



TEXAS HIGHER EDUCATION COORDINATING BOARD

Request for Proposal (RFP)

Open Educational Resources Nursing Essentials (O.N.E.) Project Implementation Phase

No. 781-2-27467

Texas Higher Education Coordinating Board
1200 East Anderson Lane
Austin, Texas 78752

NIGP Codes: 715-00, 715-88

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| Solicitation Post Date: | July 29, 2022 |
| Written Questions Deadline: | August 10, 2022, 11:30 p.m. CT |
| Proposal Deadline: | August 29, 2022, 11:30 p.m. CT |

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1. Introduction

The Texas Higher Education Coordinating Board (THECB) is a state agency that provides leadership and coordination for higher education in the state of Texas. One of the greatest challenges facing Texas is the lack of qualified nurses to meet the needs of Texans' healthcare. Developing open educational resources (OER) will decrease student costs associated with achieving higher education degrees and credentials in nursing, a high-need field. Providing clear curriculum and related instructional OER will support the educational efforts of Texas institutions and ensure nursing students are current in emerging competencies and practice and demonstrate proficiency on the revised nursing certification assessments.

THECB seeks one or more vendors to complete the implementation stage of the Open Educational Resources Nursing Essentials (O.N.E.) Project, which aims to complete the development of identified OER resulting from a thorough analysis of both the American Association of Colleges of Nursing *Essentials* curriculum and current nursing OER landscape. During the O.N.E. project discovery stage, stakeholder analysis identified the needed OER textbooks and ancillaries necessary for institutions of higher education to implement the *Essentials* curriculum. The planning stage, which precedes the implementation stage, will outline the process for the development of OER for the *Essentials* curriculum.

2. Minimum Eligibility Requirements

2.1 Experience

Respondents must have a minimum of five years' experience providing services like those described in Section 3., Scope of Work. An entity or company in existence for fewer than five years is eligible to submit a Proposal if key personnel on the proposal team have the minimum required experience. Respondents who do not meet this requirement are not eligible for award.

THECB encourages Historically Underutilized Businesses to compete for this award.

2.2 Qualifications

2.2.1 Company Profile

Respondents must demonstrate their knowledge and expertise of the environment for which work is to be performed. Respondents' employees and/or subcontractors must have the appropriate background experience to perform the work required under this RFP. Respondents must submit a Company Profile that outlines their experience and expertise in the area of management of Open Educational Resource (OER) development, including their

capability to perform the required services. Respondents should include experience working with discipline-relevant stakeholders to develop, produce, review, and upload the OER into the Texas Open Educational Resources repository (OERTX), the state’s repository for OER. Respondents should also be experienced in presentation of work and OER products to agencies, stakeholders, institutional representatives, and other OER users.

The following shall be included with the Company Profile:

- Organization chart;
- Management team resumes; and
- Key personnel resumes, illustrating the qualifications of each individual to perform the services described in this RFP including expertise in management of OER development, creation, and publishing.

2.2.2 Key Staff and Qualifications of Key Staff

Respondents must provide staff who are fully knowledgeable of the work required under this RFP. Proposed key staff must have the appropriate background skills, knowledge, experience, and training. Evidence of qualifications must be included in the Company Profile.

3. Scope of Work

Awarded Respondent will engage in the management of the development of OER for nursing curriculum, as outlined below. The curriculum is based on the American Association of Colleges of Nursing (AACN) *Essentials* 2021 Curriculum, as identified in the O.N.E. discovery and planning stages.

Awarded Respondent will provide bi-weekly updates to THECB Project Management and Director. Additionally, Awarded Respondent will provide an announcement and project presentation on the OER completion to THECB no later than December 31, 2023.

