



THE TEXAS A&M UNIVERSITY SYSTEM

Office of HUB & Procurement Programs

REQUEST FOR PROPOSAL
RFP Number: RFP01 TRSY-16-018

FINANCIAL ADVISORY SERVICES

PROPOSAL MUST BE RECEIVED BEFORE:
2:00 p.m. Central Time (CT) on July 8, 2016

MAIL, HAND DELIVER, OR EXPRESS MAIL PROPOSAL TO:

Attention: Jeff Zimmermann
The Texas A&M University System
Office of HUB & Procurement Programs
301 Tarrow, Suite 366
College Station, TX 77840

**Show RFP Number, Opening Date and Time on Response
Envelope**

NOTE: PROPOSAL must be time stamped at **The Texas A&M University System Office of HUB & Procurement 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 the award, if one is made.

REFER INQUIRIES TO:
Jeff Zimmermann, Director
The Texas A&M University System
Office of HUB & Procurement Programs
Email: jzimmermann@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 2.7 for more regarding public information.

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SECTION 1 INTRODUCTION

1.1 Introduction

The Texas A&M University System (“A&M System”) is requesting proposals from firms to provide financial advisory services related to the issuance of debt and arbitrage matters.

By submitting responses, each RESPONDENT (also referred to herein as “Financial Advisor”) 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 Texas A&M University System is one of the largest systems of higher education in the nation, with a statewide network of 11 universities, seven state agencies, two service units and a comprehensive health science center. More information about the A&M System can be found at <http://www.tamus.edu/about/>.

Public bond issuance is conducted under two main programs which are rated by at least two major rating agencies.

Bonds are issued under authority granted to the A&M System in Article VII, §18 of the Texas Constitution (Permanent University Fund). The Permanent University Fund (“PUF”) utilizes a commercial paper program with an authorized limit of \$125 million. This program is used to finance capital improvement needs of the eligible members of the A&M System.

Under authority granted in Chapter 55, Texas Education Code and Chapters 1207 and 1371, Texas Government Code, and other applicable laws, the A&M System also issues revenue bonds for capital improvements. The A&M System employs a revenue debt program, which offers a combined pledge of all legally available revenues with certain exceptions (the Revenue Financing System). A commercial paper program is typically used for interim financing with long-term fixed rate bonds sold to provide more permanent financing. The commercial paper program is presently authorized up to \$300 million.

Current and advance refunding of bonds and escrow restructures of previously defeased bonds, based on market opportunities, may be expected. Evaluation of financing and refunding opportunities presented to the A&M System and developing management strategies for the conduct of the debt program require a close working relationship with the Financial Advisor.

1.3 Scope of Services

The Financial Advisor is to be responsible for all duties and services necessary or advisable to facilitate the issuance of bonds, notes, commercial paper, and other debt instruments. Also, the Financial Advisor will be responsible for advising the A&M System as related to arbitrage issues as well as performing necessary arbitrage calculations. The contract term will be negotiated with the selected Financial Advisor in accordance with State regulations and System policy.

TAMUS reserves the right to award and execute a single agreement for both a financial advisor and arbitrage rebate calculations or separate agreements for each service.

1.4 Proposer Requirements

1.4.1 The successful proposer shall be responsible for carrying out the Scope of Services outlined in Section 1.3 above.

- 1.4.2 No subcontract or third party personnel will be permitted to perform services described herein, without the written consent of the A&M System.

The proposer shall be fully responsible for all work performed under any agreement resulting from this RFP. The proposer shall describe in its proposal who will be, if any, subcontractor(s) for the contract. No subcontract, which the proposer enters into, with respect to performance of the scope of services identified in this RFP, shall in any way relieve the proposer of any responsibility for the performance of its duties under the terms of any resultant agreement.

1.5 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. 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 Texas A&M University 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 a Tier I research System.
- (d) *Financial Stability.* RESPONDENT must demonstrate its financial stability and capabilities in providing the required solution.

