



**HENDERSON**  
STATE UNIVERSITY

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EXCELLENCE • SPIRIT • TRADITION

REQUEST FOR PROPOSAL #18-01

DATE: July 5, 2017

A LEARNING MANAGEMENT SYSTEM

Issued by:

HENDERSON STATE UNIVERSITY

ARKADELPHIA, ARKANSAS

DUE: NO LATER THAN

September 1, 2017

MAIL OR DELIVER PROPOSALS TO:

HENDERSON STATE UNIVERSITY

ATTN: TIM JONES, DIRECTOR OF PURCHASING

[jonest@hsu.edu](mailto:jonest@hsu.edu) / 870.230.5117

1100 HENDERSON STREET

ARKADELPHIA, AR 71999-0001

LEARNING MANAGEMENT SYSTEM

ACKNOWLEDGMENT OF RECEIPT

Please fill in the requested information below as acknowledgment that you have received the Request for Proposal noted above. If your firm is interested in participating, this sheet must be completed and returned to Henderson State University, Tim Jones, 1100 Henderson Street, Arkadelphia, AR 71999-0001, Email; [jonest@hsu.edu](mailto:jonest@hsu.edu), Fax: 870-230-5486. By doing this, we will be able to provide notification to you any addenda to the RFP.

Name of Firm: \_\_\_\_\_

\_\_\_\_\_

Fax #: ( ) \_\_\_\_\_ Tel. #: ( ) \_\_\_\_\_

\_\_\_\_\_ YES, Our Company does have an interest in responding.

\_\_\_\_\_ NO, our company does not have an interest in responding.

Name: (Print) \_\_\_\_\_ Title: \_\_\_\_\_

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

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## LEARNING MANAGEMENT SYSTEM

### 10.1 Background

Henderson State University - Located in the heart of southwest Arkansas, Henderson State University is a public institution serving as a vital educational and cultural center for the local community, region, and state. Founded as a private institution in 1890, Henderson has a strong liberal arts heritage that is the base of over seventy-five undergraduate and graduate programs, earning the university its status as Arkansas's public liberal arts university.

Henderson offers a quality education guided by a faculty and staff who are committed to excellence and dedicated to serving a diverse student body from across Arkansas, over twenty-five other states, and a number of foreign countries. The university encourages scholarly and creative activities in a caring, personal atmosphere that reflects the university's motto for over a century: "The School with a Heart."

Influenced by its distinctive history, the mission of Henderson State University is to provide a learning environment that prepares students for a lifetime of intellectual and personal growth in a global society. The Henderson experience bridges students' academic aspirations to career success by integrating professional studies and the liberal arts.

Henderson is committed to a continuous process of improving all areas of the institution, particularly student academic achievement. Faculty regularly assess the extent to which students have developed skills, knowledge bases, attitudes, and behaviors which are required of the specific profession and/or the applicable accreditation standards. Faculty and staff also evaluate student perceptions of coursework, teaching, advising, and other important services provided to support student learning. This allows students to have a voice in improving not only the quality of their own educational experience, but also the experiences of future Henderson students. This assessment and evaluation process occurs at the individual, class, program, department, and university levels. Results of this assessment process are used to help make decisions to enhance the quality of student learning and the learning environment at HSU.

### 10.2 Purposes

Henderson State University (HSU)(the University) is issuing this Request for Proposal ("RFP") for the purpose of procuring a hosted Learning Management System.

In order to simplify the University's task of evaluating all of the proposals we have developed a format in which all proposals must be prepared. Failure to adhere to this format or to omit any of the information that is required may result in your firm's proposal being disqualified.

The contract will be awarded to the vendor, firm, contractor, offeror or proposer ("vendor") who best satisfies all of the Universities needs at optimum cost and service performance. Cost will not be the sole criteria for determining the contract award. Vendors shall state the purchase price of each individual line item on the Official Bid Price sheet. The University shall issue a firm, fixed-price contract for the services resulting from this RFP.

### 10.3 Issuing Officer

Tim Jones, Director of Purchasing

Phone: (870) 230.5117 Fax: (870) 230.5486

Email: jonest@hsu.edu

### 10.4 Contract Administrator

Henderson State University

1100 Henderson Street

Arkadelphia, AR 71999-0001

Contract Administrator: Tim Jones

Project Coordinator: Jennifer Holbrook

### 10.5 Anticipated Procurement Timetable

RFP Issued:		July 5, 2017
Deadline for Questions on Proposal		July 24, 2017
Responses to Questions posted on website		August 14, 2017
Public opening of proposals:		September 1, 2017
Completion of proposal review and demo selection:		September 15, 2017
Pilot selection if needed		October 1, 2017
Intent to award letters emailed:	approx.	May, 2018
Contractor Commences Performance:	approx.	May, 2018

### 10.6 Submission of Proposals

No later than 11:00 a.m., and on the dated stated above, provide one signed original (marked "original") and fifteen (15) printed copies of the bid response. The vendor must also provide the bid response in electronic form on a CD or flash-drive (preferred).

Submit to the following:

Henderson State University

Tim Jones

1100 Henderson Street

Arkadelphia, AR 71999-0001

Or (if hand delivered)

1098 Presidents Drive, Womack Hall, Room 208

“Proprietary information or information which, if disclosed, would give advantage to competitors or bidders (“Proprietary Information”) submitted in response to this RFP will be processed in accordance with applicable State of Arkansas procurement procedures. Documents pertaining to the RFP become the property of the State and shall be open to public inspection subsequent to proposal opening. It is the responsibility of the respondent to identify all Proprietary Information. The vendor should submit one complete electronic copy of the proposal from which any Proprietary Information has been removed. The redacted copy should reflect the same pagination as the original, show the empty space from which information was redacted, and should be submitted on a CD or flash drive, preferably in a PDF format. Except for the redacted information, the redacted copy must be identical to the original hard copy. The respondent is responsible for ensuring the redacted copy on CD/flash drive is protected against restoration of redacted data. The redacted copy will be open to public inspection under the Freedom of Information Act (FOIA) without further notice to the respondent. If a redacted copy is not received the entire proposal will be open to public inspection. If the State of Arkansas deems redacted information to be subject to the FOIA, the vendor will be contacted prior to sending out the information.”

**COST PROPOSAL MUST BE INCLUDED UPON SUBMISSION, BUT SEALED SEPARATELY.**

All proposals must be executed by an authorized officer of the vendor and must be held firm for acceptance until May 30, 2018 after the opening date.

Addenda or amendments, if any, should be signed, dated and included with the vendor’s proposal submission. Failure to do so may be cause for rejection of the proposal.

Acceptance of request for proposal issued by the Director of Purchasing indicated by submission of a proposal by vendor, will bind responder to the terms and conditions herein set forth, except as specifically qualified in any addendum issued in connection therewith. Any alleged oral agreement or arrangement made by a vendor with any agency or Director of Purchasing, or an employee of the campus is void and ineffective.

### **10.7 Presentation**

Vendors selected for final evaluation may be required to make an oral presentation. Such presentations provide an opportunity for vendors to clarify their proposal and ensure mutual understanding. The University will schedule time and location for any required presentations. See section 70.5.

### **10.8 Rejection of Proposals**

This solicitation does not commit the University to award a contract, to pay any costs incurred in the preparation of a proposal, or to procure or contract for the articles of goods or services. The University reserves the right to accept or reject any or all proposals received as a result of this request, or to cancel in part or in its entirety this proposal if it is in the best interest of the University. Failure to furnish all information may disqualify a vendor.