3.1 Expected Activities

Awarded Respondent will:

- Manage authoring of up to eight OER textbooks and ancillary materials as identified in existing O.N.E. Planning Phase Report:
 - Oversee the drafting, revision, and publication of up to eight OER textbooks;
 - Oversee the creation of OER ancillary materials, including but not limited to implementation guides, suggested answers, rubrics, case study

- frameworks, alignment with the AACN *Essentials* curriculum, and extended student support materials;
- Ensure textbooks and ancillary materials meet accessibility standards and universal design principles;
- Ensure textbooks and ancillary materials are properly formatted for inclusion in the OERTX Repository;
- Ensure all OER licensed for statewide (and beyond) use by nursing educators; and
- Collaborate with stakeholder authors and illustrators/artists in creation of textbook artwork, manage production of artwork creation and incorporation into digital textbooks.
- Manage peer review process of textbooks:
 - Collaborate with subject matter experts (SMEs) appropriate for each textbook review; and
 - Convene review committees to identify any areas for revision and edits.
- Create and provide to the THECB Division of Digital Learning the announcement for publication of new OER nursing resources.
- Provide THECB agency leadership with project presentation at completion of project.
- Organize and host a two-day event focused on successful adoption and use of materials (may occur after contract end date).
- Conduct a series of workshops for potential faculty adopters using project deliverables (may occur after contract end date).

3.2 Deliverables

Awarded Respondent will:

- Write the OER textbooks, as identified in the tables of contents developed through the O.N.E. project planning stage;
- Incorporate the required artwork creation into said textbooks;
- Produce at minimum the ancillary materials identified in O.N.E. project planning stage;
- Manage the textbook peer review process;
- Ensure appropriate licensing of all materials for O.N.E. project (textbooks and ancillaries);

- Format deliverables for accessibility and usability and inclusion into the OERTX Repository;
- Create and provide announcement of publications to THECB;
- Provide presentation to THECB agency leadership;
- Organize and host a two-day event focused on adoption and use of project materials; and
- Conduct faculty material adoption workshops for interested faculty.

3.3 Acceptance Criteria

Awarded Respondent shall comply with the following acceptance criteria:

Actionable Deliverables which successfully meet all requirements outlined in the RFP shall be provided by the dates reasonable and mutually agreed upon by both parties. Any changes to delivery dates must have THECB's prior written approval.

All Deliverables must be submitted in a format approved by THECB. THECB has the sole responsibility in determining the completeness of Awarded Respondent's work. THECB will complete a review of each submitted Deliverable within a mutually agreed upon timeframe from the date of receipt.

In the event THECB does not approve a Deliverable, Awarded Respondent will be notified in writing with the specific reasons. Awarded Respondent will have up to five (5) business days to correct the unaccepted Deliverable.

Awarded Respondent shall correct any latent defects identified after the acceptance of a Deliverable (where appropriate) at no additional charge to THECB.

4. Reports and Meetings

4.1 Reports

Awarded Respondent is required to provide reports in the format and manner prescribed by THECB throughout the life of the project including:

- Provide scheduled bi-weekly updates to THECB Project Management and Director;
- Provide manuscripts for all titles by June 30, 2023;
- Provide THECB agency leadership with project update presentation upon publication of materials; and

- Provide THECB ongoing access to analytics on use, adoption, and cost savings after publication of materials.

4.2 Meetings and Communication Plan Between Meetings

Meetings may be scheduled via teleconference/videoconference or in-person as mutually agreed upon between THECB and Awarded Respondent. Ad hoc meetings may occur, as necessary. Awarded Respondent must maintain communications to address issues that arise between meetings or progress reports.

5. Payment and Pricing Terms

5.1 Pricing

Respondent’s pricing must be all-inclusive, covering all services required to provide all Deliverables as described in this RFP, including travel expenses, personnel costs, and all other necessary expenses required in the performance of the Contract. Respondent shall propose pricing based on key deliverables/milestones using the below format or similar format to adequately describe deliverables and pricing structure. Submit this information on an EXCEL document.

| Respondent Pricing Sheet | | |
|--------------------------|------------------------------|-------|
| Deliverable No. | Deliverable Name/Description | Price |
| | | |

5.2 Payment Terms and Award Summary

Awarded Respondent will be reimbursed for deliverables completed and approved by THECB. Awarded Respondent will submit invoices to THECB that detail the itemized associated costs of the services rendered or deliverables completed.

THECB will make payments for services in accordance with the Texas Prompt Payment Laws, Texas Government Code §§ 2251.001-.055.

Awarded Respondent agrees not to begin or provide any services until issuance of an executed Contract by THECB. THECB does not guarantee a specific compensation to Awarded Respondent throughout the term of the Contract. Awarded Respondent is not guaranteed minimum compensation.

