



## **REQUEST FOR QUALIFICATIONS**

### **Financial Audit Services**

**RFQ No. 781-1-23173**

**NIGP: 946-20**

**SOLICITATION POST DATE: JULY 27, 2020**

**WRITTEN QUESTIONS DEADLINE: AUGUST 17, 2020**

**PROPOSAL DEADLINE: 5:00 p.m. CST/CDT, AUGUST 25, 2020**

# Table of Contents

<b>1.</b>	<b>Overview .....</b>	<b>3</b>
1.1	Term of Contract.....	3
1.2	Point of Contact .....	3
<b>2.</b>	<b>Description of Services.....</b>	<b>3</b>
2.1	Description of Services Requirements.....	3
2.2	Statement of Work.....	4
2.2.1	Mandatory Criteria .....	4
2.2.2	Technical Component.....	5
2.2.3	Management Component.....	5
2.3	Deliverables.....	6
2.4	Reporting Requirements .....	6
2.5	Adding New Services to the Contract after Award .....	7
2.6	Eligibility Information .....	7
2.7	Contractor Responsibilities.....	7
<b>3.</b>	<b>Payment Terms .....</b>	<b>8</b>
3.1	Payment Terms and Award Summary.....	8
<b>4.</b>	<b>Anticipated Schedule of Activities.....</b>	<b>8</b>
4.1	Due Date for Proposals .....	8
4.2	Calendar of Events .....	8
4.3	Inquiries, Comments, and Questions .....	9
4.4	Pre-Proposal Conference .....	9
4.5	Notice of Intent Guidelines .....	9
<b>5.</b>	<b>Proposal Format and Content .....</b>	<b>9</b>
5.1	Solicitation Attachments .....	9
5.2	Organization of the Proposal for Submission .....	9
5.3	Proposal Submission.....	11
<b>6.</b>	<b>Proposal Evaluation.....</b>	<b>11</b>
6.1	Evaluation and Award of Contract .....	11
6.2	Evaluation Criteria for each of the Proposal Components: .....	12
6.3	Multiple Awards.....	13
<b>7.</b>	<b>Additional Instructions.....</b>	<b>13</b>
7.1	Accuracy of the Proposal.....	13
7.2	Cost of Submitting the Proposal .....	13
7.3	Public Information Act Disclosures.....	13
7.4	Working Paper Retention and Access to Working Papers .....	14
7.5	Irrevocability of the Proposal .....	14
7.6	Affirmations and Required Clauses .....	14
7.7	Conflicting RFQ Language.....	15
<b>8.</b>	<b>Definitions .....</b>	<b>15</b>

# 1. Overview

## 1.1 Term of Contract

The contract term is contingent upon the Texas State Auditor's Office granting delegation of authority for the procurement of audit services and shall be for the period beginning upon execution and extending through August 31, 2021. The contract term may not be extended except by amendment signed by the parties and delegation granted by the Texas State Auditor's Office. The THECB shall provide notice of its intent to extend the agreement at least thirty (30) calendar days prior to the termination of each term of the contract. The term of the Contract, including three (3) one-year renewal periods.

Renewal Periods:

- 1<sup>st</sup> Renewal–September 1, 2021 through August 31, 2022
- 2<sup>nd</sup> Renewal–September 1, 2022 through August 31, 2023
- 3<sup>rd</sup> Renewal–September 1, 2023 through August 31, 2024

Once a Contract is executed with the Contractor(s), this period will be referred to as the "Contract Term."

## 1.2 Point of Contact

Respondents shall direct all inquiries and communications concerning this RFQ to the Point of Contact listed below.

Michelle Tafoya-Salazar  
Purchaser III  
Texas Higher Education Coordinating Board  
Office of General Counsel  
[Contracts@highered.texas.gov](mailto:Contracts@highered.texas.gov)

Please Note: Mrs. Tafoya-Salazar is the only permitted point of contact. Contact or attempted contact with other THECB employees, including Commissioners and their staffs, may result in a respondent's immediate disqualification.