### **10.9 Contracting Condition**

The successful vendor and any entity or person directly or indirectly controlled by, under common control with, or controlling the vendor will not acquire any interest, direct or indirect, which would conflict in any manner or disagree with the performance of its services hereunder. The vendor further covenants that in the performance of the contract no person having any such known interest shall be employed. No official or employee of the State and no other public official of the State of Arkansas or the Federal Government who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of the project shall, prior to the completion of the project, voluntarily acquire any personal interest direct or indirect, in this contract or proposed contract.

### **10.10 Public Opening of Proposals**

A public opening of all Technical/Business proposals will be held on: September 1, 2017 at 11:00 a.m. at Henderson State University. Proposals will be opened and reviewed for completeness before being presented to the committee.

Purchasing Department  
Womack Hall, Room 208  
Arkadelphia, AR

ANY CONFIDENTIAL, PROPRIETARY, COPYRIGHTED OR FINANCIAL MATERIAL SUBMITTED BY VENDORS MUST BE MARKED AS SUCH AND SUBMITTED UNDER SEPARATE COVER. ALL SUBMITTALS BY VENDORS WILL BE AVAILABLE FOR REVIEW TO THE EXTENT PERMISSIBLE, PURSUANT TO THE ARKANSAS FREEDOM OF INFORMATION (see Ark. Code Ann. 25-19-101 et seq.).

### **10.11 Contract Awarding and Signing**

Contract awarding and signing will be contingent upon the University receiving advice from approving authorities if necessary. Vendor's formal contract shall be prepared incorporating the contents of the RFP as well as any negotiated terms and conditions.

### **10.12 Payment and Invoice Provisions**

All invoices shall be forwarded to the Henderson State University, Accounts Payable Department and must show an itemized list of charges by specified category. Payment will be made in accordance with applicable State of Arkansas accounting procedures upon written acceptance by Henderson State University.

### **10.13 Proposal Evaluation**

The staff of Henderson State University and the Director of Purchasing will evaluate all proposals to ensure all requirements are met. The contract will be awarded on the basis of the proposal that receives the highest cumulative point total as defined in the evaluation criteria.

## **SECTION 20 SCOPE OF SERVICES**

### **20.1 Purpose**

The intent of this proposal is to review and evaluate Learning Management Systems and their vendors for the purpose of procuring said system for the University. Vendors may be asked to provide an on-site demonstration of the product as part of our evaluation.

The proposal should address each of the following by indicating if the functionality currently exists (Yes/No) and if not, if it is planned for future release and if so, the timeframe for such update. Additional explanation is welcome.

#### **(1) The LMS should provide a robust environment for content authoring.**

- A. Have sufficient native tools that allow for the creation of necessary teaching and learning tools: e.g. a mechanism for students to upload work products; a mechanism to create forums for students to interact; a means to create assessments of student learning that include quantitative and qualitative type questions; a means for faculty to easily provide learning materials.
- B. Be easy to use and intuitive
- C. Allow integration with third-party content management systems.
- D. Allow integration with third-party learning tools.
- E. Support multiple content and media format types: e.g. audio, video, images, text.
- F. Allow the import/export of content from other widely used learning management systems.
- G. Allow easy and intuitive mobile use on all popular devices.
- H. Provide enough space in each section for all course content and student work.

**(2) The LMS should support HSU's teaching and learning needs.**

- A. Provide scaffolding tools that help the student know where they are and what they need to do next.
- B. Progress indicators.
- C. Automated guided instruction (feedback mechanisms)
- D. Syllabus
- E. Calendar that integrates with third-party calendars
- F. Provide student publishing tools
- G. E-portfolio
- H. Blog
- I. Support a variety of pedagogical approaches
- J. Competency-based learning
- K. Self-paced learning
- L. Self-directed learning
- M. Group/Collaborative learning
- N. Support a variety of course delivery methods
- O. Face-to-face
- P. Blended/Hybrid
- Q. Online

**(3) The LMS should support social presence, interaction, and collaboration.**

- A. Enable social presence in the online space (within and across courses) so that students and faculty have the experience of being "real" people connecting with other real people in an active learning community.
- B. Through the effective use of visuals to reflect who's active in the course (Facebook, Twitter)
- C. Through the use of an activity stream so that it feels like the course is an active community and not just a flat file structure from which students download static documents
- D. Enable authentic and efficient means of interacting within and across courses
- E. Through a robust mail tool that allows users to send and receive mail, including attachments, see who has read mail, etc.

- F. Include robust tools and intuitive interfaces for online synchronous and asynchronous discussions
- G. Synchronous chat and discussion functionality that indicates who's online
- H. Asynchronous discussion space that has an intuitive look and feel and promotes authentic educational dialogue
- I. Provide or easily integrate with tools students can use to collaboratively create and share content synchronously as well as interact in virtual meeting spaces allowing shared white board, desktop sharing, and website sharing.

**(4) The LMS should provide a wide variety of grading, assessment, and grade management tools.**

- A. Include a variety of assessment tools that allows for multiple assignment submission formats, question formats, and multiple response and feedback options (audio, video, textual)
- B. Allow for a variety of ways of grading student work products
- C. By student, assignment, or team
- D. Auto-graded or manually
- E. Based on rubrics
- F. Provide a robust and configurable gradebook that can handle a variety of functions
- G. Import grades from assessment activities outside the LMS
- H. Allow for extra credit assignments
- I. Be exportable to alternative file formats
- J. Enable instructors to submit grades to registrar
- K. Allow for formulas and weighting
- L. Allow for selection of points or percentages
- M. Allow zero credit assignments

**(5) The LMS should possess an intuitive interface with a contemporary look and feel.**

- A. Not require significant training for the average end user to find and use most of the features and functionality they require
- B. Vendor hosted web-based module training for faculty and students
- C. Reflect contemporary design standards.

**(6) Be mobile optimized, device compatible, and work on all major browsers.**

- A. Be Responsive to a user's device
- B. Have an app(s) that allows for content generation and content consumption
- C. Have an app(s) that takes into account necessary functionality for students, instructors, and design staff.
- D. Work on all current versions of the major browsers.

**(7) The LMS should be compliant with federal laws and regulations protecting people with disabilities.**

- A. Conform to Web Content Accessibility Guidelines (WCAG 2.0 AA)
- B. Generate web pages that comply with HTML code standards and best practices
- C. Possess accessible content creation tools with functionality
- D. Be fully operable using only a keyboard
- E. Be readable and operable using commonly used screen readers (JAWS, Voice Over, NVDA)
- F. Add alt text to images to add heading to text content
- G. Add labels to form fields
- H. Add headers to tables
- I. Paste blocks of HTML code in an HTML view of content, including language extensions like MathXL.

Allow persistent, user personalization to modify presentation style (e.g., high contrast, color inversion, color modifications)

Include an accessible keyboard operable media player allowing closed captioning

Be accessible on mobile and small screen devices

Alert the screen reader user of error messages and changes in dynamic content.

**(8) The LMS should allow for labor scalability and efficiency in administrative setup.**

- A. Provide delegated and granular administration such that the assignment of different permission levels can be done specific to work groups, departments, colleges and campuses.
- B. A specific look and feel could be designated for all courses in a college, department or program.