THECB will not apply for credit nor will THECB prepay. THECB shall pay, subject to the terms of the Texas Prompt Payment Laws, upon the receipt of a properly submitted invoice after all goods and services have been received.

THECB shall award the Contract to the most qualified Respondent(s) successfully meeting the criteria and conditions as outlined in this RFP.

5.3 Invoices

Upon completion of a deliverable and acceptance by THECB based on the requirements and acceptance criteria set forth in this RFP, Awarded Respondent may submit an invoice to THECB setting forth amounts due in accordance with Terms and Conditions.

Each invoice submitted must include the purchase order or contract number and deliverable for which the invoice relates. All invoices must be sent to the Contract Manager on file.

Prior to any payment being made, THECB shall certify that the goods and services being invoiced have been received and approved for payment. Payments will be made in accordance with Section 5.2 above.

5.4 Payment Instructions

To receive payment, Awarded Respondent must submit an invoice to accountspayable@highered.texas.gov and the designated THECB Contract Manager(s). The invoice must include the following information:

1. Respondent's mailing and e-mail (if applicable) address;
2. Respondent's telephone number;
3. The name and telephone number of a person designated by Respondent to answer questions regarding the invoice;
4. THECB's name, agency number (781), and delivery address;
5. The THECB purchase order number, if applicable;
6. The contract number or other reference number, if applicable;
7. A valid Texas identification number (TIN) issued by the comptroller;
8. A description of the goods or services, in sufficient detail to identify the order which relates to the invoice;
9. The unit numbers corresponding to the amount of the invoice, if applicable;
10. If submitting an invoice after receiving an assignment of a contract, the TIN of the original contractor and the TIN of the successor vendor;
11. Other relevant information supporting and explaining the payment requested.

6. Contract Term and Termination

The Contract shall commence upon execution of a Contract by THECB with Awarded Respondent and end upon the earlier of completion of the scope of work set forth in Section 3., or December 31, 2023. THECB may extend Contract for up to one additional year via a written amendment, with Awarded Respondent's agreement.

7. Terms and Conditions

See Attachment D, Anticipated Contract for terms and conditions.

8. Additional Terms and Conditions in Resulting Contract

8.1 Awarded Respondent Responsibilities

THECB shall look solely to Awarded Respondent for compliance with all the requirements of this RFP and the resulting Contract. Awarded Respondent shall be the sole point of Contract responsibility and shall not be relieved of non-compliance of any subcontractor.

Failure to meet service requirements and/or specifications authorizes THECB to procure services of this RFP elsewhere and charge any increased costs for the services, including the cost of re-soliciting, to Awarded Respondent.

8.2 Intellectual Property Rights

THECB and Award Respondent acknowledge and agree that all work products generated as a result of a Contract between them, including but not limited to all information, materials, products, research, reports, studies, statistical analyses, work papers, approaches, designs, deliverables, systems, documentation, methodologies, concepts, research materials, data, photos, software, intellectual property, or other property produced or generated in connection with a Contract that had not previously been produced or generated by Awarded Respondent, either completed or partially completed, shall be the sole property of Awarded Respondent or authors, as applicable. Upon payment for the services, Awarded Respondent shall provide to THECB the work products set forth in Section 3.2 for further development and submission to the OERTX. Such materials will be openly licensed, royalty-free in perpetuity in OERTX with attribution to the Awarded Respondent or author. Awarded Respondent grants THECB a royalty-free license to use of the work products for the sole purpose of further development of open education resources for nursing curriculum. Included within the license is THECB's rights limited to the sole purpose of further development and creation of open education resources for nursing curriculum, to: (1) obtain, reproduce, develop, publish, or otherwise use the work

product first produced under a Contract and (2) authorize others to receive, reproduce, develop, publish, or otherwise use such work product.

8.3 FERPA Confidentiality and Data Governance Provisions

Family Educational Rights Privacy Act. Awarded Respondent agrees to comply with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and the implementing federal regulations, 34 C.F.R. Part 99; the Children’s Online Privacy Protection Act (COPPA); and Individuals with Disabilities Education Act (IDEA). It is understood and agreed that Awarded Respondent shall not be required to access student level or any other FERPA confidential data in order to provide the services required under this RFP, and THECB agrees not to knowingly provide Awarded Respondent with access to such information. Awarded Respondent shall not knowingly view, access, acquire, transfer, copy, or otherwise reproduce any student level or other FERPA confidential data.

