**Request for Proposals (RFP)**

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| **Title** | **Request for Proposals to Provide Online Tutoring Services** |
| **Solicitation #** | **1678733** |
| **Publication Date** | **October 10, 2019** |
| **Due Date** | **November 1, 2019 at 2:00 PM Eastern** |

**Respondent’s Information:**

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| **Company Name** |  |
| **Representative’s Name** |  |
| **Representative’s Email** |  |
| **Representative’s Phone #** |  |

**Section A: Introduction and Basic Information**

1. **Purpose and Scope**:

The purpose of the RFP is to obtain a system-wide contract for the University of Tennessee to use in the provision of online services for students who attend the university online or face-to-face

The University of Tennessee System, established in 1968, is the only public four-year system of higher education in the state, and comprises several distinct campuses throughout the state of Tennessee. UT campuses that would have access to the newly acquired software as part of a system contract include the following:

UT Knoxville – The system’s flagship campus, located in Knoxville, TN, enrolls over 22,000 undergraduate students and offers over 170 majors. UT Knoxville is an R1 institution

UT Chattanooga – UTC, located in East Tennessee approximately two hours from UT Knoxville, enrolls approximately 10,000 undergraduate students. The campus offers 101 academic majors and offers a variety of graduate programs.

UT Martin – Located in northwest Tennessee, UTM enrolls approximately 7,000 students and offers 97 majors. The campus serves primarily undergraduate students from West Tennessee.

UT Health Science Center – The University of Tennessee’s medical school, located in Memphis in the southwestern part of the state, enrolls over 3,000 students across four sites and employs over 6,000 individuals.

The University of Tennessee System issues this RFP to obtain pricing information and a contract for a tutoring platform provider, as described throughout this document. The package acquired should include acquisition and implementation of the software, training for staff, and migration of legacy data stored in either Banner or existing online student support platforms. While several UT campuses have previously used or currently use such a platform, the purpose of the RFP is to acquire a contract that will promote uniformity throughout the system, thereby streamlining processes and providing a common instructional support delivery system.

1. **Communications**:

The following University office is managing this solicitation:

The University of Tennessee

Office of Procurement Services

5723 Middlebrook Pike

Knoxville, TN 37921

Regarding the subject matter of this solicitation, respondents may only communicate with staff members of the University’s Office of Procurement Services. The primary contact person for this solicitation is listed below:

 Solicitation Coordinator:

Name: Blake Reagan, J.D.

Title: Director

Email: breagan@tennessee.edu

Phone: 865-974-3971 (no voicemail)

If a respondent contacts anyone except the University’s staff members listed above, the University may disqualify the respondent.

1. **Terms and Conditions**: By responding to this solicitation, the respondent agrees to the University’s purchasing terms and conditions, which are attached in Schedule 1.
2. **Term**:
	1. The initial term of contracts resulting from this solicitation will be from January 1, 2020 to May 31, 2026.
	2. The University and winning respondents may renew for up to 5 additional year(s), upon mutual agreement.
3. **Number of Awards**: The University intends to award this solicitation to 1 respondents, unless the University deems it to be in its best interest to award to fewer, or more, respondents. The University retains sole discretion over this decision.
4. **Extension of the Award**: Any organization (third-party entity) may purchase under this agreement, including other universities, local government agencies, and state-government agencies (located in any state within the United States). The third-party entity may negotiate its own terms with the supplier.
5. **Non-Exclusive**: The University will promote the use of any established contract; however, the University does not guarantee that all purchases for the products and/or services available under any award will be made exclusively from the supplier. Also, an award does not obligate the University to make any purchases from the awarded respondent and the University may elect to award contracts or purchase orders for like products or services to multiple suppliers.
6. **Pre-Proposal Conference**:

No Pre-Proposal Conference: The University will not hold a pre-proposal conference for this solicitation.

1. **Schedule**: Note the University reserves the right to change these dates. All times are quoted in Eastern Time.

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| Deadline for Questions | October 25, 2019 at 5:00 PM Eastern |

**Section B: Instructions and Evaluation Criteria**

1. **Assistance to Respondents with a Disability**: In the event that a respondent has a disability, the University will make reasonable accommodation to allow them to participate, provided that the individual requesting assistance contacts the Solicitation Coordinator no later than 10 days before the response deadline.
2. **Proposal Submission**:

Respondent must enter their responses in the Word Document and proposals must be submitted electronically through the University’s electronic procurement system in accordance with these directions:

1. Respondents must not include any cost information in the Technical Proposal.
2. Respondent’s proposed cost must remain firm for a period of at least 120 days from the University’s notice of intent to award.
3. The University will not accept late bids.
4. **Confidential Information**: Any proprietary or confidential materials contained in the proposal will be subject to the Tennessee Public Records Act, TCA 10-7-503. All responses, inquiries, or correspondence relating to or in reference to this solicitation, and all other documentation submitted by the respondents will become the property of the University when received. All proposal material submitted and evaluation documents will remain confidential, as provided by law, until after the University announces the notice of intent to award to the successful respondent. The University will not agree to provide advance notice of disclosure. Further, if the respondent includes confidentiality notices on its response to this solicitation, the respondent understands that such notices are not binding on the University. After the notice to award, all materials submitted are open for inspection.
5. **Proposal Preparation Costs**: The University will not pay any costs in the preparation or submission of a proposal. Respondent is responsible for its preparation costs.
6. **Withdrawal of Proposals**: A submitted proposal may be withdrawn by sending a written request to the Solicitation Coordinator before the solicitation due date. Proposals may be withdrawn and resubmitted in the same manner, if done prior to the submission deadline. Withdrawals or modifications offered in any other manner will not be considered.
7. **Acceptance and Rejection of Proposals**: The University may accept or reject any proposals that, in its opinion, is in the best interests of the University. The University may re-solicit proposals, or to continue with the current supplier for these services. The University may also waive minor variances or immaterial defects in a response. The University may also accept any item in the bid, unless otherwise specified by the Respondent.
8. **Presentations**: The University may invite some, or all, respondents to provide presentations (whether online or in person). If the University invites some, but not all, of the respondents, the University will not score the cost proposals for the non-invited respondents.
9. **Questions**: Up to the deadline for questions, respondents may ask the Office of Procurement Services questions in writing via email to the email address listed above in the “Communications” subsection. In the event that a respondent communicates with the Office of Procurement Services verbally, the respondent understands that verbal communication is non-binding, and respondent further acknowledges the only official communication about this solicitation is written communication. Respondent understands that it must not rely on verbal communications with the University.
10. **Addenda**: The University will make reasonable efforts to ensure that all respondents have the same material information. Accordingly, if a respondent asks a question that the University considers, in its sole discretion, to be material, the University will issue an addendum to this solicitation. The University will communicate all addenda to all respondents.
11. **Scores**:

