



THE TEXAS A&M UNIVERSITY SYSTEM

Office of HUB & Procurement Programs

**REQUEST FOR PROPOSAL
OPEN RECORDS MANAGEMENT
SYSTEM**

RFP NUMBER: RFP01 OGC-15-004

**PROPOSAL MUST BE RECEIVED PRIOR TO:
2:00 P.M. Central time on March 6, 2015**

**MAIL, HAND DELIVER, AND/OR
EXPRESS MAIL PROPOSAL TO:**

**The Texas A&M University System
HUB & Procurement Programs
301 Tarrow 3rd Floor, Suite 366
College Station, TX 77840
Attn: Jeff Zimmermann**

Show RFP Number, Opening Date and Time on Return Envelope

NOTE: PROPOSAL must be time stamped at **The Texas A&M University System** Office of Procurement and HUB Programs before the hour and date specified for receipt of Proposal.

Pursuant to the Provisions of Texas Government Code Title 10, Chapter 2156.121-2156.127, sealed proposals will be received until the date and time established for receipt. After receipt, only the names of RESPONDENTS will be made public. Prices and other proposal details will only be divulged after a contract is executed, if any.

REFER INQUIRIES TO:

**Jeff Zimmermann, Director
The Texas A&M University System
HUB & Procurement Programs
301 Tarrow 3rd Floor
College Station, TX 77840**

Email: jjzimmermann@tamus.edu

TABLE OF CONTENTS

SECTION 1. INTRODUCTION _____ 3

 1.1 Scope..... 3

 1.2 Background..... 3

 1.3 Priorities/Expectations 3

 1.4 Performance Period..... 4

SECTION 2. INSTRUCTIONS FOR RESPONDENTS _____ 5

 2.1 Calendar of Events..... 5

 2.2 Examination of the Request for Proposal 6

 2.3 Submittal Instructions and Delivery of Submittals 6

 2.4 Proposal Components 6

 2.5 Inquiries and Interpretations 7

 2.6 Selection Process 7

 2.7 HUB Policy and HUB Subcontracting Requirements 8

SECTION 3. OPEN RECORDS MANAGEMENT/SYSTEM _____ 9

 3.1 Introduction to System Management of TPIA/Open Records Requests..... 9

 3.2 Desired Results 9

 3.3 Open Records management System..... 9

 3.4 Service Requirements 9

 3.5 Reports 10

 3.6 Training..... 10

 3.7 Recent History of Volume of Open Records Requests 10

 3.8 Qualifications 11

 3.9 Technical Proposal..... 11

SECTION 4. RESPONDENT’S QUESTIONNAIRE _____ 12

 4.1 Company Profile 12

 4.2 References..... 12

SECTION 5. GENERAL TERMS AND CONDITIONS _____ 13

Exhibit A – Execution of Offer..... 19

Exhibit B – Non-Collusion Affidavit..... 21

Exhibit C – Section 508 VPAT Form Attachment

Exhibit D – WCAG 2.0 VPAT Form..... Attachment

SECTION 1 - INTRODUCTION

1.1 Scope

The Texas A&M University System (TAMUS) is seeking proposals for a solution to manage its Open Records program, meaning the process for receiving and responding to requests submitted under the Texas Public Information Act (TPIA). It is the intent of TAMUS to effectively establish an agreement with a qualified company for the requirements listed. Upon award, successful RESPONDENT shall provide all software, training, and documentation as specified and listed in this proposal.

By submitting responses, each RESPONDENT 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 statewide network of 11 universities, seven state agencies and a comprehensive health science center. A&M System members educate more than 120,000 students and reach another 22 million people through service each year. With more than 28,000 faculty and staff, the A&M System has a physical presence in 250 of the state's 254 counties and a programmatic presence in every one. In 2011, externally funded research expenditures exceeded \$780 million to help drive the state's economy.

Additional information about the history of The Texas A&M University System can be found at the following site; <http://www.tamus.edu/about/history/> .