- C. Multiple roles, like instructor, ID, TA, etc., could be assigned based on access and editing requirements.
- D. LTI tools could be administered differently across the University based on contractual agreements
- E. Appropriate units should be able to run a robust selection of built-in menu-driven reports as needed, for example, faculty should be able to run activity/login reports for students.
- F. If collaborative tools are used, all users should be able to create, modify, and administer their own collaborative spaces.
- G. Work w/multiple course section simultaneously
- H. Within a single section, utilize functionalities like drag and drop, auto populate, and grid edit that allow for bulk setup.
- I. Allows for persistent content within a course across semesters that doesn't require updating each semester.
- J. Work w/other applications such as registration, grading, advising and course selection systems.
- K. Merge multiple sections or cross-listed courses
- L. Built-in attendance feature

**(9) The LMS should support learning and administrative analytics and outcomes.**

An LMS should provide learning-analytics tools that can be applied in both the residential and the online learning context to meet accreditation requirements. The LMS administrator should be able to run detailed activity reports from within the LMS.

**(10) The LMS should be “future proof” and able to evolve.**

Embrace and practice a philosophy involved in looking for ways to improve how we use LMSs in education (e.g. educational standards; retention center)

Have a plan for responding to user trends, for example, MOOCs, badges, working online and offline, etc.

Have a philosophy that demonstrates innovation and support of standards.

Have a process of innovating on the edge – testing new ideas and incorporating them into existing platform.

Have a process of R&D that allows for experimentation, innovation, and the systematic vetting of new ideas.

**(11) Support IMS Global standards.**

- A. Learning Tools Interoperability (LTI)
- B. Learning information systems (LIS)
- C. Common Cartridge (CC)
- D. EduPub

**(12) The LMS should be available as close to 24/7/365 in order to meet the needs of the increasing global distance audience.**

- A. Have adequate system architecture in place to allow for backups, testing, and staging so the production (live) instance is not impacted.
- B. Have a dynamic and distributed infrastructure where the outage of one server does not impact the production environment
- C. Be elastic so that changes and updates are easy to install with minimal service interruption
- D. Be resilient such that the system reacts intelligently to spike in usage
- E. Ensure that HSU would always be current with the latest version.
- F. Have robust searchable knowledge base for help for students, faculty, and LMS administrators.
- G. 24/7 Support -- Formal ticket system AND informal support including telephone and chat

The contractor should describe options available for migration of Henderson State University's Blackboard course data and costs associated therewith. The contractor should have proven and successful experience migrating course content from Blackboard 9.1 smoothly into their LMS. Henderson anticipates that any migration would require a dual deployment process involving minimal use of the new LMS for early adopters, administrators, and training purposes. A minimal software/subscription cost is essential during any dual deployment period.

The Contractor should allow a pre-purchase pilot of at least one Fall or Spring semester of a select group of faculty, the LMS administrators, and Information Technology personnel for the purpose of a full evaluation of the system. Any cost associated with the pilot should be described in detail.

The Contractor is asked to include a detailed response to each point addressed in this section. Address each point and make any necessary explanation or qualification. The Contractor is to respond in order and refer to the section number key point in section.

**20.2 Arkansas Technology Access Clause.** When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Vendor expressly acknowledges and

agrees that state funds may not be expended in connection with the purchase of an information technology system unless that system meets the statutory requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.

**ACCORDINGLY, THE VENDOR EXPRESSLY REPRESENTS AND WARRANTS** to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications) that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:

Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means;

Presenting information, including prompts used for interactive communications, in formats intended for non-visual use;

After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired;

Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means;

Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact;

Integrating into networks used to share communications among employees, program participants, and the public; and

Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

State agencies cannot claim a product as a whole is not commercially available because no product in the marketplace meets all the standards. Agencies must evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product.

For purposes of this section, the phrase "equivalent access" means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and

customizable display appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, if equivalent access is not reasonably available, then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.

If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

All State of Arkansas electronic and information technology purchases must be accessible as specified by standards listed in Arkansas Act 308. A copy of the act is available here: <ftp://www.arkleg.state.ar.us/acts/2013/Public/ACT308.pdf>.

A blank copy of the Voluntary Product Accessibility Template (VPAT) form is available here: [http://procurement.uark.edu/resources/documents/VPAT\\_Blank.pdf](http://procurement.uark.edu/resources/documents/VPAT_Blank.pdf)

Note: All vendors should complete the VPAT form as it relates to the scope of the item(s) or commodity requested in the bid solicitation. Our expectation is that the vendor will assign technical personnel who understand accessibility to the task. If a component of a VPAT does not apply, it is up to the vendor to make that notation and explain why in the “Comments” column. The notation can be as simple as “Not a telecommunications or technology product.”

Please note here if a Voluntary Product Accessibility Template (VPAT) form **IS or IS NOT INCLUDED** with this bid response. \_\_\_\_\_.

**Failure to include the Voluntary Product Accessibility Template (VPAT) form (if needed) could result in bid disqualification.**

### **20.3 Project Management**

The proposal should detail how the vendor has made and will make available sufficient personnel resources to work within the specified time constraints and to maintain necessary performance levels. The proposal must detail the number of and qualifications of personnel required to perform the work requested.

20.31 Provide a description of the proposed project staffing/organization and internal controls to be used during the course of the project, including any subcontractors.

20.32 State the name, the title or position, telephone number, and email address of the individual who would have primary responsibility for the project resulting from this RFP. Disclose who within the firm will have prime responsibility and final authority for the work under the proposed contract. Name other individuals providing services on the project.

20.33 Identify responsibilities and qualifications of staff that will be assigned to the potential contract and the amount of time each will be assigned to the project. Provide resumes of the named staff, which include information on the individual’s particular skills related to this project, education, experience, significant accomplishments and any other pertinent information. The Vendor must certify

that staff identified in its proposal will actually perform the assigned work. Any staff substitution must have the prior approval of the University.

**Section 21 VENDOR**

Vendor Experience and References

The vendor shall provide a historical and contemporary overview of the company, particularly as it relates to the proposed work to be done.

Vendors shall supply with the proposal at least three (3) reference accounts (including persons to contact and telephone numbers) located in the continental United States. The University reserves the right to request or obtain additional information.

**SECTION 30 REQUIREMENTS**

**30.1 EVALUATION CRITERIA**

The following approach will be used in evaluating the proposals:

- I. Review the proposals
- II. Contact selected references
- III. Select finalist(s)
- IV. Schedule presentations of finalists if needed
- V. Select the vendor

The proposals will be evaluated and awarded based on a comparative formula of relative weighting as detailed below:

<b>Criteria</b>	<b><u>Maximum Points</u></b>
Vendor’s overall proposal content.	15
Vendor’s experience and performance in providing services of similar nature and scope, within an educational environment comparable to our institution.	40
Recommendations and/or references from third parties indicating the respondent’s past performance.	10
Evidence of ability to establish and meet timely deadlines.	25
<u>Price proposal for performance of work requested.</u>	<u>10</u>
Total	100

### **30.2 Experience**

The proposal must detail the vendor's familiarity and prove experience with this type of contract and demonstrated ability to serve the University's needs for services associated with these activities. The vendor must detail its familiarity and ability to provide quality service meeting industry and government guidelines.

### **30.3 Services to be provided**

All services to be performed and materials to be produced under the contract will be accomplished in consultation with and under the direction of the University. All procedures developed and products provided under the contract will be subject to final approval by the University. All records and data pertaining to the contract will remain the property of the University.

### **30.4 Cost**

All charges associated with the work to be performed shall be included on the Official Bid Price Sheets and shall be valid for 150 days following the bid opening. The University will not be obligated to pay any costs not identified on the Official Bid Price Sheet. Any cost not identified by the vendor on the Official Bid Price Sheet, but subsequently incurred, will be borne by the vendor.

## **SECTION 40 TECHNICAL AND BUSINESS PROPOSAL**

### **40.1 Introduction**

Vendor is asked to include a detailed response to each point addressed in this section. Address each point and make any necessary explanation or qualification. Vendor is to respond in order and refer to the sub-section number key point. Vendors shall submit five (5) copies of their proposal. Failure to comply will result in possible disqualification of the proposal. All proposals shall be presented in accordance with the following outline.

