

Texas State Library and Archives Commission
Request for Offer: 306-14-8485
Management system for long-term/archival electronic records

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Section I - General

1.1 Definitions

Please see Appendix A for a list of definitions

1.2 Scope

It is the intent of the Texas State Library and Archives Commission (TSLAC) to purchase a commercial, off-the-shelf system designed to ingest, manage, preserve, store and make accessible to TSLAC staff and the public, electronic records appraised as archival by staff of the Texas State Archives program within the TSLAC. **The system must have the capacity for expansion, both in size of data stored and the potential to add new or expand existing components in the future.** TSLAC will consider Software as a Service (SaaS) or a system to be hosted on TSLAC servers.

The System must be capable of initially storing and/or manipulating a minimum of 12 terabytes of data in varying formats including PDF, Word, Excel, Access, Tiff, JPG, TXT, CSV, PPT, MP3, Broadcast Wave, etc., with the option to increase storage space as needed. The System must conform to Open Archival Information System (OAIS) standards needed to establish the system as a Trusted Digital Repository. The System must be implemented, fully functional and capable of receiving data no later than November 15, 2014.

The Texas State Consolidated Data Center currently provides computing services to TSLAC. If a service is to be locally hosted, the application must be hosted at the Austin Data Center (ADC). All hardware and software requirements to host the application must be provided by the Awarded Vendor. The Awarded Vendor will be granted temporary access into the data center for the installation of their software as well as for its maintenance. Changes to the software and/or hardware for the application must go through TSLAC's change management process for pre-approval and scheduling.

The purpose of this project is to preserve and make accessible the records in electronic format.

1.3 Background

The Texas State Archives preserves and documents the heritage and culture of Texas by identifying, collecting, and making available for research the permanently valuable official records of Texas government, as well as other significant historical resources. The State Archives includes archival government records from the 18th century to the present, as well as newspapers, journals, books, manuscripts, photographs, historical maps, and other historical resources. The purpose of this project is to make these records available in electronic format.

1.4 Project Timeline After Contract Award

Milestone	Deadline
Contract negotiation and execution	9/2014
Purchase system software	10/2014
System software installation and site preparation/training	10/2014 - 11/2014
System capable of ingest (for testing purposes)	11/15/2014
Final test of system and implementation	11/2014 - 12/2014
Ingest of records begins	1/2015

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Awarded Vendor available to troubleshoot system as issues occur during ingest	1/2015 - 3/2015
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Section II
System Requirements

2.1 Mandatory System Requirements

The system requirements are set forth in Appendix B for a SaaS system and/or Appendix C for a locally hosted system. These requirements are mandatory and indicate the minimal information that must be provided in a response to the RFO, minimum Vendor and System capabilities that must be provided, and minimum performance levels for the respective solutions that must be met by the Vendor.

Those offers not meeting the minimum requirements for the type of system proposed will be considered non-responsive, and will not be eligible for further evaluation.

Offers will initially be evaluated against the minimum criteria listed in Appendix A and/or Appendix B on a Yes/No basis. A 'No' to any criterion will eliminate further consideration.

2.2 System Requirements

Please view ESBD Package 3 (Appendix B) for specific requirements related to a SaaS system. Please view ESBD Package 4 (Appendix C) for specific requirements related to a locally hosted system.

2.3 Contract Term

The initial term of service will begin upon execution of an Awarded Contract. A contract for ongoing maintenance will begin from the date the software is ready to accept materials (implementation) and conclude one year from the implementation date. Ongoing maintenance contract for the software may be renewed for subsequent one-year terms, at the sole discretion of TSLAC.

2.4 ADA Compliance - Voluntary Product Accessibility Template (VPAT)

TSLAC is required to follow Texas Administrative Code, Title 1, Part 10, Chapter 206, Accessibility and Usability of State Web Sites, Texas Administrative Code, Title 1, Part 10, Chapter 213, and the Federal WCAG 2.0 AA. All systems procured under this RFO must comply with these requirements.

As Required by 1 TAC Chapter 213 (Applicable to State Agency and Institution of Higher Education Purchases Only)

- 1) Effective September 1, 2006, state agencies and institutions of higher education shall procure products which comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in 1 TAC Chapter 213 when such products are available in the commercial marketplace or when such products are developed in Offer to a procurement solicitation.
- 2) Offeror shall provide TSLAC with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under WCAG 2.0 AA of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). Vendors

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not listed with the “Buy Accessible Wizard” or supplying a URL to their VPAT must provide TSLAC with a report that ensures compliance with the same accessibility criteria in substantively the same format. Additional information regarding the “Buy Accessible Wizard” or obtaining a copy of the VPAT is located at <http://www.section508.gov/>. ESBD Package 5 has a sample VPAT template.

Each Offeror must submit a VPAT and answer the following questions. Failure to comply with this Section 2.4 will result in disqualification of Offer.

- a. If the application does not support an ADA compliant browser, then the Offeror must explain how the application can make accommodations in its visual display for visually impaired users.
- b. If the application does not comply with any of the standards listed in the VPAT, Offeror will need to indicate a timeline for how and when the product will be compliant.
- c. Products will also be tested by TSLAC. Vendors may be asked additional questions throughout the review.

2.5 Online Trial

All Offerors are required to provide an online trial of their proposed products during the timeframe listed in Section 3.1. The trial must be sufficient to demonstrate the system’s capability to perform the basic OAIS functions: 1) easy ingest, 2) archival storage, 3) data management, 4) administration, 5) preservation planning, and 6) easy long-term access. The following information for the trial must be included in the Offer package.

- a. Product URL with login and password.
- b. Dummy data must be present in the trial system.
- c. Brief instructions on the basic operations of the trial system.
- d. Contact information for the person charged with setting up the online trial.

Offers will be evaluated based on trial system’s ability to meet the requirements for OAIS function. Contact information for the person charged with setting up the online trial.

2.6 Live Demonstration

After the initial evaluation of the Qualified Offers and online trial demonstrations, TSLAC may select up to three top Offerors to present a live demonstration, either via the web or in-person, in Austin, Texas, to the TSLAC staff during the dates listed in Section 3.1. All costs of travel to Austin including, but not limited to, lodging, gas, flights, and meals will be the responsibility of the Offeror.

Offerors must be available to provide a live demonstration of the proposed product(s) and systems given a two-week notice if the dates in Section 3.1 are amended. The selected dates for the live demonstrations are listed in Section 3.1.

2.7 Subcontractors

TSLAC prefers to select a primary Vendor to be responsible for contract performance and payment, whether or not subcontractors are involved. If subcontractors will be used during the implementation of the project, Offeror shall provide credentials for every subcontractor the Offeror plans on using.

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Subcontracts providing services under an awarded Contract under this RFO shall meet the same requirements and level of experience as required of Offeror. No subcontract under a Contract shall relieve the Offeror of responsibility for ensuring the requested services are provided. Offerors planning to subcontract all or a portion of the work to be performed must identify the proposed subcontractors in the Offer.

2.8 Historically Underutilized Business Subcontracting Plan (HUB Plan)

ALL Offers must include a HUB Subcontracting Plan. **Offers not including this plan will be disqualified!** For a link to the instructions and form, please go to <http://www.cpa.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>

2.9 Texas Public Information Act

Any Offer that bears a copyright will be rejected as non-responsive. Offers will be subject to the Texas Public Information Act, Texas Government Code, Chapter 552, and may be disclosed to the public upon request after award. Subject to the Act, Offerors may only protect trade and confidential information from public release. **Offerors are responsible for reading the Public Information Act and understanding how it applies to this RFO.**

The determination of whether information is confidential and not subject to disclosure under the Public Information Act is the duty of the Office of the Attorney General (OAG). The TSLAC must provide the OAG sufficient information to render an opinion and therefore, vague and general claims to confidentiality by the Offeror are not acceptable. The TSLAC shall comply with all opinions of the OAG.

The TSLAC assumes no responsibility for asserting legal arguments on behalf of anyone. Offerors are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

- a. Trade secrets or other confidential information, submitted as part of this Offer, shall be clearly marked on each page it appears. Such marking shall be in boldface type in at least **14-point font** at the top and center of the page.
- b. Confidential information must also be listed on the Confidential Information form, which may be found in Appendix G. This form must be placed in Tab 1.
- c. More information can be found on the Texas Attorney General's website.
<http://www.oag.state.tx.us/open/index.shtml>

If Offer contains any information which Offeror claims is confidential and not subject to release under the PIA, Offeror must prepare and deliver with RFO submission four CDs containing the following information:

- d. Two CDs containing complete copies of all of Offeror's submissions pursuant to this RFO. These shall be marked "Complete RFO Documents, [Offeror's Name], TSLAC RFO#: . **CONTAINS CONFIDENTIAL INFORMATION."**
- e. Two CDS, each containing copies of all Offeror's submissions with all information claimed as confidential excised, blacked out or otherwise redacted. Each of these CDs shall also contain

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an Appendix which contains clear references to all redacted information including a general description of the redacted information. These CDs shall be marked “For Public Release: Redacted Version of [Offeror’s Name], TSLAC RFO#:_____.”

2.10 Performance Tracking

TSLAC will monitor the performance of the Vendor under an awarded Contract issued under this RFO. All services under an Awarded Contract shall be performed at an acceptable quality level and in a manner consistent with industry standards, custom and practice.