The University will use the following scoring criteria:

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| **Evaluation Criteria** | **Maximum Points Available** |
| Technical Proposal | 700 |
| Cost Proposal | ≥300 |
| **Total Points** | **1,000** |

1. **Award**: This solicitation does not commit the university to make an award or to procure or contract for the articles of goods or services described in this solicitation. The University will make an award that the University determines to be in its best interest; this might result in a situation where the University does not award to the respondent offering the lowest cost, or to a respondent other than the highest-scoring respondent. The University reserves the right to negotiate terms and alter the specifications with the with the highest scoring respondent, however, if they are unable to reach mutually agreeable terms and conditions, the University reserves the right to reject the proposal and negotiate terms of an agreement with the next highest scoring respondent. If the agreement with the successful respondent is terminated for any reason prior to the agreement termination date, the university may elect to substitute the next highest scoring respondent, if they are willing to honor the prices in their initial proposal. A Purchasing Department of the University of Tennessee is the only office authorized to award a purchase order for the required services.
2. **Notice of Intent to Award**: After the evaluation process is completed, the University will issue a formal notice of intent to award notifying all respondents of the identity of the winning respondents.

**Section C: Technical Response**

**Instructions:** For Respondent’s technical proposal, use this Word document to provide the required information. Respondents must complete each item in order. The University may disqualify incomplete proposals.

1. **Mandatory Requirements:** The University will review the mandatory requirements to determine if they have been met.
2. The respondent must have at least three years of experience working with higher education institutions.
3. The respondent must provide support in mathematics, reading, and writing support at the college level.
4. **Insurance Requirements:** If your company does not have one or more of these policies, or your policy limits are lower, please contact Blake Reagan via email to discuss.

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| **Workers Compensation (WC):** | **Statutory Limits – required in all contracts** |
| Employers’ Liability Each Accident | $ 100,000 |
| Employers’ Liability Disease – each employee | $ 100,000 |
| Employers’ Liability Disease – policy limit | $ 500,000 |
| **Commercial General Liability (CGL):** |  |
| Each Occurrence Limit | $ 1,000,000 |
| Damage to Rented Premises – Ea. Occ. | $ 300,000 |
| Medical Expense – any one person | $ 10,000 |
| Personal & Advertising Injury Limit | $ 1,000,000 |
| General Aggregate Limit | $ 2,000,000 |
| Products/Completed Ops. Aggregate Limit | $ 2,000,000 |

 **Cyber Liability**

 Technology Professional Liability/Cyber Liability $ 5,000,000

1. **Contractor’s License:** Not applicable.
2. **Background Checks:** If the University makes an award to Respondent, Respondent will comply with the following:

Every employee that a Supplier places in service on the campus of the University must undergo a criminal background check by the University at the Supplier’s expense.  The minimum requirements for a background check are:  a verification of identity, a check of the national sex offender registry and the Tennessee felony offender database, and federal and local criminal records checks.  The University reserves the right to reject any employee of a Supplier based on information obtained through the background check.  With advance approval of the University’s Human Resources department, the University will permit a Supplier to conduct its own background checks.  Background checks performed by a Supplier must meet the University’s minimum requirements listed above, and the Supplier must inform the University about any criminal history for any person who will be working on campus.

1. **General Information**
2. Detail the name, e-mail address, mailing address, and telephone number of the person the University will contact regarding the response.

Response:

1. Detail the number of years the Respondent has been in business and how long Respondent has provided the goods or services required by this solicitation.

Response:

1. Describe the Respondent’s number of employees, client base, and location of offices.

Response:

1. Provide at least 3 references, preferably from higher education institutions, for which the same services are being utilized. Include, at a minimum, the following: business name; contact name; phone number; email address; and brief description of the scope, length, volume and status of the business relationship.

Response:

1. Provide a statement explaining any mergers, acquisitions, or change of control of the Respondent within the last 10 years. Provide a statement explaining any planned mergers, acquisitions, or changes of control.

Response:

1. Provide a brief, descriptive statement detailing evidence of the Respondent’s ability to deliver the goods or services sought under this solicitation (prior experience, training, certifications, resources, program and quality management systems, etc.).

Response:

1. Provide a list of the names of key people who the Respondent will assign to meet the Respondent’s requirements under this solicitation. Include a resume for each of the people listed.

Response:

1. Describe if Respondent will need to subcontract any work required by this solicitation.

Response:

1. Provide documentation of the Respondent’s commitment to diversity and indicate if Respondent is registered with the Governor’s Office of Diversity Business Enterprise (Go-DBE). Please visit the Go-DBE website at <https://tn.diversitysoftware.com/FrontEnd/StartCertification.asp?TN=tn&XID=9265>  for more information.

Response:

1. Describe Respondent’s current contracts with the University, the state of Tennessee, Tennessee Board of Regents schools, or other colleges or universities within the state of Tennessee. Describe any such contracts within the previous 5 year period.

