereby assigns to purchaser, any and all claims for overcharges associated with any contract resulting from this RFP which arise under the antitrust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973) and which arise under the antitrust laws of the State of Texas, Texas Business and Commercial Code Ann. Sec. 15.01, et seq. (1967).

AA. ALTERNATE PROPOSALS: A&M System reserves the right to consider alternate proposals submitted by respondents. Alternate proposals shall be clearly marked "Alternate" with the proposed alternates clearly defined and all pricing/cost advantages included, if applicable.

BB. WARRANTIES: In addition to all warranties established by law, RESPONDENT hereby warrants and agrees that:

All goods and services covered by any agreement shall conform to the specifications or other descriptions set forth in the agreement or otherwise furnished or adopted by A&M System, and shall be merchantable fit for the purpose intended, of best quality and workmanship, and free from all defects. A&M System shall have the right of inspection and approval, and may, at RESPONDENT's expense, reject and return nonconforming goods or require re-performance of services which are not in compliance with the requirements of the agreement. Defects shall not be deemed waived by A&M System's failure to notify RESPONDENT upon receipt of goods or completion of services, or by payment of invoice.

All goods and/or services provided under any resultant agreement shall meet or exceed the Safety Standards established and promulgated under the Federal Occupational Safety and Health Administration (Public Law 91-596) and its regulations effect or proposed as of the date of the agreement.

All goods delivered pursuant to any resultant agreement shall conform to standards established for such goods in accordance with any applicable federal, state or local laws and regulations, unless otherwise indicated in the agreement.

CC. ACCEPTANCE OF SERVICES: All services performed under any resultant agreement shall be to the satisfaction of each agency and in accordance with the specifications, terms, and conditions of the agreement. A&M System reserves the right to review the services performed and to determine the quality and acceptability of such services.

DD. SALES AND USE TAX: A&M System, as an agency of the State of Texas, qualifies for exemption from State and Local Sales and Use Taxes pursuant to the provisions of the Texas Limited Sales, Excise, and Use Tax Act. The RESPONDENT may claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts.

EE. NON-WAIVER OF DEFAULTS: Any failure of the Agencies at any time, to enforce or require the strict keeping and performance of any of the terms and conditions of this agreement shall not constitute a waiver of such terms, conditions, or rights, and shall not affect or impair same, or the right of the Agencies at any time to avail itself of same.

FF. CONFLICT OF INTEREST: By executing any resultant agreement, RESPONDENT and each person signing on behalf of RESPONDENT certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The A&M System or The A&M System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part

by The A&M System, has direct or indirect financial interest in the award of the resultant agreement, or in the services to which the resultant agreement relates, or in any of the profits, real or potential, thereof.