Annually, TSLAC submits a Vendor Performance Report to the Comptroller (CPA). The awarded Vendor will receive a paper copy of this report, as well as an emailed copy. A sample of the Vendor Performance Report can be found at <http://www.tsl.state.tx.us/agency/bid-opportunity.html>.

Performance will be evaluated on the following measures:

- a. System is available 98% of the time, 24/7, 365 days of the year.
- b. Response time on help desk requests.
- c. Satisfactorily meeting functional requirements.

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Section III - RFO Information

3.1 Schedule of Events

The solicitation process for this RFO will proceed according to the following schedule:

Event	Date
RFO packets available on Electronic State Business Daily (ESBD)	7/11/14
Interested Offeror meeting (via conference call) (Sec. III, 3.2)	7/18/2014 – 10:00am CT
Deadline for submitting all questions, in writing, to TSLAC	7/23/2014
TSLAC will post all questions and answers on the ESBD by close of business	7/28/2014
RFO OPENING (when Offers are due)	8/4/2014 – 11:00am CT
Online trial	8/4/2014 – 8/31/2014
TSLAC will notify short listed Vendors for the live demonstration	Week of 8/18/2014
Short-listed Vendors present for live demonstration	Week of 8/25 or 9/2/2014
Contract awarded and notice posted to the ESBD	9/19 2014
TSLAC reserves the right to change the dates in the schedule of events above upon written notification to prospective Offerors through a posting on the ESBD. Interested Offerors are advised to monitor the ESBD throughout this process.	

3.2 Interested Offeror Meeting

The Offeror Meeting will be held on the date listed in Section 3.1, Schedule of Events. To participate in this meeting, register at this URL: <https://www2.gotomeeting.com/join/924833370>

Participants will need an Internet-ready computer for the Webinar component (System Requirements listed below) and they will also need either a headset/computer speakers OR the ability to call a long distance number for the audio component of the Webinar. Participants do not need a microphone as questions/comments will be typed in via the chat window.

System Requirements

PC-based attendees

Required: Windows® 7, Vista, or 2003 Server

VOIP Headset

Macintosh®-based attendees

Required: Mac OS® X 10.5 or newer

3.3 RFO Opening

The public opening of the RFO will take place at the following location on the date and time listed in Section 3.1. Offerors planning to attend the opening must sign in at the lobby prior to the time listed above.

Texas State Library and Archives Commission
1201 Brazos Street, 3rd Floor Conference Room

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Austin, Texas 78701

Offers will be opened at TSLAC at the time and date listed in Section 3.1, at the place listed in Section 3.3.

- a. All submitted Offers become the property of TSLAC after the RFO submittal deadline/opening date, and are subject to the PIA
- b. Qualified Offers submitted shall constitute an offer for a period of 120 days after the opening date or until an award is made by TSLAC, whichever occurs later. This period may be extended at the TSLAC's request with the Offeror's written agreement.

NOTE: This meeting will be open to the public, but only the names of the Offerors will be read out loud during this meeting.

3.4 Offer Requirements

- a. Offers must address all criteria listed in Appendix D, RFO Offer & Submittal Requirements Checklist.
- b. Documentation provided with the Offer should be complete and comprehensive. TSLAC will not be responsible for locating or securing information not included in the Offer. Failure to furnish required documentation with the Offer may result in the Offer being deemed incomplete and non-responsive, resulting in rejection
- c. TSLAC will not be responsible for any expenses relating to Offer development or documentation that may result from this procurement action.
- d. All Offers must be received and time stamped at TSLAC Purchasing Department by the time and date specified in Section 3.1. TSLAC reserves the right to reject late submittals.
- e. Offers should be placed in a separate envelope or package and correctly identified with the RFO number and Offer opening date and time listed on the Offer Coversheet. It is the Offeror's responsibility to appropriately mark and deliver the Offer to TSLAC by the date and time listed in Section 3.1.
- f. Telephone and facsimile Offers will not be accepted.**
- g. Receipt of all addenda to this Offer should be acknowledged by returning a signed copy of each addendum with the submitted Offer **BEFORE** the Offer opening date and time.
- h. Offerors must comply with all rules, regulations and statutes relating to purchasing in the State of Texas in addition to the requirements within this RFO.
- i. Offeror must enter their Texas Identification Number System (TINS) or Federal Tax Identification Number, full company name and address on the Offer Coversheet.
- j. Offer cannot be altered or amended after opening time. Alterations made before opening time should be initialed by Offeror or his authorized agent. No Offer can be withdrawn after opening time without approval by TSLAC based on acceptable written reason.
- k. TSLAC, 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. Do not include tax in Offer. Tax Exemption Certificates are available upon request.
- l. Any contract will be awarded in accordance with State Procurement rules and regulations.
- m. Late, illegible, incomplete, or otherwise non-responsive Offers will not be considered.
- n. Any terms and conditions attached to an Offer will not be considered unless specifically referred to within the Offer, and may result in disqualification of the Offer.

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- o. Sole Ownership: Pursuant to Section 231.006(c), Texas Family Code, Offer must include names and social security numbers of each person with at least 25% ownership of the business entity submitting the Offer.
- p. By submitting a Offer, the Offeror certifies that it has not had a contract terminated or been denied the renewal of any contract for non-compliance with policies or regulations of any state or federally funded program within the past five (5) years nor is Offeror currently prohibited from contracting with a governmental agency. If the Offeror does have such a terminated contract, the Offeror shall identify each contract and provide an explanation for the termination.
- q. **ALL PROPOSALS MUST BE SIGNED. FAILURE TO SIGN THE PROPOSAL COVERSHEET WILL CAUSE DISQUALIFICATION.**

3.5 Offer Qualifications

Offerors should briefly describe the organization's history, product(s) and services offered. Include all partner companies and subsidiary relationship(s).

Offerors should have:

- Minimum of 3 years in the field of information management and/or digital preservation.
- Experience working with government clients, state government preferred
- Experience working with the archives/library/museum community
- Active participation in projects or research involving the Society of American Archivists (SAA), National Association of Government Archivists and Records Administrators (NAGARA), the National Digital Stewardship Alliance (NDSA) or other entities related to digital preservation; membership in each organization is preferred.

Offeror must provide full resume of qualifications and experience of the project personnel that are directly related to the successful implementation and ongoing maintenance at TSLAC.

Specifically:

Project Coordinator

- Minimum of two years experience as a project manager, three years preferred
- Minimum of two years experience with the Offeror's company on projects implementing proposed system in governmental entities
- Minimum of two years experience working with governmental clients
- Minimum of two years experience with the company
- Two successful implementations of the proposed system

System Administrator or Architect

- Minimum of two years experience with the implementation of the company's products

Database Administrator (DBA) (person may be the same as the System Administrator)

- Minimum of two years experience with the implementation of the company's products
- Minimum of five years performing DBA tasks
- DBA designation
- Degree in computer science or equivalent, or 10 years of experience working with databases

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3.6 References

Provide the names of at least three governmental agencies and/or other organizations similar to TSLAC where the proposed system was implemented within the last five (5) years and is currently in use; a description of the systems used and the date systems installed or services provided; and, the name, email and phone number of a contact person for each reference.

3.7 Costs and Fee Offer

Vendor must include all-inclusive pricing for the implementation and annual pricing for ongoing maintenance of the system. Vendor must complete the Cost Offer Worksheet provided in the green tab of ESBD Package 3 (for SaaS option) and/or ESBD Package 4 (for locally hosted option).

TSLAC standard payment terms for services are in accordance with the Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code. Offeror must indicate any prompt payment discounts that Offeror will provide to TSLAC on the Cost Offer Worksheet.

3.8 Format of RFO Offer and Submittal Requirements Checklist

A checklist of the items required, and the required formatting of the Offer, is in **Appendix D**. Please complete the checklist and place in Tab 1 of the original Offer.

3.9 Submission

- a. All Offers become the property of TSLAC upon submission.
- b. TSLAC reserves the right to reject any and/or all Offers received, and to cancel this RFO in part or in its entirety. This solicitation of Offers in no way obligates TSLAC to award a contract.
- c. Any amendments to this RFO will be posted as an addendum on the ESBD. It is the responsibility of interested parties to periodically check the ESBD for updates to the RFO prior to submitting a proposal. Offeror's failure to periodically check the ESBD will in no way release the selected Offeror from knowledge of the content of addenda or any other information resulting in additional costs to meet the requirements of the RFO.
- d. Offers shall be submitted to TSLAC Purchasing department by U.S. Postal Service, Overnight/Express Mail, or Hand Delivered to 1201 Brazos Street, Room 309, Austin, Texas 78701 by the RFO opening time and date in Section 3.1 of this RFO. Purchasing hours are from 8:00 am to 4:00 pm CT.