Response:

1. Describe any current or pending litigation against Respondent. Disclose any past criminal offenses, civil proceedings, debarments, or suspensions involving Respondent’s officers or directors, or individuals Respondent will assign to meet the Respondent’s requirements under this solicitation.

Response:

1. If proposed solution is offered as a SAAS (Software-as-a-Service) cloud hosted solution, you must include a completed HECVAT FULL Version Questionnaire (<https://www.ren-isac.net/public-resources/hecvat.html>) with your proposal.  If proposed solution is offered as on on-premise, locally hosted platform, describe technical requirements and the technical environment for the use of your software. Provide the minimum hardware and software specifications for networking & security, server, database and client that are required to install and run the application. Specify any physical requirements, including space needs, UPSs, electrical power, cooling, etc.  Include specifically which application requires or is recommended to run on a separate database (e.g. online reporting, Dashboards, Reporting).  Include other third-party licensing requirements.  Include all requirements for a virtual server environment.  Include all requirements for backup recommendations.

Response:

1. If the proposed solution is software or another technology resource that will be used by the University’s students, or members of the general public (such as walk-in library patrons), respondents must provide a VPAT2, or a VPAT respondent does not have a VPAT2. See this website for more details: <https://www.section508.gov/sell/vpat>

Response:

1. **Technical Specifications:**
2. Please provide a VPAT 2, if available. If one is not available, please provide a VPAT.

Response:

1. Describe whether the tutoring platform **integrates with current platforms**, including Canvas, Banner, EAP, and Starfish.

Response:

1. Describe the subjects covered by the tutoring platform and specifically a full list of math courses or subjects covered.

Response:

1. Provide a description of the approach used to work on students in the area of written communication.

Response:

1. Describe the platform’s **ability to import legacy data** stored in other systems (i.e., Banner, other disabilities services platforms) including data fields like student name, class schedule, GPA, credits attempted/earned, academic advisor, program of study, academic standing, phone, email, and address.

Response:

1. Describe whether the tutoring platform **provides initial or ongoing training and support** for users of the program as needed, for the duration of the contract. Also provide information on any schedules or timelines for the training that is available and for whom the training is designed.

Response:

1. Describe whether the tutoring platform company treats each student enrolled as a student at the University of Tennessee as a single user. If a student changes from one campus to another within the system, describe whether **each student will have a single account** that can transfer to the next UT campus.

Response:

1. Describe **how students can make requests** for various types of assistance, including different requests for different courses.

Response:

1. Describe the technical/user support that is available to students using the platform.

Response:

1. Describe how the Respondent **provides available updates**, **patches, or enhancements** to the platform as needed.

Response:

1. Describe if and how the platform **provides distinct login options for different categories**, including staff, students, and faculty.

Response:

1. Describe how the platform **uses existing university credentials** (e.g., net-id).

Response:

1. Describe the various **communication tools** available for staff, faculty, and students to communicate with each other, with tutors, and support staff with the tutoring company. Specify whether video, white board, text, calculator functions, shared screens and documents, etc.

Response:

1. Describe the **storage capabilities of the platform, how long data is retained, and what can be accessed and for how long, as well as whether there are additional fees for more storage.** Describe **who can have access and for how long** (e.g., admin only, faculty, students, etc. For example, Do instructors have access to recordings?)

Response:

1. Describe **flexibility in the platform for students to schedule in advance**.

Response:

1. Describe how the **software links to university-sponsored calendars** including Microsoft Office, Office 365, and Google Suite for calendar synchronization of appointments.

Response:

1. Describe whether the **platform tracks tutoring services, student use, and satisfaction or complaints with the provider** and explain how the provider responds to student/user concerns. State whether the provider will share the results of any student satisfaction surveys and the frequency at which this information will be available.

Response:

1. Describe how the platform is **FERPA-compliant with secure data storage and backup**.

Response:

1. Describe if and how the platform **provides system-, campus-, and department-level analytic options,** and if there is the ability to run a variety of reports internally.

Response:

1. Describe whether the **provider will make available additional hours or licenses** for use as needed at a fixed, nominal cost, and what happens to unused hours in the system. Do not provide actual costs in this section of the proposal.

Reponses:

1. Describe any security breaches to your company’s hardware or software that have occurred between 1/1/2014 and 10/10/2019.

Response:

1. Describe the **types of tutoring approaches, services, and tools** used to assist students specifically in the areas of (1) writing, (2) mathematics, and (3) language courses.

Response:

1. Describe whether the platform provides **synchronous, asynchronous**, or both types of tutoring services.

Response:

1. Describe the **selection and hiring process that employed tutors undergo** for the respondent’s company, how they are evaluated, and what training they receive before working with students.

Response:

1. Describe any **background checks or related approaches** to ensure student safety and comfort.

Response:

1. Describe any points during day falling within the regular academic year calendars of the University of Tennessee **when** **tutoring services are NOT guaranteed** to be available and, if these exist, how the company addresses or plans to address this issue.

Response:

1. Describe if and how an institution can **utilize its own faculty and tutors** through the platform.

Response:

1. Describe the ways in which the platform **can be used outside of traditional 1:1** tutor/student sessions.

Response:

**Section D: Cost Proposal**

The cost proposal must be in US dollars and must include all possible costs to the University. The proposal with the lowest price gets the total maximum points. Procurement Services will calculate the costs scores based on the following formula:

$(lowest cost from all proposals)/(other proposal cost)$

$×maximum cost points$

Quote all possible costs that the University might incur. Also, if your company offers multiple pricing models, please quote each pricing model.