The Technical/Business portion of the proposal must include the following:

- Transmittal letter
- Executive Summary
- Vendor's Background and Experience
- Vendor's Qualifications
- Project Organization and Staffing

The Price portion of the proposal must include the following:

- Price proposal
- Independent Price Determination Certification Statement
- Bid Price Certifying Statement

ORIGINAL PROPOSAL AND COPIES MUST BE INDEXED AND TABBED WITH THE ABOVE SECTIONS INDICATED.

#### **40.2 Transmittal Letter**

An individual authorized to legally bind the vendor will sign the Transmittal Letter. It will state that the vendor is a legal entity that will meet the specifications set forth in the request for proposals. It will also identify whom the University is to work with and any conditions regarding the proposal.

#### **40.3 Appendix**

The appendix can include any information not noted in the above sections which expands on your company or systems offering. The following would be helpful in the evaluation process:

- Sample vendor newsletters
- Published articles concerning your company or system
- Sample reports
- Press releases

#### **40.4 Executive Summary**

The Executive Summary will condense and highlight the contents of the vendor's proposal.

#### **40.5 Vendor's Background and Experience**

This section will include details of the respondent's background and its size and resources as well as details of experience relevant to the proposed project. Please include how long you have been in business and include any mergers or acquisitions.

Each vendor must submit a minimum to three (3) letters of recommendation. Letters of recommendation must be submitted on the letterhead of the party submitting the recommendation. Each vendor must submit the names, addresses, and telephone numbers of three (3) additional references.

Recommends and references must be parties who can attest to the vendor's qualifications relevant to providing the services outlined in the request for proposal. Organization or professional recommendations and references must be submitted; personal recommendations and references will not be accepted. Recommendations and references may be verified.

For subcontractors(s) and consultant(s), proposers shall include letters of agreement, contracts or other forms of commitment, which demonstrate their willingness to undertake their portion of the proposed project. In addition, all requirements, contractual obligations and a statement of the vendor's involvement in litigation that could affect this work shall be included.

1. Provide a written agreement to accept all contracts provisions, which are mandatory under the laws of the State of Arkansas, its Department, Agencies, and Boards.
2. Provide a written agreement to adhere to an established system of accounting and financial controls adequate to permit the effective administration of the contract.

#### **40.6 Vendor's Qualification and Credentials as Related to the Proposal**

In this section, the Vendor shall provide an organizational chart displaying the proposed project structure. The Vendor shall also state the qualifications and credentials of the company, in terms of proven experience through similar projects, reputation, and other relevant information.

Vendor shall include the number and a description of 3 similar projects successfully completed. A statement shall be included specifying the extent of responsibility on each described project. Proposals shall include proof of the Vendor's license's and certifications and successful completion of other projects have a like size and scope. All evidence under this requirement shall be in sufficient detail to allow an adequate evaluation by the University. Vendor shall submit copy of any written warranties.

#### **40.7 Project Organization and Staffing**

This section will describe in detail the vendor's organizational plan for meeting the requirements in this request for proposals. It will include: (1) organization charts of proposed personnel (2) Staffing information detailing the tasks to be performed and the number of staff hours estimated for each individual for each task.

#### **40.8 Price Proposal**

The fees will include the services and requirements described in this request for proposals.

PRICE PROPOSAL MUST BE SUBMITTED IN A SEPARATE SEALED ENVELOPE. ANY REFERENCE TO COST (S) INCLUDED WITH THE TECHNICAL/BUSINESS PROPOSAL WILL RESULT IN OFFEROR'S PROPOSAL BEING REJECTED. THE TECHNICAL/BUSINESS PROPOSAL WILL BE EVALUATED PRIOR TO THE COST PROPOSAL CONTENTS BEING REVIEWED.

#### **40.9 Independent Price Determination Certification Statement**

A bid will not be considered for award if the price in the bid did not arrive independently without collusion, consultation, communication or agreement as to any matter relating to such prices with any other vendor submitting. In addition, the vendor is prohibited from making multiple bids in a different form; i.e., as a vendor and again as a subcontractor to another vendor.

The Offeror must include a certified statement in the bid certifying that the price was arrived at without any conflict of interest, as described above. Should conflict of interest be detected any time during the

contract, the contract shall be deemed null and void and the contractor shall assume all costs of this project until such time that a new contract is selected

#### **40.10 Bid Price Certifying Statements and Bid Price**

The total bid price will include services and requirements as described in this request for proposal, for the term of the contract period. The Vendor must include a statement certifying that all services properly requested shall be performed as required.

### **SECTION 50 GENERAL TERMS AND CONDITIONS**

#### **50.1 Legal Considerations**

Any contract resulting from the award of this RFP shall be construed according to the laws of the State of Arkansas. Any legal proceedings against the University regarding this request for proposal or any resultant contract shall be brought in the Arkansas State Claims Commission. Any legal proceedings against vendor shall be brought in the State of Arkansas administrative or judicial forums. Venue will be Clark County, Arkansas.

#### **50.2 Public Disclosure**

Failure to make any disclosure required by Governor's Executive Order 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that Order, shall be a material breach of the terms of this contract. Any vendor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the agency.

#### **50.3 Ethical Standards Law**

As an agency of the State of Arkansas, the University is bound by and will comply and require compliance with the "Ethics in Public Contracting Laws" found in Arkansas Code Annotated (ACA), Section § 19-11-701 et seq. Definitions of terms used in this law can be found in Section §19-11-701 of the ACA. Any violation of these ethics laws can result in the cancellation of any contract with the University.

#### **50.4 Term of the Contract**

The contract period begins approximately May 30, 2018 with a maximum term of seven (7) years or May 30, 2025. By mutual agreement, the University and the vendor may elect to extend the contract for the full maximum of seven years, in one or two-year increments or any portion thereof, but not less than monthly increments, at the contract compensation rate for those renewal periods. In no case will the Contract be extended to a period greater than seven years from the day the contract is signed by the University.

The University shall notify the vendor at least sixty (60) days prior to the end of each annual contract period or extension thereof if the University intends to renew the contract. If notification is not made, the contract will terminate at the end of the contract period or current extension thereof.

In the event that the anticipated term of this contract extends beyond the current biennial period, the contract will be terminable on the part of the University without cause at the end of the current biennial period. However, the university may agree to continue the contract but in no case will any renewal, automatic or otherwise, cause the contract to continue beyond a biennial period for which the contract is renewed.

Any services or products on contract accepted by the state must be paid for but does not obligate the university to continue the contract beyond the end of a biennial period.

### **50.5 Termination of Contract**

The contract resulting from this request for proposal shall be subject to the following termination provisions. The University may terminate the contract:

- A. For default
- B. For convenience
- C. For unavailability of funds

#### **50.5.1 Termination for Default**

The University may terminate this contract, when the University determines that the vendor or any subcontractor has failed to satisfactorily perform its contractual duties and responsibilities and is unable to cure such failure within a reasonable period of time specified by the University, taking into consideration the gravity and nature of the default. Such termination shall be referred to herein as "Termination for Default".

In the event of Termination for Default, the University may procure, upon such terms and in such manner as the University may deem appropriate, supplies or services similar to those terminated, and the vendor shall be liable to the University for any excess costs for such similar supplies or services. In addition, the vendor shall be liable to the University for administrative costs incurred by the University in procuring such similar supplies or services.