# 2. Description of Services

The Texas Higher Education Coordinating Board (THECB) is seeking requests for qualifications from qualified respondents to enter into a Contract to perform Financial Audits, in accordance with the requirements contained in this Request for Qualification (RFQ). THECB reserves the right to award more than one Contract under the terms of this RFQ.

Pursuant to Texas Government Code, Chapter 2254, Subchapter A, the THECB is issuing an RFQ seeking input from qualified independent persons or firms to perform financial audits starting State Fiscal Year 2020.

## 2.1 Description of Services Requirements

The objective of this audit is to perform financial audits of THECB-designated State Fiscal Years, beginning with 2020. The financial statement audit shall determine whether:

- 1) The financial statements present fairly the financial position, results of operations, and cash flows or changes in financial position in accordance with U.S. generally accepted accounting principles.
- 2) The THECB has complied with laws and regulations for those transactions and events that may have a material effect on the financial statements.

The financial audit shall also include a determination as to whether:

- 3) Financial reports and related items are fairly presented
- 4) Financial information is presented in accordance with established or stated criteria; and the THECB has adhered to specific financial compliance requirements.

## **2.2 Statement of Work**

This audit shall include the exhibits, statements, and schedules as required by the general purpose financial statements, combining statements, and other schedules as required by the State Comptroller of Public Accounts guidelines for financial reporting for the THECB for the State Fiscal Years designated by THECB. The audits are to be performed in accordance with Generally Accepted Government Auditing Standards (GAGAS) issued by the Government Accountability Office of the United States, pronouncements issued by the Government Accounting Standards Board (GASB) including GASB Statements 34, 61, 54, 7, 65, and any other authoritative pronouncements which may be deemed applicable.

In order to perform the audits of the general-purpose financial statements, the auditor shall be required to understand the THECB's internal control policies and procedures and evaluate the effectiveness of the entity's internal control. The audit shall include a review of internal accounting, administrative, and financial management systems controls, as well as tests of significant assertions related to the financial statements. Tests shall be performed at the transaction level for compliance with standards, laws, and regulations. Any reportable condition shall be reported in accordance with GAGAS. The financial audit shall include auditing of the stand-alone financial statements which include the THECB-administered college student loan programs and the remainder of the organization. Respondent shall demonstrate the capability to perform the audits in accordance with GAGAS.

### **2.2.1 Mandatory Criteria**

Responses shall not be considered for further evaluation unless they are in compliance with all of the following criteria. The respondent:

- 1) Shall be an independent auditor properly licensed for public practice in Texas.
- 2) Shall meet the independence standards of GAGAS.
- 3) Shall be knowledgeable of GAGAS and U.S. generally accepted accounting principles.
- 4) Shall not have a record of substandard work and have passed their most recent Peer Review satisfactorily.

- 5) Professional credentials relevant to the scope of work (such as CPA, CISA, CIA, CFE, CGAP).
- 6) Supervisors should have 4-6 years audit experience and the audit team members must have at least two years of experience in auditing and accounting, or other related areas.
- 7) Shall submit a response that complies with the requirements of the request for qualifications.

### **2.2.2 Technical Component**

Each proposer shall state succinctly its understanding of this RFQ's requirements and describe how it would perform the tasks in the Statement of Work. Each proposer must demonstrate the capability to provide necessary Financial Audit services. In order to demonstrate a clear understanding of the services to be provided, the respondent shall:

- 1) Explain the respondent's approaches to performing the audits called for in this RFQ, specifically addressing the methodology, nature, timing, and extent of audit procedures to be performed;
- 2) Describe how the approach to performing the audits would be affected if this were a multi-year contract; and
- 3) Make a statement concerning the independence of the respondent, including direct and indirect financial interest, and the relationship of the proposed audit team to present and former employees of the THECB, management, contractors, and any of the THECB board members.

### **2.2.3 Management Component**

Each proposer shall demonstrate the competence and knowledge to fulfill the requirements identified in the Statement of Work. The proposer should also describe any prior experience in providing similar services or exact services, especially other governmental organizations. The proposer shall describe the processes and procedures it intends to use to provide these services and an organizational chart identifying the functions and reporting relationships of the personnel who would be assigned to this work.