1.6 Performance Period

Should TAMUS, in its sole discretion, enter into an agreement with the successful RESPONDENT as a result of this RFP, the initial agreement shall be effective upon execution for a period of five (5) years. The agreement may be extended for five (5) year term, providing all parties mutually agree on the extension for any services proposed. Any extension 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 GENERAL INFORMATION

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.

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, should be presented in writing. **Deadline for submission of questions is by 5:00 P.M. June 29, 2016.** 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	June 21, 2016
Release of Addendum 1 (if applicable)	June 27, 2016
Deadline to Submit Questions	June 29, 2016
Release of Addendum 2 (if applicable)	July 1, 2016
RFP Responses Due	July 8, 2016 by 2:00 PM CT
Oral Presentations (if requested by TAMUS)	Tentative the week of July 18, 2016
Anticipated Award Date	July 29, 2016
Anticipated Start Date	September 1, 2016

* 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 Submittal Instructions

All submittals must be received by TAMUS, no later than **2:00 p.m. CT, July 8, 2016** in a sealed envelope or box marked **“RFP01 TRSY-16-018”**.

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.

2.3 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.

- 2.3.1 **Signed** Execution of Offer (Exhibit A)
- 2.3.2 **Signed and notarized** Non-Collusion Affidavit (Exhibit B)
- 2.3.3 Proposal Requirements (Section 3)
- 2.3.4 HUB Subcontracting Plan (only if applicable, refer to Section 2.8)

RESPONDENT shall provide one (1) original copy, one (1) additional hard copy, and two (2) electronic copies 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.

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.

2.4 Inquiries and Interpretations

Responses to all inquiries which directly affect an interpretation or change to this RFP will be issued in writing by amendment/addendum and posted to the ESBD. The amendment/addendum will include a list of all questions submitted by all firms, with responses, and will be available to all firms. All such amendments/addendums shall be considered part of the RFP, and the Respondent shall be required to consider such in its response. Only those inquiries replied to by formal written amendment/addendum shall be binding. Oral and other interpretations or clarification will be without legal effect. It is the responsibility of interested Respondents to regularly check the ESBD for any possible amendment/addendum to this RFP.

In the event an amendment/addendum is posted to the ESBD, Respondents shall acknowledge receipt of such amendment/addendum in the Addenda Acknowledgment section of the Execution of Offer.

2.5 Definitions

Whenever the following terms are used in these General Terms and Conditions or in other documents the intent and meaning shall be interpreted as follows:

The A&M System and TAMUS shall mean The Texas A&M University System.

Respondent/Proposer shall mean the individual, partnership, corporation, or other entity responding to this RFP.

Financial Advisor (Firm/Company/Agent) shall mean the individual, partnership, corporation, or other entity awarded an agreement for services provided under this RFP in accordance with the terms, conditions, and requirements herein.

2.6 Selection Process

TAMUS will base its choice on demonstrated competence, experience, and qualifications as well as the reasonableness of the proposed fee for the requested services. The A&M System will give first consideration to firms whose principal place of business is located in Texas and to those firms with previous experience specifically related to college or university systems as well as consolidated revenue financing systems.

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.

2.7 Public Information Act

- (a) RESPONDENT acknowledges that TAMUS 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 TAMUS written request, RESPONDENT will provide specified public information exchanged or created under this RFP that is not otherwise excepted from disclosure under chapter 552, *Texas Government Code*, to TAMUS in a non-proprietary format acceptable to TAMUS. As used in this provision, “public information” has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which TAMUS has a right of access.
- (c) RESPONDENT acknowledges that TAMUS may be required to post a copy of the fully executed Agreement on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.

2.8 HUB Subcontracting Plan

It is the policy of the state of Texas and the A&M System 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 A&M System contracting and purchasing.

Based on the scope of this RFP, RESPONDENTs must determine if they can perform the entire scope with their own resources or if it will be necessary to subcontract any portion of the scope. Subcontracting opportunities are defined as those opportunities contracted with a Respondent to provide services, supply commodities, or contribute toward completing work for a governmental entity.