Data Security. Awarded Respondent warrants that it has a sound data security program, that, at a minimum, meets industry standards, that protects both data at rest and data in transmission. Awarded Respondent shall ensure that proper information security controls are in place and shall comply with all requirements and security protocols found in Title 1, Texas Administrative Code, Chapter 202, Texas Cybersecurity Framework Standards, and other applicable laws, including FERPA. Awarded Respondent shall notify THECB of any data breach involving education records, Personally Identifiable Information (PII), or any other confidential or sensitive information *not later than twenty-four (24) hours after discovery of a security incident that may constitute a data breach.* Awarded Respondent shall immediately mitigate any such breach and ensure that any disrupted services are timely and without delay, brought back into service. Awarded Respondent shall be responsible for any data breach notifications and damages that are required by state or federal law and shall coordinate such notification with THECB. This section shall survive termination of a Contract.

Pursuant to Texas Government Code § 2054.138, to the extent that Awarded Respondent is authorized to access, transmit, use, or store THECB data, Awarded Respondent agrees to meet all security controls that THECB determines are proportionate with THECB’s risk under the contract based on the sensitivity of the THECB data.

8.4 Technical Documents

All technical documents developed or procured by Awarded Respondent shall not be proprietary in nature, such that THECB is limited in the use of such documents. If any

such documents are proprietary, including training materials, Awarded Respondent must identify such documents and provide THECB with any technical support and training for use of such documents, prior to the transfer of such documents to THECB.

9. Schedule of Events

9.1 Due Date for Proposals

Respondents shall submit Proposals to THECB no later than the Proposal Due Date indicated in the Calendar of Events section below. Proposals received after the deadline will be rejected for being late and will not be considered for evaluation.

9.2 Calendar of Events

The solicitation process for this RFP will proceed according to the schedule below. THECB reserves the right to revise this schedule or any portion of this RFP by published addendum on THECB's website.

| EVENT | DEADLINE |
|--|------------------------------|
| Publication of RFP on Electronic State Business Daily (ESBD) and THECB's Website | July 29, 2022 |
| Last Day to Submit Written Questions | August 10, 2022, 11:30 pm CT |
| THECB's Anticipated Response to Written Questions | August 18, 2022 |
| Proposal Due Date and Time | August 29, 2022, 11:30 pm CT |
| Post-Proposal Presentations, if required | September 6-8, 2022 |
| Anticipated Contract Start Date | October 3, 2022 |

THECB will only accept written questions and requests for clarification via email to the Point of Contact listed below. THECB will post responses to written questions on the THECB website and the ESBD.

9.3 Point of Contact

Respondents shall direct all inquiries, written questions, requests for clarification, and communications concerning this RFP to the Point of Contact listed below. Inquiries and comments must reference RFP No. 781-2-27467.

Jacqueline Boilard
Office of General Counsel
Texas Higher Education Coordinating Board
eBids@highered.texas.gov

Please Note: Ms. Boilard is the only THECB employee permitted as the point of contact. Contact or attempted contact with other THECB employees, including Commissioners and their staff, may result in a Respondent's immediate disqualification.

All THECB responses must be in writing to be binding. Any information THECB deems to be important and of general interest or which modifies requirements of the RFP shall be provided in the form of an addendum to the RFP on THECB's website and the ESBD.

10. Proposal Format and Content (Required)

10.1 RFP Attachments

This RFP also includes the following attachments, posted on THECB's website and the ESBD:

1. Attachment A: Execution of Proposal (Required), including the following:
 - a. Respondent Information
 - b. Texas Family Code § 231.006(c)
 - c. Texas Government Code § 669.003
 - d. Preferences
 - e. Exceptions to Terms and Conditions
 - f. Respondent Acknowledgement
 - g. Signature
2. Attachment B: HUB Subcontracting Plan (Required)
3. Attachment C: Conflict of Interest Disclosure Statement (Required)
4. Attachment D: Copy of Anticipated Contract (for reference only)

10.2 Organization of the Proposal for Submission

Proposals must be submitted to the Point of Contact by an authorized representative via email to eBids@highered.texas.gov and received by THECB prior to the deadline.