The respondent shall furnish satisfactory evidence of its capacity to provide in a professional and timely manner the services stated in the RFQ. To meet this requirement, respondent shall: Provide the name of the external quality control review organization of which the respondent is a member and the respondent's length of membership. Also, state the planned frequency of peer reviews of respondent;

- 1) State whether the respondent has received a peer review and whether, in the most recent review, an unqualified report was issued;
- 2) State whether the respondent is an individual or a national, regional, or local public accounting firm;
- 3) Provide evidence that the respondent has experience in performing audits of loan programs, specifically college student loan programs. List current and past audit clients along with the names and telephone numbers of contact persons and number of years audit services were provided.
- 4) Provide evidence that the respondent has experience in performing government audits.
- 5) List current and past audit clients along with the names and telephone numbers of contact persons and number of years audit services were provided.
- 6) Provide the status of any disciplinary action taken against the respondent by the Texas State Board of Public Accountancy and/or licensing boards of other states;
- 7) Describe the proposed audit team, in terms of job positions in the firm;
- 8) List names of staff member(s) who will direct the overall audit throughout the duration of the engagement as well as those staff members who will be responsible, for planning, directing, and conducting substantial portions of the fieldwork or reporting on this audit engagement.

Include the educational background of all staff members named and professional licenses held. Provide a brief description of the circumstances under which audit staff assigned to this project can be changed;

- 9) If any part of the contracted services is to be subcontracted with other auditing firms, that fact, and the name of the proposed subcontracting firms, must be clearly identified in the response. No additional subcontracting shall be allowed without the express prior written consent of the THECB;
- 10) Describe continuing professional education in governmental accounting and auditing received by the proposed audit team during the last three years;
- 11) Provide the names and qualifications of any needed outside specialists and respondents that will assist the respondent.
- 12) Describe the level of assistance that will be expected from the THECB personnel, including the internal auditor; and
- 13) Provide evidence of the ability to comply with the requirements in this RFQ.

### **2.3 Deliverables**

Following the completion of the audit of the fiscal year's financial statements, the auditor shall issue a report on the fair presentation of the financial statements in conformity with U.S. generally accepted accounting principles.

The auditor shall communicate in a letter to the Commissioner of Higher Education and the members of the THECB's Board any reportable conditions found during the audits. A reportable condition shall be defined as a material weakness or a significant deficiency in the design or operation of the internal control structure, which could adversely affect the THECB's ability to record, process, summarize, and report financial data in the financial statements consistent with the assertions of management. The auditor(s) shall be required to make an immediate, written report of all irregularities and illegal acts of which they become aware to the THECB's Board and Commissioner of Higher Education.

The auditor shall ensure that the THECB's Board and Commissioner of Higher Education are informed of each of the following in its report:

The auditor's responsibility under generally accepted government auditing standards; (GAGAS)

- 1) Significant accounting policies;
- 2) Management judgments and accounting estimates;
- 3) Significant audit adjustments;
- 4) Other information in documents containing audited financial statements;
- 5) Disagreements with management;
- 6) Management consultation with other accountants;
- 7) Major issues discussed with management prior to retention; and
- 8) Difficulties encountered in performing the audit.

The selected independent auditor shall be required to submit to the THECB the draft written audit report and final audit report in electronic format. The selected independent auditor shall be required to submit to the State Auditor's Office the final audit report in electronic format.

Respondents must be available to begin the engagement preparatory activities on October 1, 2020. Respondents should not respond to this RFQ if they cannot substantially agree to the terms of and conditions of the proposed agreement.

### **2.4 Reporting Requirements**

The Auditor shall provide weekly progress reports to the THECB throughout the audit engagement.

The Auditor shall deliver the following reports on the following dates:

6/16/2021	Draft Financial Statements and Management Letter – with briefings to Executive Management and Board leadership.
6/30/2021	Final Financial Statements and Auditor’s Opinion.
7/21/2021	Presentation of Financial Statements and Auditor’s Report to Committee on Agency Operations.

## **2.5 Adding New Services to the Contract after Award**

Following the Contract award, additional Services of the same general category that could have been encompassed in the award of this Contract, and that are not already on the Contract, may be added. A formal written request may be sent to Awarded Contractor(s) to provide a proposal on the additional services and Contractor(s) shall submit proposals to the THECB as instructed.