3.10 Inquiries

- a. All inquiries and RFO questions shall be submitted in writing to Jill Sutherland at facsimile **512-475-3393** or by email to jsutherland@tsl.texas.gov no later than the date and time listed in Section 3.1. **All inquiries must have the RFO #: 306-14-8485 listed in the subject line of the email or fax.**
- b. All answers to inquiries will be posted on the ESBD by the date and time listed in Section 3.1. It is the Offeror's responsibility to view these questions and answers; TSLAC will **not** send a notification email when they are posted. If a Offeror does not have Internet access, a copy of all written Offers may be obtained through the point of contact listed above.
- c. Any amendment to this procurement solicitation will be posted as an addendum on the ESBD. It is the responsibility of interested parties to periodically check the ESBD for updates to the procurement prior to submitting a Offer. The Offeror's failure to periodically check the ESBD

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will in no way release the selected Vendor from addenda or additional information resulting in additional costs to meet the requirements of the RFO.

- d. Except as otherwise provided in this Section, upon award of this RFO, other employees and representatives of TSLAC will not answer questions or otherwise discuss the contents of this RFO with any potential Offeror or its representatives. Failure to observe this restriction may result in disqualification of any subsequent Offer. This restriction does not preclude discussions unrelated to this RFO.
- e. If Offeror takes any exceptions to any provisions listed in this RFO, these exceptions must be specifically and clearly identified by Section in Offeror's Offer to this RFO and Offeror's proposed alternative must also be provided in the Qualified Offer.

3.11 Offer Evaluation and Award - SaaS vs Locally Hosted -

- a. It is the intent of TSLAC to award one contract to the Offeror whose qualifications and project offer are considered to be the Best Value to the State.
- b. An evaluation team will be established to evaluate the Offers and live demonstrations from Vendors determined to be qualified to perform services under this RFO. The team will consist of TSLAC staff. Offers and live demonstrations will be evaluated using the criteria and scoring outlined below. Offeror may also be invited to give a formal presentation to TSLAC, which will also be evaluated in awarding a contract.
 - System Requirements – SaaS – 110 points; Locally hosted – 116 points
 - Cost proposal – SaaS - 60 points; Locally hosted – 55 points
 - Support (includes Disaster Recovery & Business Continuity Plans) - 18 points
 - Qualifications (including Resumes & Financial Statements) - 11 points
 - References - 6 points
 - Accessibility Testing - 5 points
 - If selected, Live Demonstration - 25 points
- c. Following the final evaluation, TSLAC will proceed with contract negotiations with the Selected Vendor and finalize a contract. If a contract cannot be successfully negotiated within a reasonable period of time, contract negotiations will be terminated and negotiations with the next-highest ranking Offeror may begin.
- d. In evaluating Offers to determine best value for the State, TSLAC may consider information related to past contract performance of a Offeror including, but not limited to, the Texas Comptroller of Public Accounts Vendor Performance System (available at http://www.window.state.tx.us/procurement/prog/vendor_performance/).
- e. The contract may not necessarily be awarded to the Offeror with the lowest cost system. If all Offers exceed the amount budgeted for this project, TSLAC may re-post or cancel the project unless additional funds become available. The successful Offeror will be selected based on the selection criteria.
- f. A Offer submitted in response to this RFO is an offer to contract based upon the terms, conditions, and specifications contained herein. Offers do not become contracts until they are accepted and awarded by TSLAC through an open market purchase order with an executed contract.
- g. The factors listed in TAC, Title 10, Subtitle D, Section 2155.074, 2155.144, 2156.007, and 2157.003 shall also be considered in making an award.
- h. Any legal actions must be filed in Travis County, Texas.

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- i. TSLAC reserves the right to accept and/or reject any or all Offers submitted and is under no legal requirement to execute any contract on the basis of this notice.

3.12 Payment

Payments to the awarded Vendor will be tied to the successful completion of specified project services and established milestones. Once the work is reviewed and accepted and services are rendered complete by TSLAC, approval for payment will be processed upon receipt of an accepted invoice.

Once the implementation of the system is complete and the initial warranty period is expired, the Awarded Vendor may invoice TSLAC on an annual basis for the System Maintenance and Technical Support Services, upon receipt of an issued Purchase Order and/or Contract Renewal.

It is the responsibility of the Awarded Vendor to submit invoices. Invoicing instructions will accompany a completed contract.

TSLAC's standard payment terms for product and services are per the Prompt Payment Act (reference Texas Government Code, Chapter 2251).

3.13 Transition Requirements

In the event any Contract resulting from this RFO expires or is terminated for any reason before the end of the Contract period, the Vendor must be willing to provide services under the Contract to the State for a period up to one hundred twenty (120) calendar days (time period is at sole discretion of the State) or until such time as services of a new Contract are in effect and implemented.

3.14 Direct Deposit

TSLAC encourages Vendors to receive payment by direct deposit. To receive future payments by direct deposit, vendors should download and fill out the Vendor/Payee Direct Deposit Authorization Form 74-176 available at www.txdirectdeposit.org.

To opt-in for Advance Payment Notification (APN), payees must first set up an account and submit either an un-cashed warrant or direct deposit number for authentication in the [Search State Payments Issued](#) application. Payees manage their own APN options (see box). After receiving an APN, they can go back to the application to securely access their payment details online.

This feature includes notification one business day before the deposit posts to the vendor's bank account. It also provides the amount of the deposit and which agency made the payment. Vendors may also receive remittance information with the notification.

3.15 Vendor Terms and Conditions or License Agreement

Offerors must include the terms and conditions, License Agreement, and/or contracts TSLAC will be asked to consider.

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3.16 Terms and Conditions

TSLAC Terms and Conditions are those listed within Appendix E. These will become part of any contract awarded. TSLAC reserves the right to add, delete, and amend terms and conditions. The awarded Vendor will be notified of changes to the terms and conditions.

Offerors must list any terms and conditions that they take issue with in Appendix F. If no issues are listed, Offeror agrees to terms and conditions as presented in Appendix E, and cannot later raise issues during contract negotiations.

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Appendix A - Definitions

Definitions and terms used throughout this Request for Offer have the following meanings and interpretations.

1. **Archival** - 1. Of or pertaining to archives. 2. Records having enduring value; permanent. 3. Records media - durable; long-lived; see archival quality. 4. Storage conditions - Not causing degradation. 5. Procedures - Following accepted standards that ensure maximum longevity.
2. **Archival Information Package (AIP)** - Data (the digital object(s) and associated metadata) packaged and designated as archival after ingest in the Open Archival Information System (OAIS) model. Information Package consisting of Content Information (objects or objects) and the associated Preservation Descriptive Information (metadata) which is preserved within an OAIS.
3. **Checksum** - A mathematical value used in a simple error-detection method to verify integrity of data. It is calculated from the data using a known formula that returns a single-digit value and is stored with the data. At any point the checksum can be recalculated to see if the value has changed.
4. **Content information** - A set of information that is the original target of preservation or that includes part or all of that information. It is an Information Object(s) composed of its Content Data Object and its Representation Information (metadata), components of an Archival Information System (OAIS).
5. **Data Center Services (DCS)** - TSLAC's servers are housed by a third party vendor who works with **DIR (Department of Information Resources)** to manage a consolidated server farm for state agencies.
6. **Dissemination Information Package (DIP)** - The access package (consisting of the an access copy of the object and limited metadata) of archival data prepared for an end-user through an Open Archival Information System (OAIS). An information package derived from one or more AIP and sent (by Archives to Consumer) in response to a request to the OAIS.
7. **Digital (archival) object** - Include graphic images, audio or video clips, images of text pages, and electronic transcriptions of text. The objects can be selected examples, or digital surrogates of all the materials in an archival collection or series.
8. **Information Object** - A digital object(s) together with its Representation Information (metadata).
9. **International Organization for Standardization (ISO)** - A membership organization that works with national standards organizations from more than 140 countries to promote and coordinate the development of international standards.
10. **Interoperability** - The ability of different systems to use and exchange information through a shared format.

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11. **Ingest** - Data ingestion is the process of obtaining, importing, and processing data for later use or storage. In the OAIS model, the process related to receiving information (data objects(s)) from an external source and preparing it for storage (in the archive.)
12. **Metadata** - Data about data. A characterization or description documenting the identification, management, nature, use, or location of information resources (data). Metadata includes the documentation of data architecture, properties, and methods necessary to store, retrieve, and use the data in a meaningful manner. In the OAIS model, metadata is usually referred to as Descriptive Information or Representation Information.
13. **Migration** - The process of moving data from one information system or storage medium to another to ensure continued access to the information as the system or medium becomes obsolete or degrades over time.
14. **Normalization** - A process that involves migration of digital records to a predetermined number of standard formats.
15. **Open Archival Information System (OAIS)** - Is an archival repository, consisting of an organization of people and systems, that has accepted the responsibility to preserve information and make it available for a Designated Community. The term **OAIS** also refers, by extension, to the ISO OAIS Reference Model for an OAIS. This reference model is defined by the international standard, ISO 14721:2003, and is a high-level model that describes the components and processes necessary for a digital archive, including six distinct functional areas: ingest, archival storage, data management, administration, preservation planning, and access.
16. **Packaging Information** - Information that is used to bind and identify the components of an Information Package in an Open Archival Information System (OAIS).
17. **Producer** - The role played by those persons or client systems that provide information to be preserved. This can be other OAIS's or internal OAIS persons or systems.
18. **Submission Information Package (SIP)** - Data submitted to an Open Archival Information System for ingest. An information package that is delivered by the Producer to the OAIS for use in the construction or update of one or more AIP's and the associated Descriptive Information (metadata).
19. **Trusted Digital Repository** - A repository designed to create, store and retrieve data according to well-documented processes that ensure records based on those data are authentic and reliable. A trusted digital repository is one whose mission is to provide reliable, long-term access to managed digital resources to its Designated Community, now and in the future.
20. **Version control** - Techniques, especially in an automated environment, to control access to and modification of documents and to track versions of a document when it is revised.
21. **XML (Extensible Markup Language)** - A standard to promote sharing information over the Internet by specifying ways to describe the information's semantic structure and to validate that the structure is well formed.