1.3 Priorities/Expectations

RESPONDENTS should note the following priorities/expectations with regard to the possibility of TAMUS 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 TAMUS customers in a timely, cost effective manner. TAMUS 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 TAMUS.
- (c) *Delivery Efficiency as it Relates to Total Costs.* RESPONDENT must demonstrate its ability to deliver the required system in a cost-effective and timely manner while not sacrificing the quality required by a Tier I research System.
- (d) *Financial Stability.* RESPONDENT must demonstrate its financial stability and capabilities in providing the required system. At a minimum, the RESPONDENT shall provide the two most current audited financial statements.

1.4 Performance Period

Should TAMUS, in its sole discretion, enter into an agreement with the successful RESPONDENT as a result of this RFP, the agreement shall be effective upon execution. The agreement may be extended for four (4) additional one-year terms, providing all parties mutually agree on the extension for any services proposed that are necessary for the ongoing operation and maintenance of the system. Any extensions shall be at the same terms and conditions plus any approved changes to be determined by TAMUS and negotiated in writing with the successful RESPONDENT.

SECTION 2 – INSTRUCTIONS FOR RESPONDENTS

TAMUS is soliciting submittals from qualified firms, hereafter referred to as RESPONDENT(s) who can provide a system for the management of open records requests to TAMUS.

Proposals and any other information submitted by RESPONDENT in response to this Request for Proposal shall become the property of TAMUS.

This RFP outlines requirements as specified in the Sections 3 and 4. 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.

The RESPONDENT selected shall have an excellent track record for providing a system relative to the size and scope of TAMUS and shall agree to provide the services necessary for the successful implementation to TAMUS with a top priority commitment. 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.

Each proposal shall be prepared simply and economically, providing a straightforward and concise description of RESPONDENT's ability to meet the requirements of this RFP. Emphasis shall be on completeness, clarity of content and responsiveness to the offer requirements. Expenses for developing and presenting submittals shall be the entire responsibility of the RESPONDENT and shall not be chargeable to TAMUS. All supporting documentation and manuals submitted with this submittal will become the property of TAMUS unless otherwise requested by the RESPONDENT, in writing, at the time of submission, and agreed to, in writing, by TAMUS.

All technical questions concerning this RFP are to be directed to Jeff Zimmermann, Director, Procurement and Business Services, in writing, at jjzimmermann@tamus.edu. RESPONDENT may not contact other individuals at TAMUS to discuss any aspect of this RFP, unless expressly authorized by the Procurement Office to do so. Questions regarding the RFP, including questions for more data or information beyond that included in this RFP and attachment, should be presented in writing. **Deadline for submission of questions is by 2:00 P.M. February 23, 2015.** TAMUS will publish all questions with responses according to the schedule in Section 2.1.

2.1 Calendar of Events *

<u>Activity</u>	<u>Date</u>
Release of Request for Proposal	February 17, 2015
Deadline to Submit Questions	February 23, 2015
Release of Response to Questions	February 26, 2015

Responses Due	March 6, 2015 by 2:00 PM
Evaluation of Submittals	TBD
Selection of Respondents	TBD

- * TAMUS 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 TAMUS and/or in the event TAMUS 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.

2.2 Examination of the Request for Proposal

Before submitting, each RESPONDENT will be held to have examined TAMUS requirements outlined in Sections 3 and 4, 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 and Delivery of Submittals

All submittals must be received by TAMUS, no later than **2:00 p.m. Central Time, March 6, 2015** in a sealed envelope or box marked "**RFP01 OGC-15-004.**"

Submittals are to be submitted to:

**MAIL, HAND DELIVER, AND /OR
EXPRESS MAIL SUBMITTAL TO:
The Texas A&M University System
Office of HUB & Procurement Programs
301 Tarrow, 3rd Floor, Suite 366
College Station, TX 77840
Attn: Jeff Zimmermann**

Late submittals will not be considered under any circumstances. Late submittals properly identified will be returned to RESPONDENT unopened.

Telephone and/or facsimile (Fax) submittals are not acceptable under any circumstances.

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.