The subject line of the email shall be entitled “Proposal Submitted for RFP No. 781-2-27467.” THECB recommends a limit of 75 MB for each attachment.

Proposals shall include all required attachments in the order outlined below and be in the format described herein. THECB will not accept attachments submitted after the Proposal deadline. Failure to submit all required information shall make the Proposal nonresponsive and thus disqualified from consideration.

Respondents are solely responsible for thoroughly understanding this RFP and its attachment. Any questions concerning this RFP should be directed to the Point of Contact by the Deadline for Submitting Questions identified in Section 9.2.

Respondent is cautioned to pay particular attention to the clarity and completeness of its Proposal. Respondent is solely responsible for its Proposal and all documentation submitted. Respondents shall be as precise, accurate, and succinct as possible. Respondents shall provide detailed descriptions of how they will fulfill each requirement. The clarity and completeness of a Proposal may be considered by THECB evaluators.

No mailed, hand-delivered, or faxed Proposals will be accepted.

Proposal shall include:

Failure to submit any items or submitting incomplete items will result in deeming the Proposal unresponsive during the administrative review.

1. The Excel file containing the pricing as described in Section 5.1.
2. The first PDF shall contain responses to the following in this order:
 - Minimum Eligibility Requirements under Section 2. and all subsections of Section 2.
 - Scope of Work under Section 3. and all subsections of Section 3.
 - Each Respondent shall provide at least three (3) references, including contact information. THECB prefers references from clients for whom Respondent has performed similar work, including other state agencies. Do not use THECB or any individuals employed by THECB as a reference.

3. The second PDF shall contain the following:

- Transmittal Letter: Respondent shall provide a Transmittal Letter addressed to the Point of Contact that identifies the person or entity submitting the Proposal and includes a commitment by that person or entity to provide the services required by THECB through this RFP and the Anticipated Contract.

The Transmittal Letter must be signed by a person legally authorized to bind Respondent. The letter must specifically identify that the Proposal is in reference to enter the specific name of the THECB's RFP. **The letter must state, "The Proposal enclosed is binding and valid at the discretion of THECB."**

Additionally, the Transmittal Letter shall indicate that the Proposal is good for ninety (90) days. **The letter must also include "full acceptance of the terms and conditions described in this Statement of Work."**

Any exceptions to this RFP must be specifically noted in the letter. However, any exceptions may disqualify the Proposal from further consideration. If Respondent takes any exceptions to any provision of this RFP, these exceptions must be specifically and clearly identified by Section and Respondent's proposed alternative must also be provided. Respondent cannot take a "blanket exception" to the entire RFP. If any Respondent takes a "blanket exception" to this entire RFP or does not provide proposed alternative language, the Proposal may be disqualified from further consideration.

Any terms and conditions attached to a Proposal will not be considered unless specifically referred to in this RFP and Respondent's attachment of such terms and conditions to a Proposal may disqualify the Proposal.

Respondents are strongly encouraged to submit written questions during the inquiry period regarding any terms and conditions of this RFP.

- Execution of Proposal (Attachment A)
- HUB Subcontracting Plan (Attachment B) – All information on Attachment B is required to be completed. The form can also be found [here](#).

In compliance with Texas Government Code §§ 2161.001-.253, it is THECB's policy to promote and encourage contract and subcontract opportunities for state of Texas certified Historically Underutilized Businesses in all contracts. Eligible Respondents are encouraged to

become state of Texas HUB certified. Applications may be found at: <https://comptroller.texas.gov/purchasing/vendor/hub/>.

Definitions for state of Texas HUB certifiable businesses can be found in the Texas Administrative Code. [34 Tex. Admin. Code § 20.282](#).

A HUB Subcontracting Plan Form must be filled out and returned with the Proposal to be considered responsive. If the Proposal does not include a HUB Subcontracting Plan, it shall be rejected as a material failure to comply with advertised specifications. Please see the attached HUB Subcontracting Plan for further instructions which requires vendors to identify the specific areas intended for subcontracting.