Appendix B
SaaS Mandatory Requirements

Vendor Name:					
	Criteria:	Yes	No	For TSLAC	Notes:
1	General Specifications				
1.1	The system MUST be a SaaS (Software as a Service product).				
1.2	Software MUST be an integrated system with a single log-in per user into the system.				
1.3	The system MUST conform to OAIS (Open Archival Information System) standards				
1.4	Software MUST be web-based				
1.5	The web application MUST, at a minimum, support Microsoft Explorer. It is also preferred that the System support Firefox, Chrome and Safari browsers.				
1.6	The system MUST utilize data in alpha, numerical and alpha-numeric formats, through fixed width or delimited text.				
1.7	Vendor MUST provide 12 named licenses or accounts for TSLAC staff.				
1.8	The system MUST keep an audit trail of all actions, through all functional areas.				
1.9	The system MUST allow for a user-definable vocabulary, including but not limited to user-definable database fields of multiple types like date or number fields as well as text fields and user-editable form and report labels for existing database fields.				
2	System Process				
	Reports				
2.1	The system MUST provide detailed and summary reports on the operations, use, activity and overall system performance on a regular schedule and on demand. Examples of reports to include but not limited to, reports from reference queries, reports on use stats on the data in the system, reports to identify confidential information, reports to check sums of ingested data, and reports of data organized by office.				

ALL BOXES MUST BE CHECKED "YES" IN ORDER TO BE CONSIDERED. ANY WITH "NO" WILL BE ELIMINATED.

Appendix B
SaaS Mandatory Requirements

Vendor Name:					
Criteria:		Yes	No	For TSLAC	Notes:
System Functional Specifications					
3	Ingest				
3.1	System MUST allow for creation of Submission Information Package				
	a. Must allow for adding metadata to the SIP as a whole and/or to individual contents				
3.2	On ingest, the system must support a workflow of digital objects as follows:				
	a. MUST perform a virus check				
	b. MUST validate content				
	c. MUST allow for normalization of content both at time of ingest or later				
	d. MUST allow for review of content				
	e. MUST apply checksum to each SIP upon ingest				
	f. The system MUST assign a unique identifier to each object				
3.3	The system MUST accept content in numerous file types/formats, including text files, images, audio files, video files, websites, geospatial data, other databases				
3.4	The system MUST accept metadata in a variety of XML schema (MARC, MARC XML, MODS, EAD, DC, etc.) and support crosswalks between schemas.				
3.5	The system MUST store and track multiple versions of a document, file or image together				
3.6	The system MUST maintain relationships between parent object and subsequent child objects				
4	Quality assurance				
4.1	The system MUST verify validity of submission based on submitter, expected format, file quality, duplication, completeness				
5	General Archival Information Package (AIP)				
5.1	The system MUST generate AIPs for storage by transforming SIPs to conform to repository's data formatting standards.				
5.2	The system MUST allow for extraction of information from the SIP to produce Descriptive Information				
5.3	AIPs may consist of both master files and derivatives which MUST be tracked together				

ALL BOXES MUST BE CHECKED "YES" IN ORDER TO BE CONSIDERED. ANY WITH "NO" WILL BE ELIMINATED.

Appendix B
SaaS Mandatory Requirements

Vendor Name:					
	Criteria:	Yes	No	For TSLAC	Notes:
6	Archival Storage				
6.1	The system MUST transfer AIPs to archival storage from Ingest Archival storage				
6.2	The system MUST transfer the Descriptive Information to Data Management (if housed separately.)				
6.3	The system MUST store the Descriptive Information in the Data Management database to support search and retrieval (if housed separately)				
6.4	The system MUST generate confirmation, statistical and error reports for all steps in the AIP process (transfer from ingest to placement in archival storage)				
6.5	The system MUST maintain the storage hierarchy of the data				
6.6	Persistent Identifiers MUST be the link between Data Management and digital objects				
6.7	AIPs and Descriptive information MUST be put back together when the objects are accessed				
6.8	The system MUST monitor and ensure that AIPs are not corrupted during transfers				
6.9	Proposer MUST review, sign and comply with the TSLAC information security policies summary which guides the use of agency resources and data. Provide signed forms with submitted proposal. See Appendix X for forms.				
6.10	The information to be stored in the system will be classified CONFIDENTIAL and must be encrypted at rest as well as in motion.				
7	Error checking and disaster recovery				
7.1	The system MUST perform integrity checking and generate error reports				
8	Provide data				
8.1	The system MUST provide AIPs to Access to generate DIPs (Dissemination Information Packages)				
	Administration				
9	General				
9.1	The system MUST allow for migration of contents of the repository				
9.2	The system MUST ensure data integrity for version upgrades				
9.3	The system MUST be able to inventory and report on contents of the repository				
10	Audit submission				
M10.2	The system MUST audit data in SIPs or AIPs to ensure that they meet specified requirements				

ALL BOXES MUST BE CHECKED "YES" IN ORDER TO BE CONSIDERED. ANY WITH "NO" WILL BE ELIMINATED.

Appendix B
SaaS Mandatory Requirements

Vendor Name:					
	Criteria:	Yes	No	For TSLAC	Notes:
	Access				
11	Coordinate access activities				
11.1	The access mechanisms MUST be sufficiently granular to allow identification of individual users in order to maintain audit logs of actions performed by user				
11.2	The access mechanisms MUST control access to data in the repository based on multiple permission levels. These permission levels determine the create/edit/read/delete privileges granted users. This includes ability to restrict access to certain data (objects and/or metadata) based on permission level.				
12	Implementation				
12.1	The awarded vendor MUST provide a draft project plan detailing the steps, time estimated, and cost milestones from start to successfully ingesting data. This will include but not limited to installing, training, and providing guidance on ingest of records for this Project.				
12.2	The proposed system MUST allow metadata to be exported from the new system to other systems using standard XML schemas.				
12.3	The Awarded Vendor MUST consult with TSLAC for planning data conversion and migration, loading (single items and bulk processing), and testing of all existing data from the current systems.				
12.4	The Awarded Vendor MUST oversee and conduct a User Acceptance Testing process with designated TSLAC staff.				
12.5	The Awarded Vendor MUST provide for testing of actual data the TSLAC can use to ensure complete functionality and operation of each component of the system.				
12.6	Vendor MUST explain in detail the training that would be provided to TSLAC staff. Include type of training, number of training session, number of people that can attend, manuals that would be provided, etc. Provide costs in Appendix X.				
12.7	The Awarded Vendor MUST provide copies of training material.				
13	Support				
13.1	Vendor MUST provide the annual cost for the software.				
13.2	The Awarded Vendor MUST provide copy of a Service Level Agreement (SLA). If offering tiered SLAs, include all SLA levels and their cost.				
13.3	The Vendor MUST describe their strategy to ensure the system remains current, i.e., continues to use up-to-date versions of software and hardware technology and ability to upgrade to newer operating systems and how the Vendor would keep TSLAC up-to-date on these changes. Provide any costs TSLAC could incur in Appendix X.				
13.4	Award Vendor MUST provide a written disaster recovery and business continuity plan within 30 days of full implementation. Provide a sample of current general disaster recovery and business continuity plan.				
13.5	Vendor MUST provide documentation on all proposed hardware components that are compatible with the system in Appendix X.				
13.6	The Awarded Vendor MUST provide TSLAC with an operations manual, describing all interfaces and activities for each of the work process functions performed by the system within 30 days of full implementation. The manual MUST incorporate the revised terminology and field name changes that were customized to meet TSLAC's requirements during implementation. The operations manual MUST be in sufficient detail to enable the reader to operate the system. Documentation should also include a data dictionary that provides a description of the content of the data elements along with the layout of the data across the database tables to allow selected staff to create reports and/or export particular data elements.				
13.7	Vendor MUST provide a detailed explanation of the help desk and technical support organization structure, and the recommended process for identification, reporting, and resolution of technical issues that may be encountered in the operation, backup or recovery of the proposed solution. Include geographic locations, time zones and hours of operation, escalation procedures, and response times.				

ALL BOXES MUST BE CHECKED "YES" IN ORDER TO BE CONSIDERED. ANY WITH "NO" WILL BE ELIMINATED.