**Schedule 1 Purchasing Terms & Conditions v3.5**

**Terms That Govern the Bid Solicitation Process**

By submitting a bid, the respondent agrees to the following terms and conditions that govern the bid solicitation process:

1. **Submitting Bids:** All respondents must submit their responses electronically, unless the University specifies otherwise.  It is the respondent’s responsibility to ensure that its bid is submitted in the University’s electronic software purchasing system before the applicable deadline. Assistance for submitting bids can be obtained through our third party provider ESM Solutions’ Customer Support at 1-877-969-7246 or at info@esmsolutions.com during normal business hours.  It is the respondent’s responsibility to learn how to use the system. Respondents must submit all applicable and required documents with their bid. A respondent may not submit additional or supplemental documents or amend its bid after the bid deadline. Also, bids not received by the University in the manner specified and by the time specified will not be considered.
2. **Questions/Interpretations:** If any respondents find discrepancies in, or omissions from, the University’s solicitation documents, or be in doubt as to their meaning, the respondent must notify Procurement Services in writing (email is acceptable) no later than 5 business days prior to the bid response deadline.  Procurement Services will reply to respondent’s inquiries via written addendum and will publish this addendum with the bid documents to all prospective bidders, unless Procurement Services exercises its discretion to reply only to the respondent. It is the respondent’s responsibility to ensure that Procurement Services has received respondent’s questions, and to check the electronic bidding system to see if Procurement Services has issued any amendments or addenda.
3. **Time of Acceptance:** If a respondent fails to state a time within which a bid must be accepted, respondent acknowledges that its proposal shall remain valid for 120 calendar-days beyond the bid opening date, or until 30 days after the date that any protest is resolved, whichever is longer, and the University may accept the proposal at any time within that time period.
4. **Authority to Bind:** Respondent’s representative states that they have authority to respond to the University’s bid on behalf of respondent.
5. **Confidentiality:** The University will not sign non-disclosure or confidentiality agreements related to respondent’s response to any bid.  Tennessee law limits the University’s ability to withhold records from public disclosure.  Respondents should assume that all documentation, including pricing, submitted to the University will be subject to public disclosure.  The University hereby notifies all respondents that placing confidentiality notices on documents submitted to the University does not make the documents confidential under Tennessee law.  The University will not be bound by such notices.  Moreover, the University will not agree to provide advanced notice of any public disclosure or agree to assist the respondent to limit disclosure.
6. **Brand Names/Alternative Products:** Unless specified “No Substitutes,” any catalog brand name or manufacturer’s reference used in the bid is descriptive only, not restrictive, and used to indicate the type and quality desired. Bids on brands of like nature and quality will be considered. If bidding on other than the referenced specifications the bid must show the manufacturer, brand or trade name, and other descriptions, and should include the manufacturer’s illustration and complete description of the products offered. If the respondent fails to submit the required documentation, the bid may be rejected. The University may determine whether a substitute offered is equivalent to and meets the standards of the item specified. The University may require the respondent to supply additional descriptive material. The respondent guarantees that the product offered will meet or exceed specifications identified in the bid invitation. If the respondent takes no exception to the specifications or referenced data in the bid, respondent will be required to furnish the product according to the brand, names, numbers, etc., as specified in the invitation for bid document.
7. **Tax Exemption:** The University is exempt from federal excise taxes and from state sales taxes on purchases of tangible personal property. Copies of the appropriate exemption documentation will be provided upon request and these taxes should not be included in the respondent’s bid prices.
8. **Compliance with Laws:** Respondent shall comply with all applicable laws, regulations, and University policies.
9. **Indemnification:** Respondent shall hold and save the University, its trustees, officers, agents, and employees harmless from any claims, damages and actions of any nature arising from respondent’s bid or arising from the use of any materials, goods or services furnished by the respondent, provided that such liability is not attributable to negligence on the part of the user or failure of the user to use the item in the manner outlined by the respondent in descriptive literature or specification submitted with the respondent’s bid.  Respondent’s indemnification obligation shall include, but not be limited to, any claim of patent, copyright, or other intellectual property infringement asserted against the University based upon respondent’s bid or any materials, goods or services furnished by the respondent.
10. **University’s Liability:** The University’s liability shall be governed by the Tennessee Claims Commission Act. The University will not enter into any agreement which contains a clause requiring the University to indemnify, hold harmless, or defend any party. Also, the University will not enter into any agreement which contains a clause limiting its remedies against any party.
11. **Use of University Intellectual Property:** Except as allowed in this section, Supplier shall not use the University’s name, marks, logos, or any other University-owned intellectual property for any reason, without the written consent of an authorized official of the University.  During the term of this agreement, Supplier may list the University’s name in Supplier’s list of clients.
12. **Authorized Dealer:** Respondent must be an authorized dealer of any goods or services sold to the University. If requested, the respondent must provide an authorization letter from the original equipment manufacturer. Failure to do so may result in the bid being disqualified or the award being canceled.
13. **Sales Data:** Upon request, the respondent agrees to furnish the University a summary of sales made under the agreement. This data may include: delivery date, department name, invoice date, invoice number, item description, list price, method of payment, net price, order date, order method, quote number and manufacturer part number. The University may terminate the award if this information is not provided in a reasonable time period.
14. **Irrevocable Waiver:** By responding to the solicitation, respondent hereby irrevocably waives any claims against the University’s trustees, officers, employees and former employees. Respondent also agrees not to sue University employees in their individual capacity. This waiver applies to respondent and their successors, heirs and assigns. The University and the respondent state that this clause is material to this bid.
15. **Collusion, Conflict of Interest and Debarment :** When submitting a bid, the respondent certifies the following:
	1. The respondent prepared and arrived at its bid independently and there was not any collusion between respondents. The respondent agrees not to discuss or reveal its bid to anyone until after the award is made.
	2. No funds resulting from this award will be paid either directly or indirectly to any University employees, their spouses or dependent children. This prohibition applies for up to six months after they terminate their employment with the University.
	3. All potential conflicts of interests will be disclosed in the bid response including if any owners of respondent are related to any University employee, their spouse, or dependent children.
	4. The respondent is not presently debarred, proposed to be debarred, suspended, or declared ineligible for covered transactions by any federal agency or department.