Search the state of Texas HUB Database for HUB vendors by the NIGP class and item [here](#). Additional minority and women owned business association resources are available for subcontracting notices are available on the Texas Comptroller's [website](#). Additional information and training regarding how to complete a HUB Subcontracting Plan can be found [here](#).

Please note you must allow HUBs at least seven (7) working days to respond to your notice prior to your bid response submission to THECB.

- Conflict of Interest Disclosure Statement (Attachment C)

The Conflict of Interest Disclosure Statement is required and must be attested to by an unsworn declaration. Respondents shall be neutral and impartial, shall not advocate specific positions to THECB. Respondents shall identify the extent, nature, and length of these relationships or engagements. Entities having a conflict of interest, as determined by THECB, will not be eligible for contract award.

If a Respondent does not have any known or potential conflict of interest, the Proposal shall include such a statement. **Failure to provide either a statement on potential conflicts of interest or a statement that no potential conflicts exist shall automatically disqualify Respondent.**

This Conflict of Interest Disclosure Statement shall be signed by the highest-ranking officer of Respondent's entity having responsibility for vetting corporate conflicts of interest, e.g., a corporate Executive Vice President rather than the head of an operating or regional unit of the firm.

THECB will determine whether a conflict of interest or the perception of a conflict of interest exists from the perspective of a reasonable person uninvolved in the matters covered by the resulting contract. THECB is the

sole arbiter of whether a conflict or the appearance of a conflict of interest exists.

THECB encourages Respondents to provide complete disclosure of matters that might be considered a conflict of interest. Completeness of disclosure may be a factor in evaluating Proposals.

Each Respondent must also address how it intends to ensure that no interest arising or potentially arising as a result of its activities or those of its parent, affiliate, or other related entity shall conflict with Respondent's duty should it be selected to provide these services.

THECB may not enter a contract with a person it has employed within the past twelve (12) months. Persons who have been employed by THECB or by another state agency in Texas more than twelve (12) months but fewer than twenty-four (24) months ago shall disclose in the Proposal the nature of previous employment with the state agency and the date the employment ended.

NOTE: THECB, as a state agency, is prevented by the Texas Constitution from indemnifying a Respondent. Respondent is discouraged from including a term in its Proposal that requires THECB to indemnify it. Such a term may result in the Proposal being deemed nonresponsive.

The Proposal shall include all information required in this RFP. Respondent is solely responsible for thoroughly understanding the RFP and its attachment. Questions should be directed to the Point of Contact by the Deadline for Submitting Questions.

10.3 Additional Considerations

- Respondent shall be as precise, accurate, and succinct as possible.
- Respondent shall provide detailed descriptions of how it will fulfill each requirement. The clarity and completeness of a Proposal may be considered by THECB evaluators.
- Respondent is cautioned to pay particular attention to the clarity and completeness of its Proposal.
- Respondent is solely responsible for its Proposal and all documentation submitted.
- All written deliverables must be phrased in terms and language that can be easily understood by non-technical personnel (e.g., laypersons without subject matter expertise).

- All items of the Contract shall be done in accordance with Awarded Respondent Responsibilities.
- THECB may request oral presentations.

11. Proposal Evaluation Criteria

THECB will review and score responsive Proposals according to the Evaluation Criteria outlined in the table below. The relative weight of each criterion is indicated in the right-hand column.

| Evaluation Criteria Table | |
|--|---------------|
| Criterion | Weight |
| Qualifications and Experience (35%) | |
| ○ Demonstrated ability to complete a project performing similar work, including history of success in OER publishing (specifically textbooks) and administration of an OER authoring-publishing platform | 20% |
| ○ Demonstrated experience working with nursing faculty and administrators to ensure current knowledge of the field | 5% |
| ○ Demonstrated experience with peer review process | 5% |
| ○ Demonstrated experience working with Texas higher education and the open education community | 5% |
| Quality of Deliverable Design (30%) | |
| ○ Proposal addresses expected activities in the Scope of Work in Section 3., including all subsections | 10% |
| ○ Proposal provides approach for incorporating planning stage deliverables into implementation plan for creation of OER | 10% |
| ○ Quality of samples of representative artifacts aligned with this RFP | 5% |
| ○ Proposal includes description of ability to provide ongoing usage data access outlined in Section 4. | 5% |
| Timelines (20%) | |
| ○ Project plan provides an acceptable and reasonable timeline for implementation and completion of all deliverables and meets expectations as outlined in this RFP | 20% |
| Fees and Costs (15%) | |
| ○ Respondent Pricing Sheet includes project fees and costs that are reasonable given the scope of work presented, and includes sufficient details to justify proposed fees and costs | 15% |
| Total | 100% |

