|  |  |
| --- | --- |
| DATE: |  |
| TO: |  |
| FROM: |  |
|  |  |
| CONTRACTOR NAME: |  |
| TEXAS ID NO (TIN): |  |
| SAP VENDOR NO: |  |
| CONTRACTOR CONTACT: |  |
| PHONE: |  |
| FAX: |  |
| E-MAIL: |  |
|  |  |
| TYPE OF CONTRACT/AGREEMENT: | 🞐 CONSULTANT  🞐 INTERAGENCY  🞐 INTERLOCAL  🞐 OTHER (PLEASE SPECIFY BELOW) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| BRIEF DESCRIPTION OF CONTRACT SCOPE/PURPOSE: |  |
| BEGIN DATE: |  |
| END DATE: |  |
|  |  |
| EST. TOTAL VALUE OF CONTRACT (e.g. over life of contract including any renewal options): | $ |
| COST BY FISCAL YEAR  (If multi-year contract):  Note: attach additional sheets, if necessary | FISCAL YEAR: AMOUNT:  $  $  $ |
| ESTIMATED DOLLAR VALUE OF WORK SUBCONTRACTED TO CERTIFIED HUB FIRMS: | $ |
|  |  |
| *PREPARED BY:* |  |
| DEPT. CONTACT/CONTRACT ADMINISTRATOR: |  |
| PHONE: |  |
| E-MAIL: |  |
|  |  |
| *Please identify if a specific authorized Texas State Contracting Officer has been designated to approve:* | Name: Extension: E-mail: |
| *Additional comments or any special issues related to contract:* |  |