Appendix C
Locally Hosted Mandatory Requirements

Vendor Name:					
	Criteria:	Yes	No	For TSLAC	Notes:
1	General Specifications				
1.1	The system MUST be a software application installed on servers at the State Data Center.				
1.2	Software MUST be an integrated system with a single log-in per user into the system.				
1.3	The system MUST conform to OAIS (Open Archival Information System) standards				
1.4	Software MUST be web-based				
1.5	If using client-based software, the system MUST be compatible with Microsoft Windows 7 or higher and be able to upgrade to latest versions of Microsoft Windows.				
1.6	If using open-source architecture, the system MUST use RedHat Linux Enterprise, MySQL, Apache, and PHP.				
1.7	The web application MUST, at a minimum, support Microsoft Explorer. It is also preferred that the System support Firefox, Chrome and Safari browsers.				
1.8	The system MUST utilize data in alpha, numerical and alpha-numeric formats, through fixed width or delimited text.				
1.9	Vendor MUST provide 12 named licenses or accounts for TSLAC staff.				
1.10	The system MUST keep an audit trail of all actions, through all functional areas.				
1.11	The system MUST allow for a user-definable vocabulary, including but not limited to user-definable database fields of multiple types like date or number fields as well as text fields and user-editable form and report labels for existing database fields.				
2	System Process				
	Reports				
2.1	The system MUST provide detailed and summary reports on the operations, use, activity and overall system performance on a regular schedule and on demand. Examples of reports to include but not limited to, reports from reference queries, reports on use stats on the data in the system, reports to identify confidential information, reports to check sums of ingested data, and reports of data organized by office.				

ALL BOXES MUST BE CHECKED "YES" IN ORDER TO BE CONSIDERED. ANY WITH "NO" WILL BE ELIMINATED.

Appendix C
Locally Hosted Mandatory Requirements

Vendor Name:					
Criteria:		Yes	No	For TSLAC	Notes:
System Functional Specifications					
3	Ingest				
3.1	System MUST allow for creation of Submission Information Package				
	a. Must allow for adding metadata to the SIP as a whole and/or to individual contents				
3.2	On ingest, the system must support a workflow of digital objects as follows:				
	a. MUST perform a virus check				
	b. MUST validate content				
	c. MUST allow for normalization of content both at time of ingest or later				
	d. MUST allow for review of content				
	e. MUST apply checksum to each SIP upon ingest				
	f. The system MUST assign a unique identifier to each object				
3.3	The system MUST accept content in numerous file types/formats, including text files, images, audio files, video files, websites, geospatial data, other databases				
3.4	The system MUST accept metadata in a variety of XML schema (MARC, MARC XML, MODS, EAD, DC, etc.) and support crosswalks between schemas.				
3.5	The system MUST store and track multiple versions of a document, file or image together				
3.6	The system MUST maintain relationships between parent object and subsequent child objects				
4	Quality assurance				
4.1	The system MUST verify validity of submission based on submitter, expected format, file quality, duplication, completeness				
5	General Archival Information Package (AIP)				
5.1	The system MUST generate AIPs for storage by transforming SIPs to conform to repository's data formatting standards.				
5.2	The system MUST allow for extraction of information from the SIP to produce Descriptive Information				
5.3	AIPs may consist of both master files and derivatives which MUST be tracked together				

ALL BOXES MUST BE CHECKED "YES" IN ORDER TO BE CONSIDERED. ANY WITH "NO" WILL BE ELIMINATED.

Appendix C
Locally Hosted Mandatory Requirements

Vendor Name:					
	Criteria:	Yes	No	For TSLAC	Notes:
6	Archival Storage				
6.1	The system MUST transfer AIPs to archival storage from Ingest Archival storage				
6.2	The system MUST transfer the Descriptive Information to Data Management (if housed separately.)				
6.3	The system MUST store the Descriptive Information in the Data Management database to support search and retrieval (if housed separately)				
6.4	The system MUST generate confirmation, statistical and error reports for all steps in the AIP process (transfer from ingest to placement in archival storage)				
6.5	The system MUST maintain the storage hierarchy of the data				
6.6	Persistent Identifiers MUST be the link between Data Management and digital objects				
6.7	AIPs and Descriptive information MUST be put back together when the objects are accessed				
6.8	The system MUST monitor and ensure that AIPs are not corrupted during transfers				
6.9	Proposer MUST review, sign and comply with the TSLAC information security policies summary which guides the use of agency resources and data. Provide signed forms with submitted proposal. See Appendix X for forms.				
6.10	The information to be stored in the system will be classified CONFIDENTIAL and must be encrypted at rest as well as in motion.				
7	Error checking and disaster recovery				
7.1	The system MUST perform integrity checking and generate error reports				
8	Provide data				
8.1	The system MUST provide AIPs to Access to generate DIPs (Dissemination Information Packages)				
	Administration				
9	General				
9.1	The system MUST allow for migration of contents of the repository				
9.2	The system MUST ensure data integrity for version upgrades				
9.3	The system MUST be able to inventory and report on contents of the repository				
10	Audit submission				
M10.2	The system MUST audit data in SIPs or AIPs to ensure that they meet specified requirements				

ALL BOXES MUST BE CHECKED "YES" IN ORDER TO BE CONSIDERED. ANY WITH "NO" WILL BE ELIMINATED.

Appendix C
Locally Hosted Mandatory Requirements

Vendor Name:					
	Criteria:	Yes	No	For TSLAC	Notes:
	Access				
11	Coordinate access activities				
11.1	The access mechanisms MUST be sufficiently granular to allow identification of individual users in order to maintain audit logs of actions performed by user.				
11.2	The access mechanisms MUST control access to data in the repository based on multiple permission levels. These permission levels determine the create/edit/read/delete privileges granted users. This includes ability to restrict access to certain data (objects and/or metadata) based on permission level.				
12	Implementation				
12.1	The awarded vendor MUST provide the minimum & recommended server hardware requirements and server configurations.				
12.2	The awarded vendor MUST provide the minimum & recommended operating system and browser configurations.				
12.3	The awarded vendor MUST install and configure the vendor software in coordination with TSLAC at the State Data Center.				
12.4	The awarded vendor MUST be available to perform application support as needed including installing upgrades, troubleshooting application problems and any other application help that is needed. This cost should be included in the GREEN TAB of ESD Package 4.				
12.5	The awarded vendor MUST provide a draft project plan detailing the steps, time estimated, and cost milestones from start to successfully ingesting data. This will include but not limited to installing, training, and providing guidance on ingest of records for this Project.				
12.6	The proposed system MUST allow metadata to be exported from the new system to other systems using standard XML schemas.				
12.7	The Awarded Vendor MUST consult with TSLAC for planning data conversion and migration, loading (single items and bulk processing), and testing of all existing data from the current systems.				
12.8	The Awarded Vendor MUST oversee and conduct a User Acceptance Testing process with designated TSLAC staff.				
12.9	The Awarded Vendor MUST provide for testing of actual data the TSLAC can use to ensure complete functionality and operation of each component of the system.				
13	Vendor MUST explain in detail the training that would be provided to TSLAC staff. Include type of training, number of training session, number of people that can attend, manuals that would be provided, etc. Provide costs in the GREEN TAB of ESD Package 4.				
13.1	The Awarded Vendor MUST provide copies of training material.				
13	Support				
13.1	Vendor MUST provide the annual cost for the software.				
13.2	The Awarded Vendor MUST provide copy of a Service Level Agreement (SLA). If offering tiered SLAs, include all SLA levels and their cost.				
13.3	The Vendor MUST describe their strategy to ensure the system remains current, i.e., continues to use up-to-date versions of software and hardware technology and ability to upgrade to newer operating systems and how the Vendor would keep TSLAC up-to-date on these changes. Provide any costs TSLAC could incur in Appendix X.				
13.4	Award Vendor MUST provide a written disaster recovery and business continuity plan within 30 days of full implementation. Provide a sample of current general disaster recovery and business continuity plan.				
13.5	Vendor MUST provide documentation on all proposed hardware components that are compatible with the system in Tab 13.				

ALL BOXES MUST BE CHECKED "YES" IN ORDER TO BE CONSIDERED. ANY WITH "NO" WILL BE ELIMINATED.

Appendix C
Locally Hosted Mandatory Requirements

Vendor Name:					
	Criteria:	Yes	No	For TSLAC	Notes:
13.6	The Awarded Vendor MUST provide TSLAC with an operations manual, describing all interfaces and activities for each of the work process functions performed by the system within 30 days of full implementation. The manual MUST incorporate the revised terminology and field name changes that were customized to meet TSLAC's requirements during implementation. The operations manual MUST be in sufficient detail to enable the reader to operate the system. Documentation should also include a data dictionary that provides a description of the content of the data elements along with the layout of the data across the database tables to allow selected staff to create reports and/or export particular data elements.				
13.7	Vendor MUST provide a detailed explanation of the help desk and technical support organization structure, and the recommended process for identification, reporting, and resolution of technical issues that may be encountered in the operation, backup or recovery of the proposed solution. Include geographic locations, time zones and hours of operation, escalation procedures, and response times.				

ALL BOXES MUST BE CHECKED "YES" IN ORDER TO BE CONSIDERED. ANY WITH "NO" WILL BE ELIMINATED.

Appendix D RFO Proposal & Submittal Checklist

If providing a SaaS & locally hosted option, please provide entirely separate Offers for each type of system in order to be considered.