If the University determines that the respondent failed to disclose or incorrectly disclosed information related to any of the four statements listed above, the University may consider any such actions to be grounds for response rejection or award termination, regardless of the time of detection

1. **Equipment:** Unless the University states otherwise in its specifications, all bidders must quote prices for new equipment.  If a Respondent fails to quote prices for new equipment and the University accepts the order, Respondent will be liable for providing the University with new equipment at no extra costs to the University.  If the University’s specifications allow for used equipment, Respondent must list the equipment’s date of manufacture, number of previous owners, condition, maintenance and repair history, and any other relevant information.  University may inspect any used equipment before purchasing the used equipment.

**Terms That Govern the Bid Evaluation Process**

By submitting a bid, the respondent agrees to the following terms and conditions that govern the University’s evaluation of respondents’ bids:

1. **Acceptance and Rejection of Bids:** The University may accept or reject any bids when, in its opinion, such action is in the best interests of the University. In such circumstances, the University may re-solicit bids or to continue with the current supplier for these services.
2. **Discretion:** All decisions regarding a bid, including the award, are within the University’s sole discretion. The University may award to respondent other than the highest scoring or lowest costs. For clarity, as used in these General Bid Conditions the word “may” means “sole discretion.”
3. **Multiple Awards:** The University may award this solicitation to multiple respondents.
4. **Inspection of the Bid File:** During the open file period, the bid file is open to inspection to all respondents.  The file becomes public record after the solicitation has been awarded.
5. **Protest Procedure:** Any respondent wishing to protest a decision must do so in accordance with the University’s procurement policy (<http://policy.tennessee.edu/fiscal_policy/fi0405/>). The parties shall make reasonable efforts to resolve any dispute before filing any formal legal action.

**Terms That Govern the Award**

By submitting a bid, the respondent agrees that the following terms and conditions will govern any award issued by the University.  Terms attached to a University purchase order supersede the terms below:

1. **Additional Goods or Services:** The University may add supplier’s additional goods or services as mutually agreed.
2. **Termination:** Notwithstanding any other cancellation provision, the University may cancel its agreement in whole or in part, by giving no less than 30 days’ prior written notice. If the respondent fails to perform properly its obligations under this award or violates any term of this award, the University may terminate this agreement immediately and withhold payments in excess of fair compensation for completed services.
3. **Delivery:** The title and risk of loss for the goods will only pass to the University when the University actually receives the goods. The supplier must assume all responsibility for damage in transit. Any claim for loss of damage incurred during delivery will be between the respondent and the carrier. It is the supplier’s responsibility to prevent shipments from being late and any additional charges for expedited delivery, shipments being routed to a point other than the one specified on the purchase order, special handling, or back orders will be incurred by the supplier.
4. **Inspection:** In the event of a dispute between the supplier and the University about the items supplier provides to the University, the University has sole and absolute discretion to determine whether the supplier’s shipment conforms to the University’s order.  Supplier shall pay all costs for the University to return the rejected goods or replace missing goods. The respondent shall make immediate replacement of the damaged merchandise or be subject to damages for breach of contract. When University staff sign for a shipment, the signature does not constitute “acceptance.” Rather, the signature is only acknowledgement of receipt.
5. **Invoicing and Payment:** Unless stated otherwise, the University initiates payment for materials or services upon receipt of all goods and services and receipt of an original, itemized invoice that reflects accurate contract prices.  Invoices failing to itemize the order, reference the purchase order, or are undated may cause a delay in payment or rejection of the invoice.
6. **Cooperative Procurement**: If this bid resulted from a competitive bid process, any organization (third-party entity) may purchase under this agreement. The third-party entity may negotiate its own terms with the supplier.
7. **Non-Exclusivity:** The University will promote the use of any established agreement; however, the University does not guarantee that all purchases for the products and/or services available under any award will be made exclusively from the supplier. Also, an award does not obligate the University to make any purchases from the awarded respondent and the University may elect to award contracts or purchase orders for like products or services to multiple suppliers.
8. **Assignment:** This agreement is personal to Supplier.  Accordingly, Supplier may not assign any rights or delegate any duties under this agreement.
9. **Records; Audit**:
	1. Records: Supplier shall maintain records for all expenses for which Supplier invoices the University under this agreement. Supplier shall maintain its records for at least 3 years, and shall maintain its records in accordance with generally accepted accounting principles.
	2. Audit: During the term of this agreement and for 3 years after the last payment from the University to Supplier under this agreement, the State of Tennessee Comptroller or the University’s internal audit, or both, may audit Supplier’s records that relate to this agreement.
	3. Assistance: Supplier shall provide the University with any documentation, access to information, or other assistance necessary for the University to ensure that Supplier complies with its obligations under this agreement.
10. **Adherence to Agreement:** Supplier may only sell goods or services listed in the University’s purchase order. If respondent sells items not listed in the University’s purchase order, the University may terminate the purchase order immediately and without advanced notice.
11. **No Third-Party Beneficiaries:** There are no third-party beneficiaries to this agreement.
12. **Iran Divestment Act:** The requirements of Tenn. Code Ann. § 12-12-101 et. seq., addressing contracting with persons as defined at T.C.A. §12-12-103(5) that engage in investment activities in Iran, are a material provision of this agreement.  Supplier hereby certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
13. **Illegal Immigrants:** In compliance with the requirements of Tenn. Code Ann. § 12-3-309, Supplier hereby attests that it shall not knowingly utilize the services of an illegal immigrant in the United States in the performance of this agreement and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the United States in the performance of this agreement.
14. **Tennessee Department of Revenue:** In compliance with the requirements of Tenn. Code Ann. § 12-3-306, the Supplier hereby attests that it has registered with the State of Tennessee’s Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this agreement.
15. **Background Checks:**
	1. General Obligation: Supplier will not knowingly assign any individual to provide services to University if the individual has a history of criminal conduct. For proposes of this agreement, “criminal conduct” means (a) that the person is listed on any state’s sexual offender registry; (b) that person is listed on the Tennessee Abuse Registry, or (c) that the person has been convicted of a felony in any state.
	2. Prompt Background Checks: If the University requests, Supplier must perform a comprehensive criminal background check on any Supplier employee or sub-contractor.
16. **Governing Law:** The laws of the state of Tennessee, without giving effect to its principles of conflicts of law, govern this agreement.  The University’s liability will be governed by the Tennessee Claims Commission Act.
17. **Severability**: The parties intend as follows:
	1. that if any provision of this agreement is held to be unenforceable, then that provision will be modified to the minimum extent necessary to make it enforceable, unless that modification is not permitted by law, in which case that provision will be disregarded;
	2. that if an unenforceable provision is modified or disregarded in accordance with this section, then the rest of the agreement will remain in effect as written; and
	3. that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable.
18. **No Automatic Renewal**: Any terms included in Supplier’s documentation that attempt to renew the agreement automatically do not apply to the University.
19. **Entire Agreement:** This agreement constitutes the entire understanding between the parties with respect to the subject matter of this agreement and supersedes all other agreements, whether written or oral, between the parties.  In the event that Supplier maintains terms and conditions on its website, software, invoices, etc., such terms and conditions do not apply to the University.
20. **Compliance**:
	1. Conflicts of Interest:
		1. Supplier states that no part of the Supplier’s compensation will be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Supplier in connection with any work contemplated or performed under this Contract
		2. Supplier states that this Contract is immediately void if the Supplier is, or within the past 6 months has been, an employee of the State of Tennessee or if the Supplier is an entity in which a controlling interest is held by an individual who is, or within the past 6 months has been, an employee of the State of Tennessee.