- ✓ Signed Execution of Offer (Appendix A)
- ✓ Non-Collusion Affidavit (Appendix B)
- ✓ HUB Subcontracting Plan (Only If Applicable, See Section 2.7)
- ✓ Open Records Software - Section 3, all requested information and requirements
- ✓ Respondent Questionnaire – Section 4

RESPONDENT shall provide one (1) original copy, four (4) additional hard copies, and one (1) electronic copy of the complete RFP response as specified above. Note: The electronic copy shall be combined in a single file.

All electronic copies must either be in Microsoft Office software or Adobe Portable Document Format (PDF). All image files must be in one of the following formats: .jpg, .gif, .bmp, or .tif and submitted on a CDROM or thumb drive. We prefer image files to already be inserted as part of a document such as a PDF. Individual image files on the electronic media must be clearly named and referenced in your proposal response.

NOTE: The original signature on the ONE (1) hard copy will serve as the official signature of record for all electronic copies. The proposal must be manually signed by a person with authority to bind the firm under a contract.

Please create a text file in your root directory titled "table of contents.txt" that contains a brief explanation of the files and their layout found on the disc. Submittal response package (envelope/box/carton) must indicate on the lower left-hand corner the respondent's company name and address, and the RFP number and opening date.

Submittals are to be submitted as a booklet or in notebook form with appropriate indices. Each submittal should be prepared simply and economically, providing a straightforward concise description of the RESPONDENT's service, approach and ability to meet TAMUS' needs as stated in this RFP. Schedules and Exhibits must be clearly identify and defined.

2.5 Inquiries and Interpretations

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). It is the responsibility of the RESPONDENT to check the ESBD for any and all addenda issued for this RFP. All such addenda issued by TAMUS 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 TAMUS 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

TAMUS will base its choice on demonstrated competence, knowledge, and qualifications and on the reasonableness of the proposed fee for the services; and if other considerations are equal, give preference to a RESPONDENT whose principal place of business is in the state or who will manage the contract wholly from an office in the state.

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 TAMUS, as well qualified and offering the greatest benefits, experience and value to TAMUS. TAMUS 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 TAMUS 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.

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

The selection of the successful proposal may be made by TAMUS 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 TAMUS on the basis of negotiation with any of the RESPONDENTS. TAMUS 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, TAMUS 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.

TAMUS reserves the right to check references prior to award. Any negative responses received may be grounds for disqualification of the proposal.

TAMUS 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.

TAMUS reserves the right to select the most qualified RESPONDENTS to present their qualifications during an interview. TAMUS will not provide compensation to RESPONDENTS for any expenses incurred by the RESPONDENT(S) for proposal preparation, evaluations or demonstrations that may be made.

2.7 The Texas A&M University System HUB Policy and HUB Subcontracting Requirements

It is the policy of TAMUS to encourage the use of Historically Underutilized Businesses (HUBs) in our prime contracts, subcontractors, and purchasing transactions. The goal of the HUB program is to promote equal access and equal opportunity in TAMUS contracting and purchasing.

HUB Subcontracting Plan:

An HSP is only required if subcontractors will be used to provide and implement the system offered and if the total cost of the system is equal to or exceeds \$100,000. In the event the cost exceeds this dollar threshold and the RESPONDENT determines a subcontractor(s) will be used, the RESPONDENT WILL BE required to make a good faith effort and complete the State of Texas HUB Subcontracting Plan found at the following site; <http://www2.tamus.edu/offices/fpc/forms/> .

FAILURE TO SUBMIT A COMPREHENSIVE, ACCEPTABLE HUB SUBCONTRACTING PLAN (only if subcontractors will be used by RESPONDENTS for these services) WILL BE CONSIDERED A MATERIAL FAILURE TO COMPLY WITH THE REQUIREMENTS OF THE RFP AND WILL RESULT IN REJECTION OF THE RESPONSE.

Please contact TAMUS's HUB Program Director, Jeff Zimmermann, at zimmermann@tamus.edu or 979-458-6410 for assistance with completion of requirements as stated.