THECB may accept or reject any or all proposals and may issue a separate RFQ for the services after rejecting some or all the proposals. The services covered under this provision shall conform to the terms, conditions, specifications and requirements as outlined in the request. Any resulting contract may be amended only upon the issuance of a written amendment showing the revision(s) prior to the services being provided as agreed, approved and signed by both parties.

## **2.6 Eligibility Information**

Proposers **must** have a minimum of five years experience providing services similar to those described in the Statement of Work (SOW). 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. Proposers who do not meet this requirement are not eligible for award.

The THECB encourages Historically Underutilized Businesses (HUBs) to compete for this award.

## **2.7 Contractor Responsibilities**

The THECB shall look solely to the Contractor(s) for compliance with all the requirements of this RFQ and the resulting Contract(s). Contractor(s) 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 the THECB to procure services of this RFQ elsewhere, charge any increased costs for the services, including the cost of re-soliciting, to the Contractor and terminate the contract. Failure to pay a damage assessment is cause for Contract termination.

Respondent shall, upon request, provide the internal auditor and the State Auditor's Office access to all relevant data relating to the cost incurred under this agreement. Respondent understands that acceptance of state funds under this agreement authorizes the State Auditor's Office, or any successor agency, to audit or investigate the expenditure of state funds under this agreement. Respondent further agrees to cooperate fully with the State Auditor's Office or its successor, including providing all records requested. Respondent will ensure that this clause concerning authority to audit state funds received indirectly by subcontracts through the Respondent and the requirement to cooperate is included in any

subcontract it awards. The State Auditor's Office shall receive a copy of the executed contract.

### 3. Payment Terms

#### 3.1 Payment Terms and Award Summary

To the extent the Awarded Contractor is not a Texas state agency, payment for services will be made by THECB in accordance with the State of Texas Prompt Payment Law; Chapter 2251 of the Texas Government Code. If the Awarded Contractor is a Texas state agency, payment for services will be made by THECB in accordance with the Interagency Cooperation Act; Chapter 771 of the Texas Government Code.

The awarded Contractor shall not begin or provide any services until issuance of a Contract by THECB. THECB does not guarantee a specific compensation to the Contractor throughout the term of the Contract. No minimum compensation to the Contractor is guaranteed.

**THECB will not apply for credit nor will THECB prepay.** THECB shall pay, subject to the terms of the Texas Prompt Payment Act (Texas Government Code 2251) upon the receipt of a properly submitted invoice after all goods and services have been received.

The THECB shall award the Contract for the financial audit to the most qualified respondent(s) successfully meeting the criteria and conditions as outlined in this RFQ.

### 4. Anticipated Schedule of Activities

#### 4.1 Due Date for Proposals

Respondents shall submit Proposals to the THECB in time for the THECB to verify and confirm that each Proposal is received and documented with a date and time no later than the Proposal Due Date indicated in the Calendar of Events section below. Proposals submitted late will be rejected and will not be considered for evaluation.

#### 4.2 Calendar of Events

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

<b>Event</b>	<b>Date</b>
Publication of RFQ on the ESBD	Monday, July 27, 2020
Last day to submit written questions regarding the RFQ	Monday, August 17, 2020
Proposal Due Date and Time	Tuesday, August 25, 2020 @ 5:00pm CST/CDT
Post-proposal interviews or presentations, if required	TBD
Expected Award of Contract	Upon Execution



### 4.3 Inquiries, Comments, and Questions

The THECB will accept only written questions and requests for clarification e-mail to the attention of the personnel below.

Inquiries and comments must reference RFQ No 781-1-23173

Direct written questions to:  
Michelle Tafoya-Salazar  
Purchaser III  
Texas Higher Education Coordinating Board  
Office of General Counsel  
[Contracts@highered.texas.gov](mailto:Contracts@highered.texas.gov)

Questions submitted to the THECB will be answered within two business days after receipt The THECB will post additional information, responses to written questions, RFQ modifications, and addenda on the THECB website and the Electronic State Business Daily (ESBD). It is the responsibility of interested parties to periodically check the ESBD and THECB's website for updates to the procurement prior to submitting a response. The Respondent's failure to periodically check the ESBD and the THECB's website will in no way release the selected contractor from "addenda or additional information" resulting in additional costs to meet the requirements of the RFQ.