- **Please present one original and five copies of your offer in a three-ring binder, in the following order, organized by the corresponding tab number.**
- **Provide entire offer on a CD-Rom**
- **Offer pages should be numbered and contain an organized, paginated, table of contents corresponding to the section and pages of the Offer.**
- **Offer must include all of these elements in order to be considered!**

Requested Item	Tab number	Vendor initials	For TSLAC
Included CD-Rom & Number of Copies Requested			
RFO Offer & Submittal Requirements Checklist (Appendix D)	1		
SIGNED Offer Coversheet (ESBD - Package 1)	1		
Mandatory Requirements Checklist (Appendix A and/or Appendix B)	1		
System Requirements Offer (Section 2.2, as well as ESBD Package 3 and/or Package 4)	2		
VPAT (Section 2.4 and ESBD - Package 5)	3		
Online Trial Information (Section 2.5)	4		
HUB Subcontracting Plan (Section 2.8)	5		
Public Information Act (Section 2.9). If applicable, Appendix G.	6		
Offer Requirements (Section 3.4)	7		
Offeror Qualifications (Section 3.5) & References (Section 3.6)	8		
Cost & Fee Offer (Section 3.7 AND ESBD – Package 3 and/or ESBD Package 4)	9		
Vendor T&Cs and/or License Agreement (Section 3.17)	10		
Service Level Agreement	11		

Appendix D
RFO Proposal & Submittal Checklist

If applicable, Addendum	12		
If applicable, Hardware	13		

Appendix E
Texas State Library and Archives Commission
Terms and Conditions

All of the following terms and conditions are hereby made part of this contract with the Texas State Library and Archives Commission (TSLAC) by reference. Submitting a Response with a false statement is a material breach of contract and shall void the submitted Response or any resulting contracts, and the Vendor shall be removed from all bid lists.

Contracts awarded by TSLAC shall be governed by and construed in accordance with the laws of the State of Texas. The federal or state courts of the United State located in Texas shall have jurisdiction to hear any dispute under potential contracts and serviced may be made upon TSLAC by first class mail to its address as set forth herein.

1. **Sales and Use Tax.** The TSLAC, 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 Vendor may be able to claim exemption from payment of applicable State taxes by complying with such procedures as may be prescribed by the State Comptroller of Public Accounts. Excise Tax Exemption Certificates are available upon request.
2. **Observance of TSLAC Rules and Regulations.** Vendor agrees that at all times its employees will observe and comply with all regulations when accessing the TSLAC facilities, including, but not limited to, parking and security regulations.
3. **Non-Appropriation of Funds.** The State funds are contingent on the availability of lawful appropriates by the Texas Legislature. If the Texas Legislature fails to continue funding for the payments due under an order referencing this contract; the order will terminate as of the date that the funding expires, and the State will have no further obligation to make any payments.
4. **Prohibited Use of Appropriated or Other Funds Under Control of State Agency; Lobbying.** Vendor represents and warrants that TSLAC's payment to Vendor and Vendor's receipt of appropriated or other funds under this any resulting Contract are prohibited by Section 556.005 or Section 556.008 of the Texas Government Code.
5. **Public Information Act.** Information, documentation, and other material in connection with this RFP or contract may be subject to public disclosure pursuant to Chapter 552.021 of the Texas Government Code (the "Public Information Act"). Any part of a submitted Response that is of a confidential or proprietary nature must be clearly and prominently marked on each page as such by the Vendor. Vendor is required to make any information created or exchanged with the state pursuant to this contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state.
6. **Antitrust.** Vendor represents that neither the Vendor nor the company, corporation, partnership, or institution represented by the Vendor, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State or the Federal Antitrust Laws, nor communicated directly or indirectly the proposal to any other person engaged in such line of business.
7. **Specifications.**
The State will not be bound by any oral statement or representation contrary to the written specifications.
8. **Delivery.**
 - Delivery shall be made during normal working hours (8am-5pm, CT), unless prior approval has been obtained from the TSLAC.
 - No substitutions permitted without written approval of the TSLAC's Purchasing Dept.
 - If delay is foreseen, vendor shall give written notice to the TSLAC. Vendor must keep the TSLAC advised at all times of status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes the TSLAC to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting vendor.
9. **Contract Fulfillment.** If federal or state laws or regulations or other federal or state requirements are amended and judicially interpreted so that either party cannot reasonably fulfill this contract, and if the parties cannot agree to an amendment that would enable substantial continuation of the contract, the parties shall be discharged from any further obligations under this contract.
10. **Inspection and Tests.** All goods will be subject to inspection and test by the State. Authorized TSLAC personnel shall have access to supplier's place of business for the purpose of inspecting merchandise. Tests shall be performed on samples submitted with the Response or on samples taken from regular shipments. All costs shall be borne by the vendor in the event products tested fail to meet or exceed all conditions and requirements of the specification. Goods delivered and rejected in whole or in part may, at the State's option, be returned to the vendor or held for disposition at vendor's expense. Latent defects may result in revocation of award.

Appendix E
Texas State Library and Archives Commission
Terms and Conditions

- 11. Payment.** The State will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of goods or services and an uncontested invoice. Any payments later than 30 days from uncontested invoice will start to accrue interest.
- 12. Dispute Resolution.** Unless an applicable state statute or applicable federal law establishes another procedure for the resolution of disputes, the dispute resolution process provided for in Chapter 2260, Texas Government Code, shall be used, as further described herein, by TSLAC and the Vendor to attempt to resolve all disputes arising under this contract. Vendor claims for breach of this contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260, subchapter B, of the Texas Government Code. To initiate the process, Vendor shall submit written notice, as required by subchapter B, to the Chief Financial Officer or the designate. Said notice shall specifically state that the provisions of Chapter 2260, subchapter B, are being invoked. A copy of the notice shall also be given to all other representatives of Vendor and the TSLAC otherwise entitled to notice under the parties' contract. Compliance by Vendor with subchapter B is a condition precedent to the filing of a contested case proceeding under Chapter 2260, subchapter C, of the Texas Government Code. The contested case process provided in Chapter 2260, subchapter C, of the Texas Government Code is Vendor's sole and exclusive process for seeking a remedy for any and all alleged breaches of contract by TSLAC if the parties are unable to resolve their disputes under this Section. Compliance with the contested case process provided in subchapter C is a condition precedent to seeking consent to sue from the Legislature under Chapter 107 of the Civil Practices and Remedies Code. Neither the execution of this contract by TSLAC nor any other conduct of any representative of TSLAC relating to this contract shall be considered a waiver of sovereign immunity to suit. The submission, processing and resolution of Vendor's claim is governed by the published rules adopted by the Office of the Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended. These rules are found in the Texas Administrative Code. Neither the occurrence of an event nor the pendency of a claim constitutes grounds for the suspension of performance by the Vendor, in whole or in part.
- 13. Gifts.** The Vendor has not given, offered to give, 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 contract.
- 14. Compensation.** Pursuant to Chapter 2155.004 of the Texas Government Code, the Vendor has not received compensation for participation in the preparation of the specifications for this RFP or contract.
- 15. Certification Regarding Non-Payment of Child Support.** Pursuant to Section 231.006 (d), Family Code, re: child support, the Vendor certifies that the individual or business entity named in this Response 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.
- 16. Ineligibility.** Under Chapter 2155.004 of the Texas Government Code, the vendor certifies that the individual or business entity named in this Response 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.
- 17. Indemnification.** The Vendor shall defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of contractor or any agent, employee, subcontractor, or supplier of contractor in the execution or performance of this contract.
- 18. Debt.** Vendor 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.
- 19. Executive Head of a State Agency.** Pursuant to §669.003, Government Code, the TSLAC may not enter into a contract with a person who employs a current or former Executive Head of a state agency until four years have passed since that person was the executive head of the state agency. By submitting a Proposal, the Respondent certifies that it does not employ any person who was the Executive Head of a state agency in the past four years.
- 20. State Auditor's Clause.** Vendor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditors Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Vendor further agrees to cooperate fully with the State Auditors Office or its successor in the conduct of the audit or investigation, including providing all records requested. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Vendor and the requirement to cooperate is included in any subcontract it awards.
- 21. Patents and Copyrights.** Vendor shall defend and indemnify TSLAC and the State of Texas against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from TSLAC's or Vendor's

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use of or acquisition of any services or other items provided to TSLAC by Vendor or otherwise to which TSLAC has access as a result of Vendor's performance under this Contract, provided that TSLAC notify Vendor of any such claim within a reasonable time of TSLAC's receiving notice of any such claim. If Vendor is notified of any claim subject to this Section, Vendor shall notify TSLAC of such claim within five (5) working days of such notice. If TSLAC determines that a conflict exists between its interests and those of Vendor or if TSLAC is required by applicable law to select separate counsel, TSLAC shall be permitted to select separate counsel, and the reasonable costs of such TSLAC's counsel shall be paid by Vendor. No settlement of any such claim shall be made by Vendor without TSLAC's prior written approval. Vendor shall reimburse TSLAC and the State of Texas for any claims, damages, losses, costs, expenses, judgments or any other amounts, including, but not limited to, attorneys' fees and court costs arising from any such claim. Vendor represents that it has determined what licenses, patents and permits are required under this Contract and has acquired all such licenses, patents and claims.

- 22. Vendor Assignments.** Vendor hereby assigns an ordering agency any and all claims for overcharges associated with this contract arising under the antitrust laws of the United States 15 U.S.C.A Section 1, et seq (1973), and the antitrust laws of the State of Texas, TEX. Bus. & Comm. Code Ann. Sec. 15.01, et seq (1967).