SECTION 3 – OPEN RECORDS MANAGEMENT/SYSTEM

3.1 Introduction to System Management of TPIA/Open Records Requests

The Texas Public Information Act, Chapter 552, Texas Government Code (the Act), specifies that, with certain exceptions, all information collected, assembled, or maintained pursuant to law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body, if the governmental body owns or has access to the information, is public information and must be available to the public during normal business hours of the governmental body.

TAMUS is committed to full and complete compliance with the letter and the spirit of the Act and to public policy of the state of Texas that “all persons are, unless otherwise expressly provided by law, at all times entitled to full and complete information regarding the affairs of government and the official acts of those who represent them.”

3.2 Desired Results (or Objective)

The primary objective is to increase efficiency and management of Open Records requests for TAMUS and its 20 system members.

3.3 Open Records Management System

The proposed system shall facilitate the receipt, management, and response to open records requests. The desired features of this system are as follows:

- Provide a secure database for each system member’s open records requests, responsive information and related correspondence, or one database for TAMUS with a defined portion of the database for each system member.
- Can create workflows for open records staff to assign an open records request to the relevant department or departments who may maintain the requested information and the ability for staff to upload responsive information to database for open records staff access. Generate uniform, automated response/acknowledgement of receipt of open records request to requestors.
- Generate automatic email reminders of status and assignments of open records requests based on TPIA deadlines.
- Document/Email templates for all members to ensure consistency across the System.
- Customized/Branded web portal (or similar system) to allow public to submit, check status and receive or download responsive information. Web portal would also allow display of customized log of pending and recent requests.
- Generate scheduled, on-demand, and custom reports – shall be available for each system member as well as a report to pull all member data together
- Track time per activity and time spent on a request by all staff members
- Track fees

3.4 Service Requirements

Prompt and accurate customer service is extremely important. RESPONDENTS shall provide information

with proposal response to show the level of commitment to service and support of the system offered. This shall include direct contact for service related issues, and the expected and maximum amounts of time for a response to questions/issues.

Notification of a change in the system or any change in personnel with direct responsibility for the system or any questions regarding invoice billings must be addressed within 48 hours.

Network Downtime: proposals must include a record of the time RESPONDENT's system was not available to public or staff for purposes of submitting or responding to requests, for the last twelve months. RESPONDENT will also indicate alternative procedures during network downtime to facilitate processing of open records requests.

3.5 Reports

TAMUS includes eleven universities, seven state agencies and a Health Science Center. Each entity is a separate agency of the State of Texas and a member of TAMUS. The desired open records/TPIA system must have the capability to generate activity reports for each System member as well as combined reports for the entire A&M System on a daily, monthly, quarterly and annual basis. For example, reports shall be able to include at a minimum the following:

- Date and Time of the request
- Date and Time of final response (information provided, made available, or other)
- Information requested;
- Department or unit assigned to provide requested information
- Department or unit providing requested information to open records staff
- Name; phone; email of requester
- Copy charges related to the request
- Whether an Attorney General decision requested
- Date of receipt of Attorney General decision

Proposals must specify the availability, method of display, distribution cycle, means of distribution (electronic preferred) and format of data.

3.6 Training

RESPONDENT shall provide complete training on the use the system as proposed to each agency. All training documentation is to be made available online and training manuals written in English available on request, both at no cost to the System and its Members. Training on the use of the system will be available on-site or online, as requested by each System Member. Training documentation is preferred to be online. In addition, training manuals written in English must also be available at no cost if requested. All training will be on-site or online, as requested by each system member.

3.7 Recent History of Volume of Open Records Requests received by system members.

For the 12 months ending August 31, 2013, System members received approximately 2,000 open records requests.

For the 12-months ending August 31, 2014, System members received approximately 1,800 open records requests.

3.8 Qualifications

The following areas will be considered in determining the qualifications of the Open Records Management services provider. RESPONDENTS shall address all other areas described below:

- 3.8.1 The RESPONDENT’s overall experience and expertise in managing and tracking open records requests.
- 3.8.2 The RESPONDENT’S overall experience and expertise in records management in the higher education market.
- 3.8.3 The RESPONDENT’S overall experience in multi-unit or multi-member environments.
- 3.8.4 The RESPONDENT’S ability to address the following EIR accessibility requirements.