Subcontracting opportunities are NOT anticipated for this RFP and therefore a HUB Subcontracting Plan (HSP) is NOT required.

However, if a subcontractor will be used to provide any commodity or service as part of this scope, the Respondent WILL BE required to make a good faith effort and complete the state of Texas HSP. Complete the HSP as found at <http://www.tamus.edu/business/hub-procurement/hub-programs-3/system-offices-hub-program/> and submit it with the RFP response. If there are pre-existing agreements in place with companies who will be hired as subcontractors, the respondent will show those companies as subcontractors on the HSP and provide an explanation as to why solicitations were not done, e.g. contractual requirements. If no pre-existing agreements with companies who will be hired as subcontractors exist, then the respondent will be expected to make a good faith effort according to the HSP instructions. Don't forget to include any backup documentation and sign the HSP form.

For information regarding the HUB Subcontracting Plan requirements, please contact Jeff Zimmermann from the A&M System's HUB Program at (979) 458-6410 or jjzimmermann@tamus.edu for assistance in determining available HUB subcontractors and proper completion of the HSP. Respondents have the opportunity to submit a draft of the HSP prior to submittal of their response to the RFP for review by Mr. Zimmermann.

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.

SECTION 3 SCOPE & PROPOSAL REQUIREMENTS

3.1 Respondent's General Responsibilities

The Respondent selected by the A&M System shall assume responsibility for all services offered in its proposal, and shall be the sole point of contact on contractual matters, including payment of any and all fees under the terms of the Agreement resulting from this RFP. The A&M System will establish a method by which to review or audit Respondent's performance to determine sufficiency of performance and compliance with the requirements of the Agreement. The Agreement shall specify sanctions for Respondent's failure to comply with the requirements of the Agreement. The Respondent selected by the A&M System shall be totally responsible for management of the services provided under the Agreement resulting from this RFP (if any).

3.2 Description of Services

Services the Financial Advisor will perform include, but are not limited to, the following:

- 3.2.1 Consult with A&M System staff, bond counsel, and others to schedule and facilitate the authorization, sale, and delivery of bonds, notes, commercial paper, and other debt instruments.
- 3.2.2 Assist the A&M System in developing and/or revising policies related to the issuance of debt.
- 3.2.3 Advise the A&M System on the feasibility of financings and the proper structure to ensure the most advantageous issuance and to achieve the lowest cost to the A&M System, while meeting special requirements of state-funded capital projects and other capital improvement projects.
- 3.2.4 Prepare preliminary and final Official Statements, Notice of Sale and Bidding Instructions, and Office Bid forms, print such documents, and deliver such documents as appropriate.
- 3.2.5 Assist the A&M System bond counsel with the preparation of a bond resolution and other proceedings by performing and providing calculations related to the authorization, sale, and delivery of bonds, notes, commercial paper, and other debt instruments.
- 3.2.6 Advise the A&M System of current market conditions, upcoming bond issues, economic data, and other information which may affect interest rates or bidding conditions to assist in the determination of a sale date for bonds, notes, or commercial paper.
- 3.2.7 Communicate with and make presentations to nationally recognized rating agencies along with A&M System staff to achieve favorable ratings on bonds to be issued and previously issued bonds.
- 3.2.8 Assist the A&M System staff in the evaluation of bids for competitive issues to include checking the bids for accuracy, providing an evaluation of bids, and recommending the best bid.
- 3.2.9 Consult on qualified underwriters for a negotiated sale to include evaluating presentations made by such underwriters, drafting a request for information (if needed), and sharing other information that will assist the A&M System Staff in choosing an underwriter or underwriting team.
- 3.2.10 Handle the bidding process for paying agent, verification agent, and escrow agent services for bond issues.
- 3.2.11 Handle the bidding process for funding of escrow accounts as needed.
- 3.2.12 Pay debt issuance costs from debt proceeds allocated for that purpose as approved by the A&M System. Provide an accounting of issuance costs and return unused debt proceeds.