**Schedule 2** Cost Disclosure Form

Please indicate whether your company will charge the University any of the following costs. If you fail to disclose a cost, the University will not pay for the cost.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Yes** | **No** | **State how fee will be calculated** | **State how the fee will appear on the invoices** |
| **Cleaning Fees** |  |  |  |  |
| **Commissions** |  |  |  |  |
| **Customs/International Fees** |  |  |  |  |
| **Dealer Fees** |  |  |  |  |
| **Deposits** |  |  |  |  |
| **Documentation Fees** |  |  |  |  |
| **Hazardous Material Fees** |  |  |  |  |
| **Hourly Fees** |  |  |  |  |
| **Labor/Installation** |  |  |  |  |
| **Processing Fees** |  |  |  |  |
| **Profit** |  |  |  |  |
| **Restocking** |  |  |  |  |
| **Expedited Shipping** |  |  |  |  |
| **Service Fees** |  |  |  |  |
| **Shipping/Freight/Logistics** |  |  |  |  |
| **Surcharge** |  |  |  |  |
| **Taxes Applied** |  |  |  |  |
| **Transaction Fees** |  |  |  |  |
| **Travel (if yes, see below)** |  |  |  |  |
| **Any Other Fee not stated above** |  |  |  |  |

**Travel: select one**

|  |  |
| --- | --- |
| Flat Fee |  |
| Reimbursed per UT Travel Policy[UT Travel Policy](https://universitytennessee.policytech.com/dotNet/documents/?docid=566&public=true) |  |

For any fee not disclosed above, you must describe the fee:

|  |  |  |
| --- | --- | --- |
| **Name of Fee** | **How will you calculate the fee** | **How the fee will appear as a line item** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**Schedule 3**

Shipping Information Form

Not applicable.

**Schedule 4** Draft Contract

Schedule 4 contains a draft contract. The University will enter into negotiations with respondents that win an award through the solicitation process. The University provides this draft to help expedite the negotiation process. Please note that this draft is subject to change at University’s discretion, and the draft is for review purposes only.

**The University of Tennessee**

**Standard Payable (UT Pays Supplier) Agreement**

This standard accounts payable agreement is dated \_\_\_\_\_\_\_\_\_\_\_\_ (effective date), and is between The University of Tennessee, an instrumentality of the state of Tennessee (“University”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Supplier”).

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The parties agree as follows:

1. Term and Termination:
	1. Term: The term of this agreement begins on Click or tap to enter a date. and ends on Click or tap to enter a date..
	2. Termination:
		1. For Cause: If Supplier materially breaches this agreement, University may terminate this agreement immediately.
		2. Unrestricted Right: Either party may terminate this agreement for any reason by giving the other party at least 30 days’ prior notice.
		3. Work: If University terminates this agreement, upon receipt of University’s notice of termination, Supplier shall immediately stop all work under this agreement.
	3. Scope: See Schedule 1.
2. Financial:
	1. Compensation: See Schedule 1.
	2. Invoices:
		1. Required: Unless the University elects to submit a payment request through the University’s accounts payable process on Supplier’s behalf, Supplier shall invoice the University.
		2. Invoice Contents: Supplier must include the following information on its invoices under this agreement:
			1. Addressed to the University;
			2. Invoice number (assigned by Supplier);
			3. Invoice date;
			4. Transaction date;
			5. Supplier name;
			6. Supplier contact for invoice questions (name, phone, or email);