EIR accessibility requirements and technical standards from Texas Administrative Code, Title 1, Chapter 206 and Chapter 213 have been determined to apply to this RFP. RESPONDENTS must describe how the EIR product deliverables included as part of the service requirements meet at least those technical provisions identified as applicable in the attached Voluntary Product/Service Accessibility Templates (VPATs).

For EACH applicable EIR category, RESPONDENTS should provide the following accessibility information by way of Voluntary Product Accessibility Templates (VPATs) (See EXHIBIT C & D) or other equivalent reporting templates. RESPONDENTS must describe how the EIR product deliverables included as part of the service requirements meet the following requirements.

- 1) The appropriate Technical Accessibility Standards based on the EIR Websites
- 2) Functional Performance Criteria described in 1 TAC §213.35 (i.e., Section 508 equivalent - 36 CFR Part 1194 Subpart C)
- 3) Information, Documentation, and Support described in 1 TAC §213.36 (i.e., Section 508 equivalent - 36 CFR Part 1194 Subpart D)

EIR Category	Technical Accessibility Standards	Section 508 equivalent
Websites	<u>1 TAC §206.70</u> <u>Web Content Accessibility Guidelines (WCAG) 2.0, Level AA</u>	36 CFR §1194.22

Only proposals which contain adequate information to document their responsiveness to the EIR accessibility requirements (e.g. VPATs or equivalent and supporting documentation) will be eligible for consideration.

3.9 Technical Proposal

In their proposal, RESPONDENTS shall address all of the areas described in each of the sections above and labeled accordingly. Additionally, the following items must be included in each proposal:

- 3.9.1 A detailed explanation of the proposed system, including a comprehensive description of the services provided
- 3.9.2 An implementation plan including a time schedule.
- 3.9.3 A description of the components (software, web portal, servers, etc.) comprising the RESPONDENT’S system.
- 3.9.4 Pricing: RESPONDENT shall submit a pricing proposal based on the requirements stated in this RFP. Costs shall be itemized; for example, subscription/license fees, implementation costs, etc. Also include costs for any other services offered that may add value to the system offered.

SECTION 4 – RESPONDENT’S QUESTIONNAIRE

The RESPONDENT recognizes that in selecting a supplier, TAMUS 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. TAMUS reserves the right to contact each and every reference listed below and shall be free from any liability to RESPONDENT for conducting such inquiry. A negative reference may be grounds for disqualification.

4.1 Company Profile

4.1.1 Number of Years in Business: _____

Type of Operation: Individual____ Partnership____ Corporation____ Government____

Number of Employees: _____(company wide)

Number of Employees: _____(servicing location)

Annual Sales Volume: _____(company wide)

Annual Sales Volume: _____(servicing location)

4.1.2 State that you will provide a copy of your company’s audited financial statements for the past two (2) years, if requested by TAMUS.

4.1.3 Provide a financial rating of your company and any documentation (such as a Dunn and Bradstreet Analysis) which indicates the financial stability of your company, if requested by TAMUS.

4.1.4 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.

4.1.5 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.

4.1.6 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.

4.2 References

RESPONDENT must furnish at least three (3) references from current customers for a similar system. References must be from corporations and/or government agencies with at least one reference from a current account that received a minimum of 10,000 requests last year. Each reference shall contain at least the following:

- Company/Agency name & address:
- Contact Person Name & Title:
- Contact phone number:
- Contact email:
- Total number of open records requests processed per year:

SECTION 5 - GENERAL TERMS AND CONDITIONS

- A. **TERMS AND CONDITIONS:** TAMUS 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 TAMUS determines to be incomplete, conditional, obscure, or which has irregularities of any kind, may be rejected. TAMUS 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 TAMUS 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 TAMUS 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 TAMUS Office of General Counsel are essential prior to the award of the contract. In the event the RESPONDENT does not supply terms and conditions with their submittal, TAMUS 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 this contract, 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 statement of qualification, 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 TAMUS, 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 the contract. 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 TAMUS property caused by the negligence of the RESPONDENT's employees.
- H. **EARLY TERMINATION:** TAMUS shall have the right to terminate the contract with the RESPONDENT without penalty after a (30) days 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 the contract documents or TAMUS 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 TAMUS