In the event of Termination for Default, the Vendor shall be paid for those deliverables, which have been delivered to the University. Payments for completed deliverables delivered to and approved by the University shall be at the contract price. Payment for partially completed deliverables delivered to and not yet approved by the University shall be an amount determined by the University.

The rights and remedies of the University provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under the contract.

### **50.5.2 Termination for Convenience**

The University may terminate performance of work under the contract in whole or in part whenever the University shall reasonably determine that such termination is in the best interest of the University.

Upon receipt of notice of termination for convenience, the vendor shall be paid the following:

- At the contract price (s) for completed deliverables delivered to and accepted by the University;
- At a price mutually agreed by the vendor and the University for partially completed deliverables.

### **50.5.3 Termination for Unavailability of Funds**

In the event that funds for the contract become unavailable, the University shall have the right to terminate the contract without penalty and upon the same terms and conditions as a Termination for Convenience. Availability of funds will be determined at the sole discretion of the University.

### **50.6 Procedure on Termination**

Upon delivery by certified mail or any delivery requiring signature to the vendor of a Notice of Termination specifying the nature of the termination and the date upon which such termination becomes effective, the vendor shall:

- Stop work under the contract on the date and to the extent specified in the Notice of Termination;
- Place no further orders or subcontracts for materials or services;
- Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination;
- Assign to the University in the manner and to the extent directed by the Contract Administrator all of the right, title, and interest of the vendor under the orders or subcontracts so terminated, in which case the University shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- With the approval or ratification of the Contract Administrator, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of the contract;
- Transfer title to the University (to the extent that the title has not already been transferred) and deliver in the manner, at the time, and extent directed by the Contract Administrator, all files, processing systems (excluding equipment and operating systems), data manuals, or other documentation, in any form, that relate to the work terminated by the Notice of Termination;
- Complete the performance of such part of the work as shall not have been terminated by the Notice of Termination;

- Take such action as may be necessary, or as the Contract Administrator may direct, for the protection and preservation of the property to the contract which is in the possession of the vendor and in which the University has or may acquire an interest.

The vendor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting the amount of any item of reimbursable price under this clause.

#### **50.6.1 Termination Claims**

After receipt of a Notice of Termination, the vendor shall submit to the Contract Administrator any termination claim in the form and with the certification prescribed by the Contract Administrator. Such claims shall be submitted promptly. The vendor and the University may agree upon the amounts to be paid to the vendor by reason of the termination of work pursuant to this article. The contract shall be amended accordingly.

In the event of the failure of the vendor and the University to agree in whole or in part as to the amounts with respect to costs to be paid to the vendor in connection with the termination of work pursuant to this article, the University shall determine on the basis of information available, the amount, if any, due to the vendor by reason of termination and shall pay to the vendor the amount so determined.

The vendor shall have the right of appeal, as stated under Disputes, for any such determination made by the Contract Administrator.

#### **50.7 Vendor as Independent Contractor**

It is expressly agreed that the vendor and any subcontractors and agents, officers, and employees of the vendor or any subcontractors in the performance of this contract shall act in an independent capacity and not as officers or employees of the University. It is further expressly agreed that this contract shall not be construed as a partnership or joint venture between the vendor or any subcontractor and the University.

#### **50.8 Force Majeure**

Neither party will be liable for any failure to perform if the failure to perform the contract arises out of causes beyond the control and without the fault of negligence of the party. Such causes may include, but are not restricted to, acts of God, fires, quarantine restriction, strikes, epidemics, and freight embargoes. In all cases, the failure to perform must be beyond the control and without fault or negligence of the party.

#### **50.09 Disputes**

Any dispute concerning performance of the contract shall be decided by Henderson State University through its head of Purchasing who shall reduce his/her decision to writing and serve a copy to the

vendor. Henderson State University's decision will be final pursuant to ACA § 19-11-246. Pending final determination of any dispute hereunder, the vendor shall proceed diligently with the performance of the contract and in accordance with the Directors or the University's direction.

#### **50.10 Confidentiality of Information**

The vendor shall treat all information, and in particular, information relating to recipients and providers, which is obtained by it through its performance under the contract as confidential information to the extent that confidential treatment is provided under State and Federal law, and shall not use any information so obtained in any manner except as necessary for the proper discharge of its obligations and securing of its rights hereunder.

#### **50.11 Public Disclosure**

Upon signing of the contract by all parties, the terms of the contract shall become available to the public, pursuant to the provisions of ACA § 25-19-101 et seq. unless subject to lawful exemption.

#### **50.12 Inspection of Work Performed**

Henderson State University, or their authorized representatives shall, at all reasonable times, have the right to enter into vendor's premises, or such other places where duties under the contract are being performed, to inspect, monitor, or otherwise evaluate the quality, appropriateness, and timeliness of work being performed.

The vendor and all subcontractors must provide access to all reasonable facilities and provide assistance, if deemed necessary by the requesting agency/personnel. All inspections and evaluations shall be performed in such manner as will not unduly delay work.

#### **50.13 Subcontracts**

The vendor is fully responsible for all work performed under the contract. The vendor may, with the consent of the University, enter into written subcontract(s) for performance of certain of its functions under the contract. The vendor shall not enter into any written subcontract without the prior written consent of the Contract Administrator.

No subcontract, which the vendor entered into with respect to performance under the contract, shall in any way relieve the vendor of any responsibility for performance of its duties.

The vendor shall give the Contract Administrator immediate notice in writing by certified mail or any action or suit filed and prompt notice of any claim made against the contractor by a subcontractor or vendor which, in the opinion of the vendor, may result in litigation related in any way to the contract or the State.

#### **50.14 Indemnification**

The vendor agrees to indemnify, defend, and hold harmless the University, its officers, agents and employees from

- Any claims, losses or injuries to the person or property, resulting from services rendered by a subcontractor, person, or firm, performing or supplying services, materials, or supplies in connection with the performance of the contract.
- Any claims, losses or injuries to the person or property to any person or firm injured or damaged by the erroneous or negligent acts, including without limitation disregard of Federal or State regulations or statutes, of the vendor, its officers, employees, or subcontractors in the performance of the contract.
- Any claims, losses or injuries to the person or property resulting to any person or firm injured or damaged by the vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by Federal or State regulations or statutes.
- Any failure of the vendor, its officers, employees, or subcontractors to observe Arkansas and applicable Federal laws, including but not limited to labor laws and minimum wage laws.

#### **50.15 Assignment**

The vendor shall not assign the contract in whole or in part or any payment arising therefrom without the prior written consent of the Contract Administrator.

#### **50.16 Employment Practices**

The vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age (except as provided by law), handicap or other protected status. The vendor must take affirmative actions to ensure that employees, as well as applicants for employment, are treated without discrimination because of their protected status.

Such action shall include, but not be limited to, the following:

- Employment
- Promotion
- Demotion or transfer
- Recruitment or recruitment advertising
- Layoff or termination
- Rates of pay or other forms of compensations, and
- Selection of training, including apprenticeship.

The vendor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the clause.

The vendor shall, in all solicitations or advertisements for employees placed by or on behalf of the vendor; state that all qualified applicants will receive consideration for employment without regard to protected status.

The vendor shall comply with all state and federal nondiscrimination laws and regulations

#### **50.17 Waiver**

No covenant, condition, duty, obligation, or undertaking contained in or made a part of the contract will be waived except by the written agreement of the parties, and forbearance or indulgence in any other form or manner by either party in any regard whatsoever shall not constitute a waiver of the covenant, condition, duty, obligation, or undertaking to be kept, performed, or discharged by the party to which the same may apply; and until complete performance or satisfaction of all such covenants, conditions, duties, obligations, and undertakings, any other party shall have the right to invoke any remedy available under the law or equity, notwithstanding any such forbearance or indulgence.