- 3.2.13 Attend meetings with the A&M System staff, the Board of Regents, the Texas Bond Review Board, rating agencies, or others as requested.

The Financial Advisor will be paid for its services on a per bond price basis. There will be no additional compensation for routine consultations on matters related to debt management including, but not limited to, rating agency and dealer relationships, paying agent relationships, comparative bond issue data, market trends and conditions, and special legislation. The Financial Advisor will be reimbursed for reasonable out-of-pocket expenses associated with the issuance of debt, subject to the approval of representatives of the A&M System. Payment will be made from debt proceeds at the time of settlement. Charges related to arbitrage calculations will be paid separately upon completion of the calculations.

3.3 **Technical Proposal**

Proposer must address each of the following items within their proposal response:

- 3.3.1 Provide a brief description of your firm, its history, and general experience.
- 3.3.2 List previous financial advisor or financial consultant experience within the State of Texas, with particular emphasis on Texas systems and university issues. Indicate in what capacity your firm served.
- 3.3.3 Name the individuals and provide resumes for those individuals who would be assigned to act as Financial Advisor(s) to the A&M System. Please indicate the role the individuals assumed in Financial Advisor relationships. Indicate their particular expertise and how it would benefit the A&M System.
- 3.3.4 Outline of the firm's general experience during the past five years with the major rating agencies.
- 3.3.5 Discuss the firm's experience as related to arbitrage calculations and issues.
- 3.3.6 Provide any other information about the firm that you feel is relevant to the consideration of your firm being chosen as Financial Advisor.

3.4 **Cost Proposal**

- 3.4.1 Include the financial advisory fee based on a per \$1,000 debt basis.
- 3.4.2 Include other forms and amounts of compensation with an explanation of the charges, if applicable.

3.5 **References**

RESPONDENT must furnish at least three (3) references with at least two being from an institution of higher education with a similar engagement opportunity. Each reference shall contain at least the following:

- Company/Agency name & address:
- Contact Person Name & Title:
- Contact phone number:
- Contact email:
- Summary of services provided

SECTION 4 GENERAL TERMS AND CONDITIONS

- 4.1 **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.

- 4.2 **GOVERNING LAW:** RESPONDENT agrees that, in the event of a dispute, laws of the State of Texas will prevail.
- 4.3 **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, sexual orientation, gender identity, 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.
- 4.4 **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.
- 4.5 **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.
- 4.6 **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.
- 4.7 **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.
- 4.8 **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.

4.9 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.

4.10 CIVIL RIGHTS REQUIREMENTS: All RESPONDENTS must comply with applicable civil rights laws.

4.11 NON-COLLUSION CLAUSE: The Non-Collusion Affidavit found in **APPENDIX B** must be executed as a part of the RESPONDENT's submittal.

4.12 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.

4.13 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.

4.14 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.

4.15 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

4.16 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.

4.17 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.

4.18 **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.

4.19 **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.

4.20 **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 TAMUS. By requiring such minimum insurance, TAMUS 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 TAMUS at least ten days before the effective date of the cancellation.

Insurance:

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 TAMUS. 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.

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.

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. RESPONDENT will deliver to TAMUS:

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, and The Texas A&M University 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, and The Texas A&M University System. No policy will be canceled without unconditional written notice to TAMUS 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 TAMUS 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 TAMUS 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 TAMUS 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 TAMUS in writing.

- 4.21 **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.
- 4.22 **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.
- 4.23 **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.
- 4.24 RESPONDENT shall neither assign its rights nor delegate its duties under this Agreement without the prior written consent of TAMUS.
- 4.25 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).
- 4.26 **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.

- 4.27 **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.

- 4.28 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.
- 4.29 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.

EXHIBIT A
EXECUTION OF OFFER

RFP01 TRSY-16-018

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 qualifications may result in rejection of the qualifications.

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 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 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 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,
- (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 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: _____

* 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 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 _____, 2015.

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.