Termination of the contract services is construed by TAMUS 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 TAMUS.
- 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: A contract 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 the contract agreement. Any amendment or modification to the contract 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 the contract 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 the contract agreement did not contain the particular part, term, or provision held to be invalid.
- N. MODIFICATION OF SERVICE: TAMUS reserves the right to modify the services during the course of the contract. Any changes in pricing and rates proposed by the RESPONDENT resulting from such changes are subject to acceptance by TAMUS.

In the event prices and rates cannot be negotiated to the satisfaction of both parties, the contract 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 TAMUS.

Information provided to RESPONDENT by TAMUS, 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 TAMUS

- P. INDEPENDENT CONTRACTOR: The successful RESPONDENT agrees that in all respects its relationship with TAMUS will be that of an independent contractor, and that it will not act or represent that it is acting as an agent of TAMUS or incur any obligation on the part of TAMUS without written authority of TAMUS. 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 TAMUS relative to conduct on its premises.
- Q. CONFIDENTIALITY: In accordance with the Texas Public Information Act, Submittals could be subject to public review after the contracts 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 TAMUS 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 TAMUS receives a request for public information for any portion of any final report or papers that have been designated by RESPONDENT to be confidential, TAMUS 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. **OWNERSHIP OF DOCUMENTS:** Upon completion or termination of any contract agreement, all documents prepared by the RESPONDENT for the benefit of TAMUS shall become the property of TAMUS. At TAMUS' option, such documents will be delivered to TAMUS Procurement Office. TAMUS acknowledges that the documents are prepared only for the contracted services specified. Prior to completion of the contracted services, TAMUS shall have a recognized proprietary interest in the work product of the RESPONDENT.
- S. **SUBCONTRACTING:** No subcontract or third party personnel will be permitted to perform services described herein, without the written consent of TAMUS. 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 contract resulting from this RFP. The RESPONDENT shall describe who will be, if any, subcontractor(s) for the contract. No subcontract, which the RESPONDENT entered into with respect to performance under this contract, shall in any way relieve the RESPONDENT of any responsibility for the performance of its duties under the terms of this contract. The RESPONDENT shall notify the agency in writing of any changes in subcontracting.

- T. **INSURANCE:** The RESPONDENT shall obtain and maintain, for the duration of this project 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 and currently rated A- or better by A.M. Best Company or otherwise acceptable to Owner. By requiring such minimum insurance, the Owner shall not be deemed or construed to have assessed the risk that may be applicable to the RESPONDENT under this Agreement. The RESPONDENT shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. The 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. Required insurance shall not be cancelable without thirty (30) days' prior written notice to Owner.

RESPONDENT will provide certificates indicating such insurance is in force and effect within ten (10) working days after full execution of this Agreement, and such certificates must state that TAMUS will be notified in the event of cancellation of coverage. Failure to maintain insurance coverage as described above will be considered a default under this Agreement.

Coverages

Limit

A. Worker's Compensation*

Statutory Benefits (Coverage A)
Employer's Liability (Coverage B)

Statutory
\$500,000 Each Accident
\$500,000 Disease/Employee
\$500,000 Disease/Policy Limit

** If this coverage is no any reason waived, the contractor, employees thereof, and*

sub contractors must sign a hold harmless and indemnification agreement.

B. Automobile Liability

Owned Vehicles \$1,000,000	\$1,000,000
Non-owned Vehicles	\$1,000,000
Hired Vehicles	\$1,000,000

C. Commercial General Liability

Aggregate Limit	\$2,000,000
Each Occurrence Limit	\$1,000,000
Products / Operations	\$1,000,000
Personal / Advertising Injury	\$1,000,000
Damage to Premises	\$100,000
Medical Payments	\$5,000

D. Professional Liability \$1,000,000

Additional Endorsements

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 Texas A&M University System as additional insureds.