#### **50.18 State Property**

The vendor shall be responsible of the proper custody and care of any State owned property furnished for vendor's use in connection with the performance of this contract and the vendor will reimburse the State for its loss or damage, normal wear and tear expected.

#### **50.19 Contract Severability**

If any provision of the contract (including items incorporated by reference) is declared or found to be illegal, unenforceable, or void, then both the University and the vendor shall be relieved of all obligations arising under such provision; however, if the remainder of the contract is capable of performance, it shall not be affected by such declarations or finding and shall be fully performed.

#### **50.20 Attorney's Fees**

In the event that either deems it necessary to take legal action to enforce any provision of the contract, in the event the State prevails, the vendor agrees to pay all expenses of such action, including attorney's fees and costs at all stages of litigation as set by the court or hearing officer. Legal action shall include administrative proceedings.

#### **50.21 Environmental Protection Act Compliance**

The vendor shall be in compliance with all applicable standards, orders, or requirements issued under Section 305 of the Clear Air Act (42 USC 1857 (h)), Section 508 of the Clear Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) which prohibit the use under nonexempt Federal contracts, grants or loans of facilities included on the EPA list of Violating Facilities. The vendor shall report violations to both the State of Arkansas and to the U.S. EPA Administrator for Enforcement.

### **50.22 Liability**

In the event of non-performance of contractual obligation by the vendor or his agents which result in the determination by Federal authorities on non-compliance with Federal regulations and standards, the vendor will be liable to the University in full for all penalties, sanctions and disallowance assessed against the University.

### **50.23 Records Retention**

In accordance with Federal regulation, the vendor agrees to retain all pertinent records for five (5) years after final payment is made under this contract or any related subcontract. In the event any audit, litigation or other action involving these pertinent records is started before the end of the five (5) year period, the vendor agrees to retain these records until all issues arising out of the action are resolved or until the end of the five (5) year period, whichever is later.

### **50.24 Access to Vendor's Records**

In accordance with Federal regulation governing contracts in excess of \$10,000, the vendor consents to the required access to pertinent records. This access will be granted upon request, to State or Federal Government entities or any of their duly authorized representatives. Access will be given to any books, documents, papers or records of the vendor, which are directly pertinent to any services performed under the contract. The vendor additionally consents that all subcontracts will contain adequate language to allow the same guaranteed access to the pertinent records of subcontractors.

## **SECTION 60                      Standard Terms & Conditions**

1. General. Any Special Terms and Conditions included in the Request for Proposals (RFP) override these Standard Terms and Conditions. The Standard Terms and Conditions and any Special Terms and Conditions shall become part of the contract entered into if any or all parts of the proposal(s) are accepted by University.
2. Acceptances and rejection. The University reserves the right to accept or reject all or any part of a proposal(s) or any and all proposals, to waive minor technicalities, and to award the proposal to best serve the interest of the University and the State of Arkansas. This RFP does not in any way commit the University to contract for the commodities/services listed herein.
3. Proposal Submission. Proposals must be submitted to the University's Purchasing Office on this form with attachments, when appropriate, on or before the date and time specified for the proposal opening. If this form is not used, the proposal may be rejected. Each proposal submitted must be properly identified with a minimum of Proposal Number, Time and Date of Opening. The proposal should be typed or printed in ink. Late proposals will not be considered under any circumstances and will be returned to submitter, unopened. We will not accept faxed or emailed submissions.
4. Signature. Failure to sign the proposal will disqualify it. The person signing the proposal should show title or authority to bind his firm in a contract. Signature means a manual, electronic or digital method executed or adopted by a party with the intent to be bound by or to authenticate a record which is (a)

unique to a person using it; (b) capable of verification; (c) under the sole control of the person using it; (d) linked to data in a manner that if the data were changed, the electronic signature is invalidated.

5. No Proposal. If not submitting a proposal, the interested party should respond by returning the front page of this form, making it a “No Response”, and explaining the reason. Individual firm may be removed from the University’s Vendor List by failure to respond three times in succession.

6. Prices. Bid pricing on the unit price to include FOB destination to the University. In case of errors in extension, unit prices shall govern. Prices are firm and not subject to escalation unless otherwise specified on the RFP invitation opening date. “Discount from list” proposals are not acceptable unless requested in the RFP. Time or Cash discounts will not be considered. Quantity discounts should be included in the priced offered.

7. Quantities. The quantities stated on “firm” contracts are actual requirements on the University. The quantities stated in “term” contracts are estimates only, and are not guaranteed. Bid unit price on the estimated quantity and unit of measure specified. The University may order more or less than the estimated quantity on any “term” contract.

8. Brand Name References. Unless specified “No Substitutes”, any catalog brand name or manufacturer’s reference used in the RFP is descriptive only, not restrictive and used to indicate the type and quality desired. Unless otherwise specified herein, bids on brands of like nature and quality will be considered. If proposing on other than referenced specifications, the proposal must show the manufacturer, brand or trade name, and other descriptions, and should include the manufacturer’s illustrations and complete descriptions of the product offered. The University reserves the right to determine whether a substitute offered is equivalent to and meets the standards of the item specified, and the University may require the vendor to supply additional descriptive material. The vendor guarantees that the product offered will meet or exceed specifications identified in this RFP invitation. If the bidder takes no exception to specifications or reference date in this bid, he will be required to furnish the product according to brand names, numbers, and other terms as specified in this RFP.

9. Guaranty. All items bid shall be newly manufactured, in first class condition, latest model and design, including, where applicable, containers suitable for shipment and storage, unless otherwise indicated in the bid invitation. The vendor hereby guarantees that everything furnished hereunder will be free from defects in design, workmanship and material, that if sold by drawing, sample or specification, it will conform thereto and will serve the function for which it was furnished. The vendor further guarantees that if the items furnished hereunder are to be installed by the vendor, such items will function properly with installed. The vendor also guarantees that all applicable laws have been complied with relating to construction, packaging, labeling and registration. The vendor’s obligations under this paragraph shall survive for a period of one year from the date of delivery, unless otherwise specified herein.

10. Samples. Samples or demonstrators, when requested must be furnished free of expense to the University. If samples are not destroyed during reasonable examination they will be returned at vendor’s expense, if requested, within ten days following the opening of proposals. All demonstrators will be returned after reasonable examination. Samples should show vendor’s name, address, proposal and item number.