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* + - 1. Supplier remittance address;
			2. Description of delivered goods or services provided and invoiced, including identifying information as applicable;
			3. Number of delivered or completed units, increments, hours, or days as applicable, of each good or service invoiced;
			4. Amount due for each compensable unit of good or service; and
			5. Total amount due for the invoice period.
		1. Late Payment: University’s payment will not be considered late unless University pays later than 45 calendar days after receiving Supplier’s invoice.
	1. Records; Audit:
		1. Records: Supplier shall maintain records for all expenses for which Supplier invoices the University under this agreement. Supplier shall maintain its records for at least 3 years, and shall maintain its records in accordance with generally accepted accounting principles.
		2. Audit: During the term of this agreement and for 3 years after the last payment from the University to Supplier under this agreement, the State of Tennessee Comptroller or the University’s internal audit, or both, may audit Supplier’s records that relate to this agreement.
		3. Assistance: Supplier shall provide the University with any documentation, access to information, or other assistance necessary for the University to ensure that Supplier complies with its obligations under this agreement.
1. Compliance:
	1. Conflicts of Interest:
		1. Supplier states that no part of the Supplier’s compensation will be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Supplier in connection with any work contemplated or performed under this Contract
		2. Supplier states that this Contract is immediately void if the Supplier is, or within the past 6 months has been, an employee of the State of Tennessee or if the Supplier is an entity in which a controlling interest is held by an individual who is, or within the past 6 months has been, an employee of the State of Tennessee.
	2. Iran Divestment Act: The requirements of Tenn. Code Ann. § 12-12-101 et. seq., addressing contracting with persons as defined at T.C.A. §12-12-103(5) that engage in investment activities in Iran, are a material provision of this agreement. Supplier hereby certifies, under penalty of perjury, that to the best of its knowledge and belief that it is not on the list created pursuant to Tenn. Code Ann. § 12-12-106.
	3. Illegal Immigrants: In compliance with the requirements of Tenn. Code Ann. § 12-3-309, Supplier hereby attests that it shall not knowingly utilize the services of an illegal immigrant in the United States in the performance of this agreement and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the United States in the performance of this agreement.

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* 1. Tennessee Department of Revenue: In compliance with the requirements of Tenn. Code Ann. § 12-3-306, the Supplier hereby attests that it has registered with the State of Tennessee’s Department of Revenue for the collection of Tennessee sales and use tax. This registration requirement is a material requirement of this agreement.
	2. Debarment: Supplier hereby attests that the following are true statements:
		1. Supplier is not currently debarred by the U.S. federal government.
		2. Supplier is not currently suspended by the U.S. federal government.
		3. Supplier is not currently named as an “excluded” supplier by the U.S. federal government.
	3. Background Checks: This clause applies if Supplier will provide services on the University’s property.
		1. General Obligation: Supplier will not knowingly assign any individual to provide services to University if the individual has a history of criminal conduct. For proposes of this agreement, “criminal conduct” means (a) that the person is listed on any state’s sexual offender registry; (b) that person is listed on the Tennessee Abuse Registry, or (c) that the person has been convicted of a felony in any state.
		2. Prompt Background Checks: If the University requests, Supplier must perform a comprehensive criminal background check on any Supplier employee or sub-contractor.
	4. Premises Rules: When Supplier is physically present on University property, Supplier shall make reasonable efforts to cause its employees and permitted sub-contractors to become aware of, and in act full compliance with, University’s rules, policies, and procedures (collectively referred to as “rules.”). For example, Supplier shall ensure that it complies with the University’s applicable rules regarding safety, smoking, noise, access restrictions, parking, security, and consideration for minors (students and University visitors under age 18).
	5. Conduct: Supplier shall make reasonable efforts to ensure that Supplier’s employees and sub-contractors will conduct themselves in a professional manner while on University property, and while interacting with University employees, students, or visitors. Supplier must report, within 24 hours, to the University’s Office of Procurement Services any complaints about Supplier’s employees or sub-contractors engaging in the following behavior: sexually suggestive or harassing behavior; unwanted physical touching; unwanted photographs; alcohol use; illegal drug use; or physical manifestations of alcohol or drug use (e.g. Supplier’s employee emits smells that indicate that the individual consumed alcohol recently).

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1. Insurance: Supplier shall comply with Schedule 2 (Insurance).
2. General:
	1. Assignment: This agreement is personal to Supplier. Accordingly, Supplier may not assign any rights or delegate any duties under this agreement.
	2. Independent Supplier: The parties intend for their relationship to that of independent contractors. Supplier acknowledges that it is not an employee of University.
	3. Governing Law: The laws of the state of Tennessee, without giving effect to its principles of conflicts of law, govern this agreement. The University’s liability will be governed by the Tennessee Claims Commission Act.
	4. Self-Insurance: The University is self-insured under the Tennessee Claims Commission Act, Tenn. Code Ann. §§ 9-8-301 et seq., which covers certain tort liability for actual damages of up to $300,000 per claimant and $1,000,000 per occurrence.
	5. Use of University Intellectual Property: Except as allowed in this section, Supplier shall not use the University’s name, marks, logos, or any other University-owned intellectual property for any reason, without the written consent of an authorized official of the University. During the term of this agreement, Supplier may list the University’s name in Supplier’s list of clients.
	6. Third-Party Beneficiaries: There are no third-party beneficiaries to this agreement.
	7. Severability: The parties intend as follows:
		1. that if any provision of this agreement is held to be unenforceable, then that provision will be modified to the minimum extent necessary to make it enforceable, unless that modification is not permitted by law, in which case that provision will be disregarded;
		2. that if an unenforceable provision is modified or disregarded in accordance with this section, then the rest of the agreement will remain in effect as written; and
		3. that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable.
	8. Amendment; Waiver: No amendment of this agreement will be effective unless it is in writing and signed by authorized officials of the parties. No waiver of satisfaction of a condition or failure to comply with an obligation under this agreement will be effective unless it is in writing and signed by an authorized official of the party granting the waiver, and no such waiver will constitute a waiver of satisfaction of any other condition or failure to comply with any other obligation.

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* 1. Counterparts: If the parties sign this agreement in several counterparts, each will be deemed an original but all counterparts together will constitute one instrument.