PART 1: ALL CONTRACTS –

| *YES* | *NO* | *N/A* |  | *Question* |
| --- | --- | --- | --- | --- |
|  |  |  | 1. | Is the contract complete with all pages, exhibits, schedules, etc. attached? |
|  |  |  |  | 1. Are all attachments adequately referenced or clearly identified in the body of the contract? |
|  |  |  |  | 1. Is any required supporting documentation attached (i.e. approvals, posting notices, etc.)? |
|  |  |  |  | 1. Have all parties to the contract agreed with the terms and conditions as written? |
|  |  |  |  | 1. Have all required Texas State approvals been obtained? |
|  |  |  | 2. | Is the contract written on an approved Texas State standard contract boilerplate?  (Note: If “yes”, proceed to question # 3) |
|  |  |  |  | 1. If the answer to 2 is ***NO***, has the contract been reviewed and approved as to form by The TSUS Legal Office? |
|  |  |  | 3. | Is The TSUS Chancellor or Board of Regents approval required?  (NOTE: if “no” indicate as ***N/A*** and skip to question # 4)  (Ref: Texas State University Systems Rules and Regulations, Chap. III, Section 9) |
|  |  |  |  | 1. If ***YES***, has it been obtained?     (NOTE: Please attach proof of approval) |
|  |  |  |  | 1. If the answer to 3.a. is ***NO***, does the contract contain a statement that the contract is not effective until the appropriate TSUS approvals have been obtained? |
|  |  |  | 4. | If the contract value is $ 1,000,000.00 or greater, has a “State Agency Uniform Nepotism Disclosure Form – Rev 06/2005” been executed by all University personnel involved in the contracting process, and is the form included in the contract’s supporting documentation?    (Ref: Texas Gov’t Code, Section 2262.004) |
|  |  |  | 5. | Has it been determined that no member of the TSUS Board of Regents has a financial interest, directly or indirectly, in the contract? |
|  |  |  | 6. | Does the contract comply with Texas State’s “University Policies and Procedures Statements” (UPPS) relating to purchasing and contracting?  (Ref: UPPS 05.02.02, 03.04.04 and 03.04.07) |
|  |  |  | 7. | Is the contract with another State agency or local governmental entity?  (Note: If ”yes”, skip to question # 10, if “no” indicate as ***N/A*** and proceed to question # 8)) |
|  |  |  | 8. | Is the Contractor a State of Texas certified Historically Underutilized Business (HUB)? |
|  |  |  | 9. | Is the total contract value “over the life of the contract (including renewal options) estimated to be $ 100,000.00 or greater:  (Note: if “no” show as ***N/A*** and skip to question # 10) |
|  |  |  |  | 1. Was a “proposed procurement notice” posted to the Electronic State Business Daily (ESBD) and is a copy of the posting included in the supporting documentation? |
|  |  |  |  | 1. Was a “determination of subcontracting opportunities” prepared and concurrence obtained from the Texas State “Agency HUB Coordinator” that subcontracting opportunities are “*not probable”,* and is a copy of the determination included in the supporting documentation?   (Note: if “yes” skip to question # 10; if “no” show as ***N/A*** andproceed to question 9.c)  (Ref: Texas Gov’t Code: 2161.252(a)) |
|  |  |  |  | 1. Was a HUB Subcontracting Plan (HSP) required submitted as part of each Respondent’s response to the solicitation?   (Ref: Texas Gov’t Code: 2161.252(b)) |
|  |  |  |  | 1. Is the Contractor’s HSP included as a provision of the contract?   (Ref: Texas Gov’t Code: 2161.253) |
|  |  |  | 10. | Was the State Comptroller’s website checked to verify that the Vendor does not owe any debt or delinquent taxes to the State of Texas, or there is not a “Comptroller’s hold”?  (Ref: Texas Gov’t Code 2156.009) |
|  |  |  | 11. | Were the Federal “Excluded Parties List” and the Office of Foreign Assets Control list of “Specially Designated Nationals (SDN) and Blocked Persons” checked to verify that it is permissible to enter into a contract with the Vendor?  (Ref: Executive Order # 13224) |
|  |  |  | 12. | Was the contract competitively solicited? |
|  |  |  |  | 1. If ***NO***, is a signed sole source or proprietary justification attached, or is a specific exemption to the competitive solicitation/bidding requirements noted in the supporting documentation? |
|  |  |  |  | 1. If ***YES***, was “best value” criteria used to evaluate the responses to the procurement solicitation and make the recommendation of the contract award?   (Ref: Texas Ed. Code 51.9335) |
|  |  |  |  | 1. Is there supporting documentation attached giving the reasons for making the award to the successful Respondent including the factors considered in determining which Respondent offered the “best value” to the University?   (Ref: Texas Gov’t Code 2156.009) |
|  |  |  |  | 1. Is there a list of Vendors attached which indicates who were sent a solicitation that includes any Texas certified HUB Vendors, showing their ethnicity/gender? Does the list indicate who responded to the solicitation? |
|  |  |  | 13. | Does the contract: |
|  |  |  |  | 1. Adequately describe the project or “scope of work” and clearly identify any required milestones, deliverables or outcomes? |