- U. **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 TAMUS 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 Executive Vice Chancellor and Chief Financial Officer for TAMUS, who shall examine RESPONDENT's claim and any counterclaim and negotiate with RESPONDENT in an effort to resolve the claim.
- V. **VENUE**: Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against TAMUS shall be in the county in which the primary office of the chief executive officer of TAMUS is located.
- W. **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.
- X. RESPONDENT shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of TAMUS.
- Y. 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).
- Z. **ALTERNATE PROPOSALS**: TAMUS 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.

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

All goods and services covered by the agreement shall conform to the specifications or other descriptions set forth in the agreement or otherwise furnished or adopted by TAMUS, and shall be merchantable fit for the purpose intended, of best quality and workmanship, and free from all defects. TAMUS 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 TAMUS'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 the 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 the 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.

BB. ACCEPTANCE OF SERVICES: All services performed under this agreement shall be to the satisfaction of each agency and in accordance with the specifications, terms, and conditions of the agreement. TAMUS reserves the right to review the services performed and to determine the quality and acceptability of such services.

CC. SALES AND USE TAX: TAMUS, 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.

DD. 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.

EE. TECHNOLOGY ACCESS CLAUSE: The RESPONDENT expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairments. Accordingly the RESPONDENT represents and warrants to The Texas A&M University System that the technology provided to The Texas A&M University System for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of: (1) providing visual and non-visual means; (2) presenting information, including prompts used for interactive communications, in formats intended for non visual use; and (3) being integrated into networks for obtaining, retrieving and disseminating information used by individuals who are not blind or visually impaired for purposes of the paragraph, the phrase "equivalent access" means a substantially similar ability to communicate with or make use of the technology either directly by features incorporated within the technology or by TAMUS Office for HUB and Procurement Programs has recently established.

EXHIBIT A

EXECUTION OF OFFER

**RFP01 OGC-15-004
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 qualifications. Failure to complete, sign and return this execution of offer with the qualifications may result in rejection of the qualifications.

Signing a false statement may void the submitted qualifications or any agreements or other contractual arrangements, which may result from the submission of respondent's qualifications. 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 "0" 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 TAMUS' 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 TAMUS;
- (v) Respondent has not been an employee of TAMUS within the immediate twelve (12) months prior to the RFP response;
- (vi) no compensation has been received for participation in the preparation of this RFQ (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) each individual or business entity proposed by RESPONDENT as a member of its team that will engage in the practice of engineering or architecture will be selected based on demonstrated competence and qualifications only;
- (xi) 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;
- (xii) under Section 231.006, Family Code, the RESPONDENT or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate; and,
- (xiii) 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 this contract may be terminated and payment withheld if this certification is inaccurate.

RESPONDENT should give Payee Identification Number (PIN) (Formally RESPONDENT ID), full firm name and address of RESPONDENT (enter in block provided if not shown). Failure to manually sign submittal will disqualify it. The person signing the submittal should show title or authority to bind his/her firm in contract. The Payee Identification Number is the taxpayer number assigned and used by the Comptroller of Public Accounts of Texas. Enter this number in the spaces provided on the Execution of Offer.

Payee Identification Number (PIN): _____

Sole Owner should also enter Social Security Number: _____

RESPONDENT/Company: _____

Signature (INK): _____

Name: _____

Title: _____

Street: _____

City/State/Zip: _____

Telephone No.: _____

Fax No.: _____

E-mail: _____

<p>* By signing this RFQ, 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).</p>

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 TAMUS or any employee thereof, or any person, firm or corporation under contract with TAMUS whereby the RESPONDENT, in order to induce acceptance of the foregoing Proposal by said TAMUS, 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 TAMUS.

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 TAMUS, nor any employee, or person, whose salary is payable in whole or in part by TAMUS, 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 _____

Subscribed and sworn to before me this

_____ day of _____, 2014.

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.