- 23. Default.** If the Vendor fails to provide the goods or services contracted for according to the provisions of the Contract, or fails to comply with any of the terms and conditions of the Contract, the TSLAC may, upon written notice of default to the Vendor, immediately terminate all or any part of the Contract. Termination is not an exclusive remedy, but will be in addition to any other rights and remedies provided in equity, by law or under the Contract.

The TSLAC may exercise any other right, remedy or privilege which may be available to it under applicable law of the state and any other applicable law or may proceed by appropriate court action to enforce the provisions of the Contract, or to recover damages for the breach of any agreement being derived from the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless the TSLAC notifies the Vendor in writing prior to the exercise of such remedy. The Vendor shall remain liable for all covenants and indemnities under the Contract. The Respondent shall be liable for all costs and expenses, including court costs, incurred by the TSLAC with respect to the enforcement of any of the remedies listed herein.

- 24. Cancellation.** The cancellation of the agreement, under any circumstances whatsoever, shall not effect or relieve Vendor from any obligation or liability that may have been incurred or will be incurred pursuant to this agreement, and such cancellation by TSLAC shall not limit any other right or remedy available to the TSLAC at law or in equity.
- 25. Agreement Amendments.** No modification or amendment to the agreement shall become valid unless in writing and signed by both parties. All correspondence regarding modifications or amendments to the agreement must be forwarded to the TSLAC Purchasing Department for prior review and approval. Only the contract administrator within the Purchasing Department or his/her designee will be authorized to sign changes or amendments.
- 26. Independent Vendor Status.** Vendor agrees that Vendor and Vendor's employees and agents have no employer-employee relationship with TSLAC. TSLAC shall not be responsible for the Federal Insurance Contribution Act (FICA) payments, federal or state unemployment taxes, income tax withholding, Workers Compensation insurance payments, or any other insurance payments, nor will TSLAC furnish any medical or retirement benefits, any paid vacation or sick leave.
- 27. Publicity.** Vendor agrees that it shall not publicize this agreement or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of TSLAC's name in connection with any sales promotion or publicity event without the prior express written approval of TSLAC.
- 28. Severability.** If one or more provisions of this agreement, or the application of any provision to any party or circumstance is held invalid, unenforceable, or illegal in any respect, the remainder of the agreement and the application of the provision to other parties or circumstances shall remain valid and in full force and effect.
- 29. No Waiver.** Nothing in this agreement shall be construed as a waiver of the state's sovereign immunity. This agreement shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this agreement or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. TSLAC does not waive any privileges, rights defenses, or immunities available to TSLAC by entering into this agreement or by its conduct prior to or subsequent to entering into this agreement.
- 30. Property Rights.** For purposes of this contract, the term "work" is defined as all reports, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, intellectual property or

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other property developed, produced or generated in connection with the services provided under the contract. The TSLAC and Vendor intend this contract to be a contract for services, and each considers the work and any and all documentation or other products and results of the services to be rendered by Vendor to be a work made for hire. By execution of a contract for these services, Vendor acknowledges and agrees that the work (and all rights therein) belongs to and shall be the sole and exclusive property of the TSLAC.

If, for any reason, the work would not be considered a work-for-hire under applicable law, Vendor does hereby sell, assign, and transfer to the TSLAC, its successors and assigns, the entire right, title and interest in and to the copyright of the work and any registrations and copyright applications relating thereto, and any renewals and extensions thereof, and in and to all works based upon, derived from, or incorporating the work, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and in and all to rights corresponding to the foregoing. Vendor agrees to execute all papers and to perform such other property rights as the TSLAC may deem necessary to secure for TSLAC or its designee the rights herein assigned.

Copyrightable material made by the Vendor for TSLAC shall be considered work-made-for-hire for TSLAC within the meaning of the copyright laws. Vendor shall assign all rights, title and interest in such copyrightable materials to TSLAC. Should this work product prove to be patentable, Vendor will assign all patent rights to TSLAC upon request. TSLAC shall have the right, at its discretion, to keep such work product as a trade secret.

Vendor and Vendor's employees shall have no rights of ownership of the Work and any documentation or other products and results of the services or any other property of TSLAC. Any property or Work not specifically scheduled in this Contract as property of Vendor shall constitute property of TSLAC.

In addition to compliance with the right to examination provisions of the Contract, Vendor must deliver to TSLAC, no later than the forty-eight (48) hours after receipt of TSLAC's written request for same, all completed or partially completed Work and any and all documentation or other products and results of the Services under such Contract. Vendor's failure to timely deliver such Work or any documentation or other products and results of the Services will be considered a material breach of the Contract. With the prior written approval of TSLAC, this forty-eight (48) hour period may be extended for delivery of certain completed or partially completed Work or other such information, if such extension is in the best interest of the State of Texas or TSLAC. If Vendor fails to deliver such Work within forty-eight (48) hours after receipt of written request for same, TSLAC may withhold all payments to Vendor, may withhold all authorization for payment of previously approved and future invoices, may impose liquidated damages of \$1000 per each twenty-four (24) hour period of delay, or a pro rata amount for any portion of each such twenty-four (24) hour period. During the transition from any successor of the Vendor, TSLAC may impose liquidated damages of \$2000 rather than \$1000 per each twenty-four (24) hour period of delay, or a pro rata amount for any portion of each such twenty-four (24) hour period. These liquidated damages are in addition to other remedies and rights that are applicable or available to TSLAC for such failure or delay under this Contract.

31. **Acceptance of Products and Services.** All products furnished and all services performed under this agreement shall be to the satisfaction of TSLAC and in accordance with the specifications, terms, and conditions of this contract. TSLAC reserves the right to inspect the products furnished or the services performed, and to determine the quality, acceptability, and fitness of such products or services.
32. **Deceptive Trade Practices Act (DTPA).** Vendor represents and warrants that it has not been the subject of a Deceptive Trade Practices Act or any unfair business practice administrative hearing or court suit, and that Vendor has not been found to be guilty of such practices in such proceedings. Vendor certifies that it has no officers who have served as officers of other entities who have been the subject of a Deceptive Trade Practices Act or any unfair business administrative hearing or court suit, and that such officers have not been found to be guilty of such practices in such proceedings.
33. **Immigration.** Vendor represents and warrants that it will comply with the requirements of the Immigration Reform and Control Act of 1986 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under this Contract.
34. **Criminal Conviction Certification.** The Vendor represents and warrants that Vendor has not and Vendor's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Vendor has fully advised TSLAC as to the facts and circumstances surrounding the conviction. Vendor has a continuing duty to amend, supplement or correct this representation and warranty not later than ten (10) days after discovering additional information relating to felony criminal convictions of Vendor or any of its employees. Vendor shall not allow any employee convicted of a felony criminal offense to perform tasks related to the contract without such disclosure and express permission from TSLAC.
35. **Subcontracting.** It is contemplated by the parties hereto that the Vendor shall conduct the performances provided by this contract substantially with its own resources and through the services of its own staff. In the event the Vendor should

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determine that it is necessary or expedient to subcontract for any of the performances specified herein, the Vendor shall subcontract for such performances only after the Vendor has transmitted to TSLAC a true copy of the subcontract the Vendor proposes to execute with a subcontractor and has obtained TSLAC's written approval for subcontracting the subject performance in advance of executing a subcontract. The Vendor, in subcontracting for any products or performances specified herein, expressly understands and acknowledges that in entering into such subcontracting(s), TSLAC is in no manner liable to any subcontractor(s) of the Vendor. In no event shall this provision relieve the Vendor of the responsibility for ensuring that the finished products and/or services rendered under all subcontracts are rendered so as to comply with all terms of this contract.

- 36. Assignment.** The Vendor will not assign its rights under this contract or delegate the performance of its duties under this contract without prior written approval from TSLAC.
- 37. Accessibility.** TSLAC is required to follow Texas Administrative Code, Title 1, Part 10, Chapter 206, Accessibility and Usability of State Web Sites, Texas Administrative Code, Title 1, Part 10, Chapter 213, and the Federal Section 508, Accessibility Standards.
- 38. Ethics.** Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Chapter 2155.003 of the Texas Government Code. The Rule outlines the ethical standards required of public purchaser, employees, and vendors who interact with public purchasers in the conduct of state business. Specifically, a TSLAC employee may not have an interest in, or in any matter be connected with a contract or RFP for a purchase of goods or services by an agency of the state; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation. Entities who are interested in seeking business opportunities with the state must be mindful of these restrictions when interacting with public purchasers of TSLAC or purchasers of other state agencies.
- 39. Convictions in connection with Hurricane Katrina, Hurricane Rita, and subsequent disasters.** Per Senate Bill 608, 80th Legislative Session, TSLAC will not accept Responses, nor award contracts to persons convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Katrina, Hurricane Rita, and subsequent disasters.
- 40. Equal Opportunity.** Vendor represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, creed, religion, political belief, sex, sexual orientation, age and disability in the performance of awards.
- 41. Drug Free Workplace.** The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C 701 ET SEQ.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.
- 42. Force Majeure.** Neither Vendor nor TSLAC shall be liable to the other for any delay in, or failure of performance, of any requirement included in any award resulting from a RFP caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.
- 43. Termination.** Vendor shall have the right to terminate contracts awarded from this RFP upon a material breach of its terms by TSLAC, which are not cured within thirty (30) days of written notice. If Vendor (a) terminates or suspends its business (b) becomes subject to any bankruptcy or insolvency proceeding under any Federal or State statute or (c) becomes or subject to direct control by a trustee, receiver, or similar authority, TSLAC may, in addition to its other legal rights and remedies, terminate this agreement on seven (7) days notice to Vendor. Upon such termination, Vendor will offer TSLAC a prorated refund or subscription fee.