|  |  |  |  | 1. State the standard or level of performance the Contractor is required to meet? |
|  |  |  | 14. | Provide that payments are made after services are rendered, or deliverables furnished, in accordance with the State’s “prompt payment” act?  (Ref; Texas Gov’t Code 2251) |
|  |  |  |  | 1. Does the contract require pre-payment, installment or milestone payments made?   (If “no”, indicate as ***N/A*** and proceed to question # 15) |
|  |  |  |  | 1. Have any alternate payment terms (e.g. other than net 30 days in accordance with Texas Govt Code 2251) required by the Contractor been reviewed by Asst. Director of Accounts Payable? |
|  |  |  |  | 1. Are the payments tied to verifiable deliverables that the Contractor is required to provide before a payment is made? |
|  |  |  | 15. | Has proof of adequate levels of insurance coverage and worker’s compensation been required to be furnished by the Contractor to an authorized Texas State representative prior to the commencement of the contracted Work? |
|  |  |  |  | 1. If ***YES***, is the Contractor required in the contract to name Texas State as an additional named insured? |
|  |  |  |  | 1. If ***YES***, is the Texas State individual identified who is to receive any required proof of insurance or worker’s compensation? |
|  |  |  | 16. | Is the contract for “building or construction” services including:   * Erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance; * Remodeling, extending, repairing, or demolishing a structure; or * Otherwise improving real property or an appurtenance to real property through similar activities?   (Note: if “no”, mark as ***N/A*** and skip to question # 17) |
|  |  |  |  | 1. Has the proposed Work been reviewed and approved by the Facilities Department?   (Ref: UPPS 01.03.02) |
|  |  |  |  | 1. Does the contract reference the requirements listed in Texas Labor Code, Section 406.096 which specifies the minimum required Worker’s Compensation coverage for contractor or subcontractor employees? |
|  |  |  | 17. | Is the contract for a service provider to provide contract workers on a permanent basis and the work performed will be around students?  (Note: If “no” show as ***N/A*** and skip to question # 18) |
|  |  |  |  | 1. Was the “*TEXAS STATE UNIVERISTY-SAN MARCOS (TEXAS STATE) CONTRACT VENDOR EMPLOYEE BACKGROUND CHECK POLICIES*” form included in the solicitation package as an attachment? |
|  |  |  |  | 1. Was the form referenced or included as part of the final contract? |
|  |  |  | 18. | Does the contract allow for any options to renew the contract at Texas State’s option?  (Note: if ”no”, indicate as ***N/A*** and skip to question # 19) |
|  |  |  |  | 1. Is the total number of renewal options available to exercise clearly spelled out? |
|  |  |  |  | 1. Is the process for exercising a renewal option clearly described in the contract? |
|  |  |  | 19. | Has the authorized person in your office or department reviewed the contract and signed or initialed the contract beside the authorized signature line to confirm that the contract’s business terms have been reviewed, and are correct and appropriate? |
|  |  |  | 20. | Is this document an amendment, modification or renewal of an existing contract?  (Note: If ”no”, show as ***N/A*** and skip to question # 21) |
|  |  |  |  | 1. Was the original contract been reviewed to verify that amendment, modification or renewal option being exercised is addressed in the terms and conditions of the original contract and is allowable? |
|  |  |  |  | 1. Do the contract changes require different approvals than the original contract?   (Note: If “no” show as ***N/A*** and proceed to question # 21) |
|  |  |  | 21. | Does the term of the contract cover more than 1 fiscal year?  (Note: if “no”, show as ***N/A*** and proceed to question # 22) |
|  |  |  |  | 1. Does the contract include a “funding out” clause? |
|  |  |  | 22. | Does the contract scope include the acquisition of Information Resources (including hardware, software or IT services?  (Note: if “no”, show as ***N/A*** and proceed to question # 23) |
|  |  |  |  | 1. Has the contract scope been reviewed by the Vice President for Information Technology, or a designee?   (Ref: TSUS Rules and Regulations, Chp. III, Para. 19.3) |
|  |  |  | 23. | Does the contract scope include the production, revision or modification of “intellectual property (IP)” by the Contractor?  (Note: if “no”, show as ***N/A*** and proceed to question # 24) |
|  |  |  |  | 1. Does the contract include an IP “work for hire” clause giving Texas State exclusive rights to the property? |
|  |  |  | 24. | Does the contract scope include the transfer of Texas State data to the Contractor or other third party?  (Note: if “no”, show as ***N/A*** and proceed to question # 25) |
|  |  |  |  | 1. Does the contract include the Texas State “Data Security” Addendum as an attachment and is it referenced in the body of the contract? |
|  |  |  | 25. | Are there any other significant risks or issues related to the contract that have been identified?  ( Note: If “yes”, complete the information requested on the following page; if “no”, indicate as ***N/A*** and go to ***Part 2***) |