- GG. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL: To the extent that Texas Government Code, Chapter 2271 applies to any resultant agreement, RESPONDENT certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of any resultant agreement. RESPONDENT acknowledges any resultant agreement may be terminated and payment withheld if this certification is inaccurate.
- HH. CERTIFICATION REGARDING BUSINESS WITH CERTAIN COUNTRIES AND ORGANIZATIONS: Pursuant to Subchapter F, Chapter 2252, Texas Government Code, RESPONDENT certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. RESPONDENT acknowledges any resultant agreement may be terminated if this certification is or becomes inaccurate.
- II. PROHIBITION ON CONTRACTS RELATED TO PERSONS INVOLVED IN HUMAN TRAFFICKING: Under Section 2155.0061, Government Code, the vendor certifies that the individual or business entity named in any resultant agreement is not ineligible to receive the specified contract and acknowledges that the resultant agreement may be terminated and payment withheld if this certification is inaccurate.
- JJ. NOT ELIGIBLE FOR REHIRE: Respondent is responsible to ensure that employees participating in work for any A&M System member have not been identified by the A&M System as Not Eligible for Rehire as defined in System policy [32.02, Section 4](#). Non-conformance to this requirement may be grounds for termination of any resultant agreement.
- KK. FORCE MAJEURE: Neither party will be in breach of its obligations under this Agreement or incur any liability to the other party for any losses or damages of any nature whatsoever incurred or suffered by that other party if and to the extent that it is prevented from carrying out those obligations by, or such losses or damages are caused by, a Force Majeure event (as defined below), except to the extent that the relevant breach of its obligations would have occurred, or the relevant losses or damages would have arisen, even if the Force Majeure event had not occurred. "Force Majeure event" is defined as: 1) acts of God; 2) war; 3) act(s) of terrorism; 4) fires; 5) explosions; 6) natural disasters, to include without limitation, hurricanes, floods, and tornadoes; 7) failure of transportation; 8) strike(s); 9) loss or shortage of transportation facilities; 10) lockout, or commandeering of materials, products, plants or facilities by the government or other order (both federal and state); 11) interruptions by government or court orders (both federal and state); 12) present and future orders of any regulatory body having proper jurisdiction; 13) civil disturbances, to include without limitation, riots, rebellions, and insurrections; 14) epidemic(s), pandemic(s), or other national, state, or regional emergency(ies); and 15) any other cause not enumerated in this provision, but which is beyond the reasonable control of the party whose performance is affected and which by the exercise of all reasonable due diligence, such party is unable to overcome. Such excuse from performance will be effective only to the extent and duration of the Force Majeure event(s) causing the failure or delay in performance and provided that the affected party has not caused such Force Majeure event(s) to occur and continues to use diligent, good faith efforts to avoid the effects of such Force Majeure event(s) and to perform its obligation(s). Written notice of a party's failure or delay in performance due to Force Majeure must be given within a reasonable time after its occurrence and must describe the Force Majeure event(s) and the actions taken to minimize the impact of such Force Majeure event(s). For the avoidance of doubt, the COVID-19 pandemic and any governmental changes or closures related thereto shall be deemed Force Majeure events, even to the extent reasonably foreseeable by either party as of the effective date of this Agreement.

**EXHIBIT A
EXECUTION OF OFFER**

RFP01 CHAN-21-100

DATE: _____

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

A.1 Respondent Affirmation

NOTE TO RESPONDENTS: SUBMIT ENTIRE SECTION WITH RESPONSE.

This execution of offer must be completed, signed, and returned with the respondent's proposal. Failure to complete, sign and return this execution of offer with the proposal may result in rejection of the proposal.

Signing a false statement may void the submitted proposal or any agreements or other contractual arrangements, which may result from the submission of respondent's proposal. A false certification shall be deemed a material breach of contract and, at owner's option, may result in termination of any resulting contract or purchase order.

Addenda Acknowledgment

Receipt is hereby acknowledged of the following addenda to this RFP by entering yes or no in space provided and indicating date acquired. Enter "N/A" if none received.

No. 1 _____ Date _____

No. 2 _____ Date _____

A.2 Signature

By signing below, the Respondent hereby certifies as follows, and acknowledges that such certifications will be included in any resulting contract:

- (i) the Response and all statements and information prepared and submitted in response to this RFP are current, complete, true and correct;
- (ii) it is not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount trip, favor or service to a public servant in connection with the submitted response or any subsequent proposal. Failure to sign below, or signing a false statement, may void the response or any resulting contracts at A&M System' option, and the RESPONDENT may be removed from all future proposal lists at this state agency;
- (iii) the individual signing this document and the documents made part of the RFP is authorized to sign such documents on behalf of the RESPONDENT and to bind the Respondent under any contract which may result from the submission of the Response;
- (iv) no relationship, whether as a relative, business associate, by capital funding agreement or by any other such kinship exists between RESPONDENT and an employee of A&M System;
- (v) Respondent has not been an employee of A&M System within the immediate twelve (12) months prior to the RFP response;
- (vi) no compensation has been received for participation in the preparation of this RFP (ref. Section 2155.004 Texas Government Code);
- (vii) all services to be provided in response to this RFP will meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health law (Public Law 91-596) and its regulations in effect as of the date of this solicitation;

- (viii) Respondent complies with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action;
- (ix) to the best of its knowledge, no member of the Board of Regents of The Texas A&M University System, or the Executive Officers of the Texas A&M University System or its member institutions or agencies, has a financial interest, directly or indirectly, in the Project;
- (x) if the RESPONDENT is subject to the Texas franchise tax, it is not currently delinquent in the payment of any franchise tax due under Chapter 171, Texas Tax Code, or is exempt from the payment of such taxes. A false certification may result in the RESPONDENT’s disqualification;
- (xi) under Section 231.006, Family Code, the RESPONDENT or applicant certifies that the individual or business entity named in this RFP, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that any resultant agreement may be terminated and payment may be withheld if this certification is inaccurate; and,
- (xii) under Section 2155.006, Government Code, the RESPONDENT certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that any resultant agreement may be terminated and payment withheld if this certification is inaccurate.