11. Testing Procedures for Specifications Compliance. Test may be performed on samples or demonstrators submitted with the bid or samples taken from regular shipment. In the event products tested fail to meet or exceed all conditions and requirements of the specifications, the cost of the sample used and the reasonable cost of the testing shall be borne by the vendor.
12. Amendments. The proposal cannot be altered or amended after the proposal opening except as permitted by regulation.
13. Taxes and Trade Discounts. Do not include state or local sales taxes in the bid price unless specifically requested in the RFP. Trade discounts should be deducted from the unit price and net price should be shown in the bid.
14. Award. Any contract, as the results of the RFP, shall be awarded with reasonable promptness by written notice to the successful vendor whose proposal meets the requirements and criteria set forth in the RFP. The University reserves the right to award item(s) listed in this RFP "all or none", "individually" by "groups" or by any other method as deemed in the best interest of the University, as deemed by the University Purchasing Official. In the event all proposals exceed available funds, as certified by the appropriate fiscal officer, the Agency Purchasing Official is authorized in situations where time or economic considerations preclude re-solicitation of work of a reduced scope to negotiate any adjustment of the submitted pricing, including changes in the RFP requirements, with a vendor, in order to bring the proposal within the amount of available funds.
15. Term of Contract. The RFP will show the period of time the term contract will be in effect.
16. Delivery on Contracts. The RFP will show the number of days to place a commodity, equipment and/or service in the University's designated location under normal conditions. If the Vendor cannot meet the state delivery, alternate delivery schedules may become a factor in an award. The University Purchasing Office has the right to extend delivery if reasons appear valid. If the Vendor cannot meet the delivery date, the University reserves the right to procure the item(s) elsewhere and any additional cost will be borne by the Vendor.
17. Delivery Requirements. No substitutions or cancellations are permitted without written approval of the University. Delivery shall be made during work hours only, 8:00 am to 4:00 p.m., Monday - Friday excluding legal holiday, unless prior approval for other delivery has been obtained from the University. Packing memoranda shall be enclosed with each shipment.
18. Default. All commodities, equipment or services furnished will be subject to inspection and acceptance of the University after delivery. Back orders, default in promised delivery, or failure to meet specifications authorize the University Procurement Office to cancel this contract or any portion of it and reasonably purchase commodities elsewhere and charge full increase, in any, in cost and handling to the defaulting vendor. The vendor must give written notice to the University of the reason and the expected delivery date. Consistent failure to meet delivery without a valid reason may cause removal from the bidders list or suspension of eligibility for award.
19. Variation in Quantity. The University assumes no liability for commodities produced, processed or shipped in excess of the amount specified on the purchase order/contract.

20. University/State Property. Any specifications, drawings, technical information, dies, cuts, negatives, positives, data, or any other items furnished to the contractor in contemplation hereunder shall remain the property of the University, be kept confidential to the extent allowed by Arkansas law, be used only as expressly authorized, and returned at the vendor's expense to the FOB point, properly identifying what is being returned.

21. Patents on Copyrights. The vendor agrees to indemnify and hold the University and the State of Arkansas harmless from all claims, damages, and costs including attorneys' fees, arising from infringement of patents or copyrights.

22. Invoicing. The vendor shall be paid upon the completion of all the following: (1) delivery and acceptance of the commodities or services; (2) submission of a properly itemized invoice, with the specified number of copies that reflect the contract/purchase order number(s), item(s), quantity and pricing; and (3) the proper and legal processing of the invoice by the University. Invoices must be sent to the University's Accounts Payable Office.

23. Assignment. Any contract entered into pursuant to this RFP is not assignable nor the duties thereunder delegable by either party without the written consent of the other party of the contract.

24. Lack of Funds. The University may cancel this contract to the extent said funds are no longer legally available for expenditure. The University will return any delivered but unpaid for commodities in normal condition to the contractor. If the University is unable to return the commodities in normal condition and there are no funds legally available to pay for the goods, or, if the contractor has provided services and there are no longer funds legally available to pay for the services, the contractor may file a claim with the State of Arkansas Claims Commission.

25. Discrimination. In order to comply with the provision of Act 54 of 1977, relating to unfair employment practices, vendor agrees as follows: (a) vendor will not discriminate against any employee or applicant for employment because of race, sex, color, age, religion, disability, or national origin. (b) in all solicitations or advertisements for employees, the vendor will state that all qualified applicants will receive consideration without regard to race, color, sex, age, religion, disability or national origin; (c) vendor will furnish such relevant information and reports as requested by the Human Resources Commission for the purpose determining compliance with the statute; (d) failure of the vendor to comply with the statute, the rules and regulations promulgated thereunder and this nondiscrimination clause shall be deemed a breach of contract and it may be canceled, terminated or suspended in whole or in part; and (e) the vendor will include the provision of items (a) through (d) in every subcontract so that such provisions will be binding upon such subcontractor or vendor.

**"This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 41 CFR 60-300.5(a) and 41 CFR 60-741.5(a). These regulations prohibit discrimination on the basis of race, color, religion, sex, or national origin, against qualified protected veterans on the basis of veteran status, and against qualified individuals on the basis of disability; and require affirmative action by covered prime contractors and subcontractors to ensure equality of opportunity in all aspects of employment, and to employ and advance in employment qualified protected veterans and qualified individuals with disabilities."**

26. Ethics. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a University contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business. Any violation of this ethics statement can result in the cancellation of any contract with the University. The bidder guarantees that he has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the bidder for the purpose of securing business.

27. Contract and Grant Disclosure and Certification. Any contract, or amendment to any contract, executed by the University, which exceed \$25,000, shall require the contractor to disclose information as required under the terms of Executive Order 98-04 and the regulations pursuant thereto. Failure of any person or entity to disclose or the violations of any rule, regulations or policy promulgated by the Arkansas Department of Finance and Administration pursuant to this order shall be considered a material breach of the terms of the contract. The material breach of the term shall subject the party failing to disclose, or in violation, to all legal remedies available to the University under the provision of existing law. The attached Contract Grant and Disclosure and Certification Form (f-1 and F-2) shall be used for the disclosure purpose. No contract or amendment to any existing contract will be approved until the vendor completes and returns the disclosure form.

28. Antitrust Assignment. As part of the consideration for entering into any contract pursuant to this RFP, the vendor named on the front of this RFP, acting herein by his authorized individual or its duly authorized agent, hereby assigns, sells and transfers to the University, all rights, title, and interest in and to all causes of action it may have under the antitrust laws of the United States or the State of Arkansas for price fixing, which causes of action have accrued prior to the date of this assignment and which relate solely to the particular goods or services purchased produced by this State pursuant to any resulting contract with the University.

29. Arkansas Technology Access Clause. When procuring a technology product or when soliciting the development of such a product, the State of Arkansas is required to comply with the provisions of Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, which expresses the policy of the State to provide individuals who are blind or visually impaired with access to information technology purchased in whole or in part with state funds. The Vendor expressly acknowledges and agrees that state funds may not be expended in connection with the purchase of information technology unless that system meets the statutory requirements found in 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and applications), in accordance with the State of Arkansas technology policy standards relating to accessibility by persons with visual impairments.

ACCORDINGLY, THE VENDOR EXPRESSLY REPRESENTS AND WARRANTS to the State of Arkansas through the procurement process by submission of a Voluntary Product Accessibility Template (VPAT) for 36 C.F.R. § 1194.21, as it existed on January 1, 2013 (software applications and operating systems) and 36 C.F.R. § 1194.22, as it existed on January 1, 2013 (web-based intranet and internet information and

applications) that the technology provided to the State for purchase is capable, either by virtue of features included within the technology, or because it is readily adaptable by use with other technology, of:

- Providing, to the extent required by Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, equivalent access for effective use by both visual and non-visual means;
- Presenting information, including prompts used for interactive communications, in formats intended for non-visual use;
- After being made accessible, integrating into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired;
- Providing effective, interactive control and use of the technology, including without limitation the operating system, software applications, and format of the data presented is readily achievable by nonvisual means;
- Being compatible with information technology used by other individuals with whom the blind or visually impaired individuals interact;
- Integrating into networks used to share communications among employees, program participants, and the public; and
- Providing the capability of equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

State agencies cannot claim a product as a whole if not commercially available because no product in the marketplace meets all the standards. Agencies must evaluate products to determine which product best meets the standards. If an agency purchases a product that does not best meet the standards, the agency must provide written documentation supporting the selection of a different product.

For purposes of this section, the phrase “equivalent access” means a substantially similar ability to communicate with, or make use of, the technology, either directly, by features incorporated within the technology, or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans with Disabilities Act or similar state and federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands or other means of navigating graphical displays, and customizable display appearance. As provided in Arkansas Code Annotated § 25-26-201 et seq., as amended by Act 308 of 2013, if equivalent access is not reasonably available, then individuals who are blind or visually impaired shall be provided a reasonable accommodation as defined in 42 U.S.C. § 12111(9), as it existed on January 1, 2013.