If it is determined in question # 25 that there may be significant risks or issues related with executing the contract, please elaborate (attach additional pages as needed):

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PART 2: CONTRACTS FOR CONSULTING SERVICES – Please answer the following questions if your contract is for consulting services.

If it is not a consultant services contract, please go to PART 3 of this checklist.

If unsure, please refer to the Governor Office’s website for additional guidance:

<http://governor.state.tx.us/bpp/guidelines>

| *YES* | *NO* | *N/A* |  | *Question* |
| --- | --- | --- | --- | --- |
|  |  |  | 1. | Was a “finding of fact” issued by either the University President or the Governor’s Budget Office? (*If contract total less than* ***$ 25k*** *indicate as* ***N/A*** *and skip to question # 2)* |
|  |  |  | 2. | Has it been confirmed that no officer or employee of the Texas State University Systems office or Texas State has a financial interest in the Contractor, or is related within two (2) generations, either by birth or by marriage, to the Contractor or an individual with a financial interest in the Contractor?  (Ref: Texas Gov’t Code, Sections 573.023, 573.024 and 2254.032) |
|  |  |  | 3. | Has it been confirmed if a Texas State employee has an interest in, or is related to, the Owners or employees of the Contractor  (If ***N/A*** skip to question # 4): |
|  |  |  |  | 1. Has this relationship been reviewed by The TSUS Legal Office to determine if there is an appearance of a potential or an actual conflict of interest? |
|  |  |  |  | 1. Has this information been shared in writing with the University’s President?   (Ref: Texas Gov’t Code, Section 2254.032) |
|  |  |  | 4. | Has it been confirmed that the Contractor has not been employed by the TSUS System, any TSUS component institution or by any other State agency at any time during the last two (2) years preceding making the offer?  (Ref: Texas Gov’t Code, Section 2254.033) |

NOTE: If it is determined that the Contractor has been employed by the TSUS System, any TSUS component institution or by any other State agency at any time during the last two (2) years preceding making the offer to contract, please provide the following information regarding the Contractor:

1. The nature of the previous employment with the agency: .
2. The date the employment was terminated: .
3. The annual rate of compensation for the employment at the time of termination: $ .

PART 3: CONTRACTS FOR CONTRACT WORKERS, – If your contract involves the use of contract workers, INCLUDING CONSULTANTS, please answer the following questions.

If not, skip this section and please go to **PART 4** of this checklist.

| *YES* | *NO* | *N/A* |  | *Question* |
| --- | --- | --- | --- | --- |
|  |  |  | 1. | Has it been confirmed that the individual providing the services under the contract has not been employed by Texas State or The TSUS within the past twelve (12) months?  (Ref: Texas Gov’t Code, Section 2252.901) |
|  |  |  | 2. | In the contract’s supporting documentation is there included a written: |
|  |  |  |  | 1. Description of how the use of a contracted workforce fits into your department’s mission, goals and objectives? |
|  |  |  |  | 1. Cost-benefit analysis demonstrating it is more cost-effective to hire outside workers than to perform the Work “in-house”?   (Ref: UPPS 05.02.03, Para. 04.01) |
|  |  |  | 3. | If ***NO*** to question 2.b., is the contract being entered into for one of following reasons: |
|  |  |  |  | 1. The deadline for completing the project is such that the Work cannot be completed by full-time employees due to their current workload or the training required? |
|  |  |  |  | 1. The Work involves a special expertise that is not likely to be used again, or will only be used on a random basis? |
|  |  |  | 4. | Does the contract contain specific language to: |
|  |  |  |  | 1. Expressly state that the Contractor is an “independent contractor”? |
|  |  |  |  | 1. Make it the responsibility of the Contractor to hire, train, pay and maintain its own employees (if any) for the performance of the services (Work) under the contract? |
|  |  |  |  | 1. Make it the responsibility of the Contractor to conduct criminal background checks on Contractor employees, when checks are required due to the sensitive nature and/or location of the Work to be performed or checks are mandated by The TSUS rules? |
|  |  |  |  | 1. Make it the responsibility of the Contractor to handle all reported Contractor personnel problems, but reserves the right of Texas State to bar a contractor employee from the campus if determined to be in Texas State’s best interests? |
|  |  |  | 5. | Has it been confirmed that contract workers are not being used in critical areas where in-house expertise should be retained, or where confidentially is important? |
|  |  |  | 6. | Has it been confirmed that Texas State is not the only client of the Contractor, or has the Contractor furnished evidence of their independent business operation? |
|  |  |  |  |  |

PART 4: ALL CONTRACTS:

Did you answer ***YES*** *or* ***N/A*** to every question on this checklist?

**If not**, see below:

If you answered ***NO*** to any question, please list below the part and question number and explain why the answer is ***NO*** (Attach additional sheets if necessary):

|  |  |  |
| --- | --- | --- |
| *Part #* | *Question No.* | *Explanation* |
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