### 4.4 Pre-Proposal Conference

Not Applicable

### 4.5 Notice of Intent Guidelines

Not Applicable

## 5. Proposal Format and Content

### 5.1 Solicitation Attachments

1. **Attachment A:** Execution of Proposal includes the following
  - Respondent Information Form
  - TX. Family Code §231.006(c)
  - Texas Government Code, Title 6, Subtitle B, §669.003
  - Preferences
  - Exceptions to Terms and Conditions
  - Conflict of Interest Statement
  - Signature/Unsworn Declaration
2. **Attachment B:** Hub Subcontracting Plan
3. **Attachment C:** Copy of the Anticipated Contract (reference only)

### 5.2 Organization of the Proposal for Submission

Respondents shall submit two files in PDF format.  
No mailed, hand-delivered, or faxed Applications will be accepted.

## Requirements:

### The first pdf file shall contain responses to Description of Services, Section 2.

1. Address meeting the [Mandatory Criteria](#)
2. [Technical Component](#)
3. [Management Component](#)
4. Qualifications
5. Fees
6. References

Each proposer shall provide at least three references, including contact information. The THECB prefers references from clients for whom the proposer has performed similar work, including other state agencies. Do not use the THECB or any individuals employed by the Board as a reference.

### The second pdf file shall contain responses

1. Attachment A: Completed and Signed
2. Attachment B: Hub Subcontracting Plan
3. Transmittal Letter on Proposer's Letterhead

The Transmittal Letter must be signed by a person legally authorized to bind the Respondent. The letter must specifically identify that the Proposal is in reference to **THECB's RFQ for Financial Audit Services**. 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 90 days. The letter must also include "full acceptance of the terms and conditions described in this Request for Proposal, including as detailed in the Anticipate Contract."

Any exceptions to this RFQ and the THECB Vendor's Addendum, or any of the items listed under A.3.2. Contracting process 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 RFQ or the THECB Vendor's Addendum, 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 RFQ or the Anticipated Contract. If any Respondent takes a "blanket exception" to this entire RFQ or the Anticipated Contract 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 RFQ and Respondent's attachment of such terms and conditions to a Proposal may disqualify the Proposal.

The 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 RFQ and the Anticipated Contract.

Respondents are strongly encouraged to submit written questions during the inquiry period

regarding any terms and conditions of this RFQ or the Anticipated Contract.

The Proposal shall include all information required in this RFQ. The Respondent is solely responsible for thoroughly understanding the RFQ and its attachments, exhibits, and forms. Questions should be directed to the Point of Contact by the Deadline for Submitting Questions. The Respondent is cautioned to pay particular attention to the clarity and completeness of its Proposal. The Respondent is solely responsible for its Proposal and all documentation submitted.

The Respondent shall be as precise, accurate, and succinct as possible. The Respondent shall provide detailed descriptions of how they will fulfill each requirement. The clarity and completeness of a Proposal may be considered by the THECB evaluators.

### **5.3 Proposal Submission**

**Applications must be submitted by an authorized representative via email to [Contracts@highered.texas.gov](mailto:Contracts@highered.texas.gov) to the Point of Contact.**

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

The THECB will not accept proposal submitted after the deadline. Failure to provide all required information shall make the Proposal non-responsive and thus disqualified from consideration. The THECB may reject a proposal that fails to include required contents.

The THECB will confirm receipt of the submitted Proposal via email. If a Respondent does not receive such confirmation from the THECB, contact the Point of Contact.

Respondent may be required to provide proof of timely submission of the Application. The THECB shall not be responsible for Proposals that are captured, blocked, filtered, quarantined, or otherwise prevented from reaching the proper destination server by THECB or Applicant's anti-virus or other security software.

## **6. Proposal Evaluation**

### **6.1 Evaluation and Award of Contract**

A Contract will be awarded by THECB to the Awarded Contractor(s) in response to this RFQ.