RESPONDENT shall provide their Federal Employer Identification Number (EIN), full VENDOR name, address and contact information in the spaces below. Failure to sign manually or with electronic signature (such as DocuSign or Adobe Sign) below will disqualify the proposal response. The person signing the submittal should show title or authority to bind his/her firm in contract.

Federal EIN/Taxpayer ID #: _____

Vendor/Company Name: _____

Authorized Signature: _____

Name: _____

Title: _____

Street: _____

City/State/Zip: _____

Telephone No.: _____

Fax No.: _____

E-mail: _____

* By signing this RFP, RESPONDENT certifies that if a Texas address is shown as the address of the respondent, respondent qualifies as a Texas Resident Bidder as defined in Texas Government Code, § 2252.001(4).

**EXHIBIT B
NON-COLLUSION AFFIDAVIT**

The undersigned, duly authorized to represent the persons, firms and corporations joining and participating in the submission of the foregoing Proposal (such persons, firms and corporations hereinafter being referred to as the "RESPONDENT"), being duly sworn, on his or her oath, states that to the best of his or her belief and knowledge no person, firm or corporation, nor any person duly representing the same joining and participating in the submission of the foregoing Proposal, has directly or indirectly entered into any agreement or arrangement with any other RESPONDENTS, or with any official of A&M System or any employee thereof, or any person, firm or corporation under contract with A&M System whereby the RESPONDENT, in order to induce acceptance of the foregoing Proposal by said A&M System, has paid or is to pay to any other RESPONDENT or to any of the aforementioned persons anything of value whatever, and that the RESPONDENT has not, directly or indirectly entered into any arrangement or agreement with any other RESPONDENT or RESPONDENTS which tends to or does lessen or destroy free competition in the letting of the contract sought for by the foregoing Proposal.

The RESPONDENT hereby certifies that neither it, its officers, partners, owners, providers, representatives, employees and parties in interest, including the affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other RESPONDENT, potential RESPONDENT, firm or person, in connection with this solicitation, to submit a collusive or sham bid, to refrain from bidding, to manipulate or ascertain the price(s) of other RESPONDENTS or potential RESPONDENTS, or to obtain through any unlawful act an advantage over other RESPONDENTS or A&M System.

The prices submitted herein have been arrived at in an entirely independent and lawful manner by the RESPONDENT without consultation with other RESPONDENTS or potential RESPONDENTS or foreknowledge of the prices to be submitted in response to this solicitation by other RESPONDENTS or potential RESPONDENTS on the part of the RESPONDENT, its officers, partners, owners, providers, representatives, employees or parties in interest, including the affiant.

CONFLICT OF INTEREST

The undersigned RESPONDENT and each person signing on behalf of the RESPONDENT certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of their knowledge and belief, no member of A&M System, nor any employee, or person, whose salary is payable in whole or in part by A&M System, has a direct or indirect financial interest in the award of this Proposal, or in the services to which this Proposal relates, or in any of the profits, real or potential, thereof, except as noted otherwise herein.

Signature _____

Company Name _____

Date _____

Notary _____

Subscribed and sworn to before me this

_____ day of _____, 2020.

Notary Public in and for the County of _____, State of

_____. My commission expires: _____

THE EXECUTION OF OFFER AND NON-COLLUSION AFFIDAVIT MUST BE COMPLETED, SIGNED, AND RETURNED WITH RESPONDENT'S SUBMISSION. FAILURE TO SIGN AND RETURN THESE DOCUMENTS WILL RESULT IN THE REJECTION OF YOUR SUBMISSION.