* 1. Force Majeure: Neither party’s delay or failure to perform any provision of this agreement, as result of circumstances beyond its control (including, without limitation, war, strikes, floods, governmental restrictions, power, telecommunications or Internet failures, or damage to or destruction of any network facilities) will be deemed a breach of this agreement.
	2. Notice:
		1. For a notice or other communication under this agreement to be valid, it must be in writing and delivered (1) by hand, (2) by a national transportation company, with all fees prepaid, or (3) by registered or certified mail, return receipt requested and postage prepaid;
		2. Subject to sub-section (iv) below, a valid notice or other communication under this agreement will be effective when received by the party to which it is addressed. It will be deemed to have been received as follows:
			1. if it is delivered by hand, delivered by a national transportation company, with all fees prepaid, or delivered by registered or certified mail, return receipt requested and postage prepaid, upon receipt as indicated by the date on the signed receipt; and
			2. if the party to which it is addressed rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address for which no notice was given, then upon that rejection, refusal, or inability to deliver.

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* + 1. For a notice or other communication to a party under this agreement to be valid, it must be addressed using the information specified below for that party or any other information specified by that party in a notice in accordance with this section.

**Supplier**:

 **[add notice address here]**

**University**:

 **[add department’s address and contact info]**

Legal notices only; do not send invoices to this address:

 The University of Tennessee

 5723 Middlebrook Pike

 Knoxville, TN 37921-5946

 ATTN: Office of Procurement Services

 Fax: 865-974-2701

 Email: contracts@tennessee.edu

* + 1. If a notice or other communication addressed to a party is received after 5:00 p.m. on a business day at the location specified in the address for that party, or on a day that is not a business day, then the notice will be deemed received at 9:00 a.m. on the next business day.
1. Entire Agreement: This agreement constitutes the entire understanding between the parties with respect to the subject matter of this agreement and supersedes all other agreements, whether written or oral, between the parties. In the event that Supplier maintains terms and conditions on its website, software, invoices, etc., such terms and conditions do not apply to the University.

Agreed: The parties are signing this agreement on the effective date listed in the introductory clause of this agreement.

**Do not sign this draft**

**The University of Tennessee Supplier**

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Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Schedule 1: Scope and Financial**

1. Scope:
2. Compensation:
3. Travel: [UT has four options: (a) University will not reimburse Supplier for travel costs; (b) Supplier’s rate includes travel; (c) University will compensate Supplier a mutually agreed, flat-rate for travel; or (d) University will reimburse Supplier under University travel policy]

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**Schedule 2: Insurance**

Supplier shall comply with the following terms regarding insurance:

1. **Additional Insurance Requirements*:*** Supplier’s policies shall include, or be endorsed to include, the following provisions:
	1. On insurance policies where The University of Tennessee is named as an additional insured, The University of Tennessee shall be an additional insured to the full limits of liability purchased by the Supplier, even if those limits of liability are in excess of those required by this contract.

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* 1. The Supplier’s insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.
1. **Notice of Cancellation*:*** Each insurance policy required by the insurance provisions of this contract shall provide the required coverage and shall not be suspended, voided, or canceled except after 30 days’ prior written notice has been given to The University of Tennessee, except when cancellation is for non-payment of premium; then 10 days’ prior notice may be given. Such notice shall be sent directly to:

The University of Tennessee Office of Risk Management

5723 Middlebrook Pike, Ste. 218

Knoxville, TN 37996

If any insurance company refuses to provide the required notices, the Supplier or its insurance broker shall notify The University of Tennessee of any cancellation, suspension or non-renewal of any insurance within 7 days of receipt of insurers’ notification to that effect.

1. **Acceptability of Insurers*:*** Insurance is to be placed with insurers duly licensed or authorized to do business in the state of Tennessee and with an “A.M. Best” rating of not less than A- VII. The University of Tennessee in no way warrants that the above-required minimum insurer rating is sufficient to protect the Supplier from potential insurer insolvency.
2. **Verification of Coverage*:*** Supplier shall furnish The University of Tennessee with certificates of insurance (ACORD form or equivalent) as required by this contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by The University of Tennessee before work commences. Each insurance policy required by this contract must be in effect at or prior to commencement of work under this contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this contract or to provide evidence of renewal is a material breach of contract.

1. **Subcontractors:**Supplier’s certificate(s) shall include all subcontractors as additional insureds under its policies, or contractor shall furnish to The University of Tennessee separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to the minimum requirements identified above.
2. **Approval:**Any modification or variation from the insurance requirements in this contract shall be made by the risk management department, whose decision shall be final. Such action will not require a formal contract amendment, but may be made by administrative action.
3. **Waiver of Subrogation**: Supplier hereby waives any right of subrogation on the part of its insurance provider against the University. Supplier shall ensure that its insurance certificates include the following language:

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The University of Tennessee, its Board of Trustees, officers, employees, agents, and volunteers are named as Additional Insureds with respect to the General and Automobile Liability policies. A Waiver of Subrogation applies to Workers Compensation and the General and Automobile Liability policies as evidenced on this certificate of insurance. All insurance policies above are primary and non-contributory to any other insurance available to the Certificate Holder. A thirty day notice of cancellation is required.

1. During the term of this agreement, Supplier must maintain the following insurance types and limits (or higher limits):

|  |  |
| --- | --- |
| Workers Compensation (WC): | Statutory Limits – required in all contracts |
| Employers’ Liability Each Accident | $ 100,000 |
| Employers’ Liability Disease – each employee | $ 100,000 |
| Employers’ Liability Disease – policy limit | $ 500,000 |
| Commercial General Liability (CGL): |  |
| Each Occurrence Limit | $ 1,000,000 |
| Damage to Rented Premises – Ea. Occ. | $ 300,000 |
| Medical Expense – any one person | $ 10,000 |
| Personal & Advertising Injury Limit | $ 1,000,000 |
| General Aggregate Limit | $ 2,000,000 |
| Products/Completed Ops. Aggregate Limit | $ 2,000,000 |

Automobile Liability

 Combined Single Limit – each accident $ 1,000,000