The THECB reserves the right to award Contract(s) without any negotiations and reserves the right to not make awards. Submission of a Proposal confers no rights on Respondent to an award or to a subsequent Contract, if there is one. The issuance of this RFQ does not guarantee that a Contract will ever be awarded. THECB reserves the right to withdraw the RFQ entirely for any reason solely at THECB's discretion. An individual Proposal may be rejected if it fails to meet any requirements of this RFQ. THECB may seek clarification from Respondent at any time during the evaluation period, and failure to respond may be cause for rejection of a Proposal.

Upon execution of a Contract resulting from this RFQ, the term "Respondent" shall have the same meaning as "Contractor".

The Contractor shall not begin or provide services until issuance of a Contract by THECB.

**The Respondent is strongly encouraged to provide a fair and reasonable price in its**

**Proposal.** THECB shall award a Contract(s) to the Respondent(s) whose proposal is considered to be the most qualified to the state. Part B of this RFQ represents the Anticipated Contract (along with its incorporated exhibits) which will be entered into with the Contractor(s) and lists the additional terms and conditions governing this RFQ. The THECB may make its award to Respondent(s) based on any combination, including, but not limited to line item that provides best value to the State.

The State of Texas may consider, at its option, alternative services for award which may not meet the full specifications, however, represent a best value to the State of Texas within the listed service classification.

Each evaluated Proposal will be reviewed and scored according to the table set out below.

**6.2 Evaluation Criteria for each of the Proposal Components:**

1	Technical Component	40%
2	Management Component	30%
3	Qualifications	30%
	Total	100%

The THECB will assemble an evaluation team that will begin proposal evaluation as soon as practicable after the submission deadline. Evaluation team members will score each proposal individually using the criteria stated above. After individual scoring, the evaluation team will meet and discuss the proposals and will make a recommendation for selection or a recommendation to take further action.

After the evaluation team ranks each proposal based on individual scores, the evaluation team may pose clarifying questions of, or ask for best and final proposals from, the highest-ranking proposals. The evaluation team may also hold discussion sessions with the highest ranked respondents. The team may rate proposals again following questions, requests for best and final proposals, or oral presentations/discussion sessions.

The THECB will begin contract negotiations shortly after notification. The successful respondent may offer changes to these terms or additional terms in their proposal, but the THECB may reject them. The parties will negotiate a final schedule for performance that will be incorporated into the final contract.

The THECB will notify each respondent of the final action taken upon execution of contract with the selected respondent. THECB reserves the right to conduct studies and other investigations as necessary to evaluate any Proposal. THECB reserves the right to waive any minor or immaterial Proposal requirements noted in the submission process. Submission of Proposals confers no legal rights upon any Respondent. The THECB will determine whether negotiations or Best and Final Offers (BAFOs) are necessary and may invite selected Respondents to provide oral presentations of their Proposals.

Past Performance: A Respondent's past performance will be measured based upon pass/fail criteria, in compliance with applicable provisions of §2155.074, §2155.075, §2156.007, §2157.003, and §2157.125, Gov't Code. Respondents may fail this selection criterion for the following conditions:

- 1) Currently under a Corrective Action Plan through the THECB,

- 2) Having repeated negative Vendor Performance Reports for the same reason,
- 3) Having a record of repeated non-responsiveness to Vendor Performance issues
- 4) Having purchase orders or other contracts that have been cancelled in the previous 12 months for non-performance (i.e. late delivery, etc.).

THECB may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Vendor Performance Tracking System (as authorized by 34 Texas Administrative Code §20.108), THECB may examine other sources of vendor performance including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of Contract. Such sources of vendor performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government. Further, THECB may initiate such examinations of vendor performance based upon media reports. Any such investigations shall be at the sole discretion of THECB, and any negative findings, as determined by THECB, may result in non-award to the Respondent.

### **6.3 Multiple Awards**

The THECB may award multiple Contracts from this solicitation. The Respondent(s) providing the best value to the State may be chosen as the State's primary or "best value contractor". Additional Respondents may be awarded Contract at the sole discretion of THECB in order to provide alternate resources for meeting the requirements of the requested services.