THECB will consider best value for the State, as directed by Texas Government Code § 2155.074, when selecting a Respondent, in addition to the Evaluation Criteria above. THECB will be the sole judge of best value. Best Value criteria may include, but is not limited to:

- a) The Proposal that best meets the goals and objective as stated in this RFP;
- b) The Proposal that indicates Respondent's ability to reliably perform the required tasks/deliverables described in this RFP;
- c) Respondent's ability to adhere to the schedule and delivery terms (if applicable);
- d) Respondent's experience in providing services in this RFP;
- e) Past Vendor Performance: In accordance with Texas Government Code §§ 2155.074 and 2262.055, vendor performance may be used as a factor in the award (if applicable); and
- f) Other factors relevant to determining the best value for the state in context of this particular purchase (i.e., certifications/licensure, reference checks, pricing, etc.).

12. Additional Instructions

12.1 Accuracy of the Proposal

Respondent's Proposal shall be true and correct and shall contain no cause for claim of omission or error. Proposals may be withdrawn in writing at any time prior to the submittal deadline.

12.2 Cost of Submitting the Proposal

THECB will not reimburse Respondent for any cost related to its Proposal. Respondent is responsible for any expense related to the preparation and submission of its Proposal.

12.3 Public Information Act Disclosures

THECB is a government agency subject to the Texas Public Information Act (PIA), Texas Government Code §§ 552.001-.376. The Proposal and other information submitted to THECB by Respondent are subject to release as public information. The Proposal and other submitted information shall be presumed to be subject to disclosure unless a specific exception applies to disclosure under the PIA. If it is necessary for Respondent to include proprietary or otherwise confidential information in its Proposal or other submitted information, Respondent must clearly label that proprietary or confidential information and identify the specific PIA exception that applies to disclosure. Merely making a blanket claim that the entire

Proposal is protected from disclosure because it contains some proprietary information is not acceptable and shall make the entire Proposal subject to release under the PIA. In order to trigger the process of seeking an Attorney General Opinion on the release of proprietary or confidential information, the specific provisions of the Proposal that are considered by Respondent to be proprietary or confidential must be clearly labeled as described above. Any information which is not clearly identified as proprietary or confidential shall be deemed to be subject to disclosure pursuant to the PIA. Respondent is required to make any information created or exchanged with the state pursuant to the solicitation or contract, and not otherwise excepted from disclosure under the PIA, available in a format that is accessible by the public at no additional charge to the state.

Respondent, by submitting a Proposal, shall thereby be irrevocably deemed to have fully indemnified and agreed to defend THECB from any claim of infringement in the intellectual rights of Respondent or any third party for any materials appearing in the Proposal.

12.4 Irrevocability of the Proposal

The Proposal is irrevocable for ninety (90) calendar days following the Proposal Due Date and Time identified in this RFP. This period may be extended at THECB's request with Respondent's written agreement.

12.5 Affirmations and Required Clauses

False Statements. Respondent represents and warrants that all statements and information prepared and submitted in its Proposal are current, complete, true, and accurate. Submitting a Proposal with a false statement or material misrepresentation made during the performance of a contract is a material breach of contract and may void the submitted Proposal and any resulting contract.

Signature Authority. By submitting the Proposal, Respondent represents and warrants that the individual submitting this document and the documents made part of its Proposal is authorized to sign such documents on behalf of Respondent and to bind Respondent under any contract that may result from the submission of its Proposal.

12.6 Conflicting RFP Language

If language contained in a particular Section of the RFP is found to be in conflict with language in another Section, the most stringent requirement(s) shall prevail.

Award Notice: If the RFP is awarded, THECB will post a Notice of Award on the Electronic State Business Daily (ESBD). However, there is no guarantee that a Contract or any

purchase order will result from this RFP. **THECB will not respond to inquiries regarding procurement status.**