In the event that the Contract is terminated for any reason, or upon its expiration, the TSLAC shall retain ownership of all associated work products and documentation obtained from the Vendor under the Contract.

- 44. Survival of Terms.** Termination of this Contract for any reason shall not release the Vendor from any liability or obligation

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set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.

- 45. Supporting Documents; Right to Audit; Independent Audits.** Vendor shall maintain and retain supporting fiscal documents adequate to ensure that claims for Contract funds are in accordance with applicable TSLAC and State of Texas requirements. Vendor shall maintain all such documents and other records relating to this Contract and the State's property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Vendor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the State's property, such as work papers, reports, books, data, files, software, records, and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TSLAC, State of Texas or their authorized representatives. Vendor shall cooperate with auditors and other authorized TSLAC and State of Texas representatives and shall provide them with prompt access to all of such State's property as requested by TSLAC or the State of Texas. By example, and not as an exclusion to other breaches or failures, Vendor's failure to comply with this Section shall constitute a material breach of this Contract and shall authorize TSLAC to immediately assess liquidated damages as described in Section 29 of Appendix C for such failure. For purposes of this Section, the "State's property" includes, but is not limited to, "Work" as defined in the RFP. TSLAC may require, at Vendor's sole cost and expense, independent audits by a qualified certified public accounting firm of Vendor's books and records or the State's property. The independent auditing shall provide TSLAC with a copy of such audit at the same time it is provided to Vendor. TSLAC retains the right to issue the request for Statement of Qualifications for the services of an independent certified public accounting firm under this Contract. In addition to and without limitation on the other audit provisions of this Contract, pursuant to Section 2262.003 of the Texas Government Code, the state auditor may conduct an audit or investigation of Vendor or any other entity or person receiving funds from the state directly under this Contract or indirectly through a subcontract under this Contract. The acceptance of funds by Vendor or any other entity or person directly under this Contract or indirectly through a subcontract under this Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, Vendor or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. This Contract may be amended unilaterally by TSLAC to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.003. Under procedures provided by the state auditor on September 5, 2003, in addition to the above, (1) Vendor understands that the acceptance of funds under this Contract acts as acceptance of the authority of the state auditor to conduct an audit or investigation in connection with those funds; (2) Vendor further agrees to cooperate fully with the state auditor in the conduct of the audit or investigation, including providing all records requested; (3) Vendor shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through Vendor and the requirement to cooperate is included in any subcontract it awards; and (4) the state auditor shall at any time have access to and the rights to examine, audit, excerpt, and transcribe any pertinent books, documents, working papers, and records of Vendor relating to this Contract
- 46. Limitation on Authority; No Other Obligations.** Vendor shall have no authority to act for or on behalf of TSLAC or the State of Texas except as expressly provided for in the Contract; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State of Texas or TSLAC.
- 47. Records Retention.** Vendor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract funds were expended in accordance with the laws and regulations of the State of Texas, including, but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Vendor shall maintain all such documents and other records relating to this Contract and the State's property until December 31, 2021.
- 48. Insurance & Other Security.** Vendor represents and warrants that it will, upon five (5) days of request, provide TSLAC with current certificates of insurance or other proof acceptable to TSLAC of the following insurance coverage: Standard Workers Compensation Insurance covering all personnel who will provide services under the Contract; Commercial General Liability Insurance, personal injury and advertising injury with, at a minimum, the following limits: \$500,000 minimum each occurrence; \$1,000,000 per general aggregate. Vendor represents and warrants that all of the above coverage is with companies licensed in the state of Texas, with 'A' rating from Best, and authorized to provide the corresponding coverage. Vendor also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days prior written notice to TSLAC. Vendor represents and warrants that it shall maintain the above insurance coverage during the term of the Contract, and shall provide TSLAC with an executed copy of the policies immediately upon request.

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49. Workers' Compensation Insurance Coverage.

A. Definitions:

Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

C. The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

F. The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

(1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;

(2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

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(3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each other person with whom it contracts, and provide to the contractor:

(a) a certificate of coverage, prior to the other person beginning work on the project; and

(b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

50. Vendor Responsibility for Damage to Government Property. The Vendor shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Vendor and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Vendor shall notify the TSLAC Project Manager in writing of any such damage within one (1) calendar day.

51. Vendor Performance. The TSLAC may monitor the performance of the Contract issued under this RFP. All services and goods under the Contract shall be performed at an acceptable service levels and in a manner consistent with acceptable industry standards, custom, and practice. The Vendor will receive a paper copy of this report, as well as an e-mailed copy. The TSLAC will provide a sample of the Vendor Performance Report upon request.

52. Change Management. Vendor shall assign only qualified personnel to this Contract. Vendor, in its reasonable discretion, reserves the right to substitute appropriate key personnel to accomplish its duties so long as the substituted personnel are equally qualified and skilled in the tasks necessary to accomplish the tasks and services required. Vendor shall provide to TSLAC prior written notice of any proposed change in key personnel involved in providing services under this Contract. Subcontractors providing services under the Contract shall meet the same requirements and level of experience as required of the Vendor. No subcontract under the Contract shall relieve the Vendor of responsibility for ensuring the requested services are provided. If Vendor uses a subcontractor for any or all of the work required, the following conditions shall apply: a) Vendors planning to subcontract all or a portion of the work to be performed shall identify the proposed subcontractors. b) Subcontracting shall be solely at Vendor's expense. c) TSLAC retains the right to check subcontractor's background and approve or reject the use of submitted subcontractors. d) Vendor shall be the sole contact for TSLAC. Vendor shall list a designated point of contact for all TSLAC inquiries.

53. Federal, State, and Local Requirements. Vendor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Vendor is responsible for both federal and State unemployment insurance coverage and standard Worker's Compensation Insurance coverage. Vendor shall comply with all federal and State tax laws and withholding requirements. The State of Texas shall not be liable to Vendor or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. Vendor shall indemnify the State of Texas and shall pay all costs,

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penalties, or losses resulting from Vendor's omission or breach of this Section.

- 54. Applicable Law & Conforming Amendments.** Vendor must comply with all laws, regulations, requirements and guidelines applicable to a Vendor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. TSLAC reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for TSLAC or Vendor's compliance with all applicable State and federal laws, and regulations.
- 55. No Liability Upon Termination.** If this Contract is terminated for any reason, TSLAC and the State of Texas shall not be liable to Vendor for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, Vendor may be entitled to the remedies provided in Government Code, Chapter 2260. Vendor or Vendor's employees, representatives, agents and any subcontractors shall serve as an independent contractor in providing services under any Contract resulting from this RFP. Vendor or Vendor's employees, representatives, agents and any subcontractors shall not be employees of TSLAC. Should Vendor subcontract any of the services required in this RFP, Vendor expressly understands and acknowledges that in entering into such subcontract(s), TSLAC is in no manner liable to any subcontractor(s) of Vendor. In no event shall this provision relieve Vendor of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with this RFP.
- 56. Independent Vendor.** Vendor or Vendor's employees, representatives, agents, and any subcontractors shall serve as an independent contracting in providing services under any PO. Vendor or Vendor's employees, representatives, agents and any subcontractors shall not be employees of the TSLAC. Should Vendor subcontract any of the services required, Vendor expressly understands and acknowledges that in entering into such subcontract(s), the TSLAC is in no manner liable to any subcontractor(s) of Vendor. In no event shall this provision relieve the Vendor of the responsibility for ensuring that the services rendered under all subcontracts are rendered in compliance with the specifications.
- 57. Buy Texas.** Vendor represents and warrants that it will buy Texas products and materials for use in providing the services authorized herein when such products and materials are available at a comparable price and in a comparable period of time when compared to non-Texas products and materials.
- 58. Environmental Protection.** The Vendor shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 *et seq.*) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 *et seq.*).
- 59. Electronic and Information Resources Accessibility Standards.** As Required by 1 Texas Administrative Code Chapter 213 (Applicable to State Agency and Institution of Higher Education Purchases Only) 1) Effective September 1, 2006 state agencies and institutions of higher education shall procure products which comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in 1 Texas Administrative Code Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. 2) Vendor shall provide TSLAC with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product/service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). Vendors not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide TSLAC with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at <http://www.section508.gov/>.

Appendix F

Terms and Conditions Issues

List below, by section, all exceptions to the Terms and Conditions. You must include the basis of your exception and provide proposed alternative language.

[illegible]

Appendix G

Confidential Information

The determination of whether information is confidential and not subject to disclosure under the Public Information Act is the duty of the Office of Attorney General (OAG). TSLAC must provide the OAG sufficient information to render an opinion and therefore, vague and general claims to confidentiality by the Vendor are not acceptable. TSLAC shall comply with the all opinions of the OAG.

TSLAC assumes no responsibility for asserting legal arguments on behalf of any Vendor. Vendors are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

Please list below items that you would like kept confidential. Please also mark these items as discussed in Section 2.9.

[illegible]