If the information manipulated or presented by the product is inherently visual in nature, so that its meaning cannot be conveyed non-visually, these specifications do not prohibit the purchase or use of an information technology product that does not meet these standards.

30. Cancellation. Either party may cancel any contract or item award, for cause, by giving a thirty (30) day written notice of intent to cancel. Cause for the University to cancel will include, but is not limited to, cost exceeding current market prices for comparable purchases, request for increase in prices during the period of the contract, or failure to perform to contract conditions. The vendor will be required to

honor all purchase orders that were prepared and dated prior to the date of expirations, or cancellation. Cancellation by the University does not relieve the vendor of any liability arising out of fault or nonperformance. If a contract is canceled due to a request for increase in pricing, or failure to perform, that vendor will be removed from the bidder/vendor list for a period up to twenty-four (24) months. Cause for the vendor to cancel a contract will include, but is not limited to, the item(s) being discontinued and unavailable from the manufacturer or non-payment or vendor invoices by the University.

31. Alteration of original IFB/RFP Document The original written or electronic language of the IFB/RFP shall not be changed or altered, except by approved written addendum issued by the University Purchasing Office. This does not eliminate a vendor from taking exception(s) to these documents, but does clarify that he/she cannot change the original document's written or electronic language. If a vendor wishes to make exception(s), to any of the original language, they must be submitted by the vendor in a separate written or electronic document, in language that clearly explains the exception(s). If a vendor's submittal is discovered to contain alterations/changes to the original written or electronic documents, the vendor's/contractor's response may be declared as "non-responsive" and the response will not be considered.

32. Sovereign Immunity. Nothing in this agreement shall be construed to waive the sovereign immunity of the State of Arkansas or any entity thereof, including Henderson State University.

## **SECTION 70 PROCUREMENT**

### **70.1 RULES OF PROCUREMENT**

To facilitate the procurement of requests for proposal, various rules have been established. They are described in the following paragraphs.

#### **70.2 Point of Contact**

The request for proposals Issuing Officer is the sole point of contact from the date of release of this request for proposals until the selection of the successful vendor. Vendors wishing to submit questions and requests for clarification should mail or fax all such correspondence to the Issuing Officer, as outlined in the anticipated procurement Timetable (Section 10.5).

#### **70.3 Written Questions Concerning the Request for Proposals**

Written questions must be submitted to the Issuing Officer. The closing date for receipt of questions will be July 24, 2017. All questions must be marked "Questions" and the proposal number must be indicated on the envelope or fax transmission. Each question should reference the paragraph number. The questions will be answered in written form and mailed or faxed to all organizations that received a copy of the Request for Proposal.

#### **70.4 Requests for Proposals Amendments**

The University reserves the right to amend the request for proposals prior to the date for proposal submission. Amendments, addenda and clarifications will be sent to all organizations requesting copies of the request for proposals.

#### **70.5 Cost of Preparing Proposals**

Costs for preparing the proposals are solely the responsibility of the vendor. The University will provide no reimbursements for such costs. Any costs associated with any oral presentations to the University will be the responsibility of the vendor and may not be billed to the University.

#### **70.6 Disposition of Proposals**

All proposals become the public property of the University and will be a matter of public record subject to the provisions of Act 482 of 1979, as amended by Act 600 of 1981 and Acts 517 and 760 of 1983, Arkansas Purchasing Law. If the proposal includes material, which is considered by the vendor to be proprietary or confidential under Arkansas law, the vendor shall so designate the material. The successful proposal will be incorporated into the resulting contract and will be a matter of public record subject to the provisions of ACA § 25-19-101 et seq. The State of Arkansas shall have the right to use all ideas, or adaptations of those ideas, contained in any proposal received in response to this request for proposals. Selection or rejection of the proposal will not affect this right.

#### **70.7 Proposal Amendments and Rules of Withdrawal**

Prior to the proposal due date, a submitted proposal may be withdrawn by submitting a written request for its withdrawal to the University, signed by the vendor. Unless requested by the University, the University will not accept any amendments, revisions, or alterations to the request for proposals after the proposal due date.

#### **70.8 Acceptance of Proposals**

The University reserves the right to request necessary amendments, reject any or all proposals received, or cancel this request for proposals according to the best interest of the University. Where the University may waive minor irregularities, such waiver shall in no way modify the request for proposal requirements or excuse the vendor from full compliance with the request for proposal specifications and other contract requirements if the vendor is awarded the contract.

#### **70.9 Evaluation of Proposals**

Proposals will be evaluated in three (3) phases. The first phase will determine if the mandatory requirements of this request for proposals have been agreed to and/or met. Failure to comply will deem a proposal non-responsive. The University may reject any proposal that is incomplete. However the University may waive minor irregularities. The Director of Purchasing completes this phase.

The University will base the second phase on evaluation of the Technical/Business proposal by an impartial committee appointed. Points will be awarded to each proposal based on a comparative

formula of relative weights as described in this request for proposals. The contract will be awarded to the respondent whose proposal receives the highest cumulative point total.

The third phase will be the opening of the cost proposal by the Director of Purchasing, and reviewed by the evaluation committee appointed by the University.

#### **70.10 Award Notice**

The notice of intended contract award will be sent to all respondents, by certified mail, return receipt requested.

#### **70.11 Protest of Award**

Within fourteen (14) days after the date that the vendor knew or should have known of the cause giving rise to protest, the prospective vendor must file a formal written notice of that protest with the Director of Purchasing. Failure to do so shall constitute a waiver of any rights to administrative decision under ACA § 19-11-244. Further details on protesting awards may be obtained by contacting the issuing Officer.

**NOTE:** The successful Respondent will enter into a Technical/General Service Contract that will require approval prior to any work conducted. Respondents may find more information on Act 557 and its requirements at this link: (see “Act 557 Reporting Requirements”) <http://www.dfa.arkansas.gov/offices/procurement/Pages/default.aspx>

See the following link for the form that will be completed at contract execution:

<http://procurement.uark.edu/resources/documents/TGSForm.pdf>

The Performance Standards that are required under Act 557 are included for reference purposes.

**SERVICE PERFORMANCE STANDARDS**

Act 557 requirements. This chart of Performance Standards is provided for reference only. No response is required at this time.

<b>Service Criteria</b>	<b>Acceptable Performance</b>	<b>Compensation/Damages</b>
<b>Adherence to University Requirements</b>	Reference standard terms, conditions, and all articles of RFP	<b>Termination of Contract.</b> This termination clause will apply for insufficient performance of services by vendor at the sole discretion of Henderson State University.
<b>Provision of Services</b>	Services Scope.	<b>Termination of Contract.</b> This termination clause will apply for insufficient performance of services by vendor at the sole discretion of Henderson State University.

RFP #18-01

LEARNING MANAGEMENT SYSTEM

Official Pricing Sheet

Software/Subscription Costs \_\_\_\_\_

Implementation Costs \_\_\_\_\_

Support costs/Helpdesk, etc. \_\_\_\_\_

Other: \_\_\_\_\_

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

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

Fax: \_\_\_\_\_ Email: \_\_\_\_\_

Signature of Authorized Official: \_\_\_\_\_

NOTE:

1. Henderson State University will not be obligated to pay any cost not identified on the Official Bid Price Sheet.

2. Any cost not identified by the bidder but subsequently incurred in order to achieve successful operation of the equipment will be borne by the bidder.