## **7. Additional Instructions**

### **7.1 Accuracy of the Proposal**

The 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.

### **7.2 Cost of Submitting the Proposal**

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

### **7.3 Public Information Act Disclosures**

The THECB is a government agency subject to the Texas Public Information Act (PIA), Chapter 552, Gov't Code. The Proposal and other information submitted to the THECB by the 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 to disclosure under the PIA applies. If it is necessary for the Respondent to include proprietary or otherwise confidential information in its Proposal or other submitted information, **the Respondent must clearly label that proprietary or confidential information and identify the specific exception to disclosure in the PIA.** 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 the 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.**

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

#### **7.4 Working Paper Retention and Access to Working Papers**

All working papers and reports must be retained at the auditor's expense, in accordance with Government Auditing Standards, unless the auditor is notified in writing by the THECB of the need to extend the retention period. The auditor shall be required to make working papers available, upon request, to the Texas Higher Education Coordinating Board and all parties designated by the federal and state government or by the THECB as part of an audit quality review process. Specifically, the State Auditor's Office shall have access to all working papers related to audits conducted. In addition, the State Auditor's Office shall have access to all draft and final reports and memoranda of discussions with agency management.

In addition, the auditor shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.

Respondent shall, upon request, provide the internal auditor and the State Auditor's Office access to all relevant data relating to the cost incurred under this agreement. Respondent understands that acceptance of state funds under this agreement acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to audit or investigate the expenditure of state funds under this agreement. Respondent further agrees to cooperate fully with the State Auditor's Office or its successor, including providing all records requested. Respondent will ensure that this clause concerning authority to audit state funds received indirectly by subcontracts through the Respondent and the requirement to cooperate is included in any subcontract it awards. The State Auditor's Office shall receive a copy of the executed contract.

#### **7.5 Irrevocability of the Proposal**

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

#### **7.6 Affirmations and Required Clauses**

Pursuant to TGC, Section 2262.003, contractor understand that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, agency or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Contractor and the requirement to cooperate is included in any subcontract it awards.

Pursuant to Texas Government code, Title 10, Subtitle D, Section 2155.004(a), the bidder has not received compensation for participation in the preparation of specifications for this solicitation.

Pursuant to Texas Family Code, Title 5, Subtitle D, Section 231.006(d), regarding child support, the bidder certifies that the individual or business entity named in this bid is not ineligible to receive the

specified payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any bidder subject to Section 231.006 must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the bid. This information must be provided prior to award.

Bidder agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

Bidder agrees to comply with Texas government Code, Title 10, Subtitle D, Section 2155.4441, relating to use of service contracts for products produced in the State of Texas.

## 7.7 Conflicting RFQ Language

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

## 8. Definitions

When capitalized, the following terms and acronyms have the meaning set forth below. All other terms have the meaning set forth in Webster's II New College Dictionary.

Contract	Any contract(s) resulting from this solicitation. Note: There is no guarantee that any contract will result from this solicitation.
Contractor or Awarded Contractor	The Respondent(s) awarded a Contract as a result of the RFQ.
ESBD	The Electronic State Business Daily, which is available online at <a href="http://www.txsmartbuy.com/sp">http://www.txsmartbuy.com/sp</a> .
Gov't Code	The Texas Government Code.
HUB	Historically Underutilized Business (HUB)
Party / Parties	Either the THECB and Respondent separately or collectively
PIA	Texas Public Information Act, Chapter 552, Gov't Code is a series of legislative acts are intended to guarantee public access to governmental information in the interest of providing transparency in government. A link to the Act can be found: <a href="http://www.statutes.legis.state.tx.us/docs/GV/htm/GV.552.htm">http://www.statutes.legis.state.tx.us/docs/GV/htm/GV.552.htm</a>
Proposal	The response submitted by a Respondent to the THECB as a result of this solicitation
Respondent	Any person or contractor who submits a Proposal in response to this solicitation.
RFQ	Request for Qualifications, which is the type of solicitation embodied in this document.
TAC	The Texas Administrative Code, which is the publication for administrative rules.
THECB/Agency	The Texas Higher Education Coordinating Board, the state agency issuing this solicitation.