

Terms And Conditions

General Provisions:

- 1.1. **Term:** Any resulting agreement will be in force for an initial one (1) year term beginning September 1, 2026 through August 31, 2027. Contract/Engagement may be renewed on an annual basis upon written agreement by both parties for four (4) additional one-year renewals not to exceed fiscal year ending August 31, 2031.

Extensions: The College reserves the right to extend contracts up to six (6) months at the terms and conditions in effect at the time.

- 1.2. **Indemnification:** Respondent shall defend, indemnify, hold harmless and protect the Regents of the College, the College, and their officers, employees, representatives, agents and volunteers (the 'Indemnified') from and against any and all liability, loss, damage, expense, cost (including without limitation to costs and fees of litigation) of every nature arising out of or in connection with Respondent's (including any Sub Respondent, and anyone directly or indirectly employed by anyone for whose acts any of them may be liable) performance of this work hereunder or failure to comply with any of its obligations contained in the Contract/Engagement, except such loss or damage which was caused by the sole negligence or willful misconduct of the Indemnified.

- 1.3. **Public Information Act:** Documentation and other material submitted in connection with this request for qualifications or any resulting contract/engagement may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the "Public Information Act").

If a Vendor believes that its response, or parts of its response, may be exempted from disclosure under Texas law, the Vendor must specify page-by-page and line-by-line the parts of the response, which it believes, are exempt. In addition, the Vendor must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s).

The determination of whether information is confidential and not subject to disclosure under the Public Information Act is the duty of the Office of Attorney General (OAG). The College must provide the OAG sufficient information to render an opinion and therefore, vague and general claims to confidentiality by the Vendor are not acceptable. The College shall comply with the opinions of the OAG. The College assumes no responsibility for asserting legal arguments on behalf of any Vendor. Vendors are advised to consult with their legal counsel concerning disclosure issues resulting from this procurement process and to take precautions to safeguard trade secrets and other proprietary information.

- 1.4. **Compliance with Texas Local Government Code Chapter 176:** All vendors must conform to the requirements of Sections 176.002 and 176.006 of the Local Government Code as it pertains to Conflict of Interest. Failure to do so can result in only those penalties as described by Section 176.006.f or as stated in any other sections of the law.

- 1.5. **Certification of Residency:** The State of Texas has a law concerning non-resident Vendors. This law can be found in Texas Education Code under Chapter 2252, Subchapter A. This law makes it necessary for the College to determine the residency of its vendors. In part, this law reads as follows:

Section: 2252.001

"Non-resident bidder" refers to a person who is not a resident. "Resident bidder" refers to a person whose principal place of business is in this state, including a Vendor whose ultimate parent company or majority owner has its principal place of business in this state."

Section: 2252.002

"A governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located."

- 1.6. Termination for Convenience: The College may terminate without penalty any contract resulting from this request for proposals at its convenience with 30 day advance written notice to the Contractor. In the event of such a termination by the College, the College shall only be liable for the payment of all Work properly performed prior to the effective date of termination. Contractor may request a termination for convenience, without penalty, with 90 days written advance notification to the College's Director of Purchasing.
- 1.7. Limitation of Liability: In no event shall any such termination by the College as provided in this section or elsewhere give rise to any liability on the part of the College including, but not limited to, claims of Service Provider for compensation for anticipated profits, unabsorbed overhead, interest on borrowing, and the like. The College's sole obligation hereunder is to pay Service Provider for services rendered and accepted prior to the date of termination.
- 1.8. Employees of Service Provider: All of Service Provider's employees furnishing services under this agreement shall be deemed employees solely of the Service Provider and shall not be deemed for any purposes whatsoever employees or agents of, acting for or on behalf of, the College. Service Provider shall perform such services as an independent contractor and shall discharge all its liabilities as such. No acts performed or representations, whether oral or written, made by the Service Provider with respect to third parties shall be binding on the College.
- 1.9. Change Management: The Respondent agrees that the key personnel assigned to the Contract/Engagement shall remain available for the entirety of the project throughout the term of the Contract/Engagement as long as that individual is employed by the Respondent unless the College agrees to a change in the key personnel.

1.10. Insurance:

General Requirements:

The Respondent shall, at its expense, purchase and maintain in full force and effect, for the duration of the Contract, such primary insurance as will protect itself and the College from and against liability, loss, damage, expense, cost (including without limitation to costs and fees of litigation) out of or in connection with the performance of the work hereunder whether such work is performed by the Respondent, any Sub Respondent, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be held liable.

Respondent shall either include all Sub Respondents as insureds under its policies or shall furnish separate endorsements and policies for each subcontractor subject to all requirements in this section.

The College reserves the right to review and approve insurance provided by the Respondent.

Approval of insurance submitted by the Respondent shall not relieve or decrease the extent to which the Respondent may be held responsible for payment of damages resulting from equipment, materials, operations or services provided by the Respondent pursuant to this Contract/Engagement.

Documents:

The Respondent shall submit completed insurance policy certificates or endorsements or insurance policy declaration pages for each required type of insurance. Such forms shall contain all key information and be on forms approved by the College.

Certificates and Endorsements shall state that coverage shall not be canceled or materially modified by either party, except after thirty (30) calendar days prior written notice by certified mail, return receipt requested, has been given to the College.

Where available from insurers acceptable to the College, Certificates and Endorsements shall name the College as Policy Certificate/ Endorsement Holder.

Where available from insurers acceptable to the College, Endorsements shall name as additional insureds: "The Regents of the College, the College, and each of their officers, employees, representatives, agents, and volunteers.

Declarations and Endorsements shall state that the insurance provided is primary to any insurance or self- insurance maintained by the College. If excess, this insurance shall stand in an unbroken chain of coverage excess of the Named Insured's scheduled underlying primary coverage. College insurance, if any, shall be excess of the Respondent's insurance and shall not contribute to it.

Insurance Coverage:

The Respondent shall furnish the following insurance as part of the Contract/Engagement, and the selected Respondent shall deliver proof of such insurance to the College's Office of Risk Management seven (7) working days after Contract/Engagement award for approval by the College prior to execution of the Contract/Engagement.

Business Auto Liability: Insurance against claims for injuries to persons or damages to property and/or contractual liability which may arise from or in connection with the performance of the work hereunder by the Respondent, its agents, representatives or employees covering owned, hired, leased and non-owned automobiles used by or on behalf of the Respondent. Coverage shall be provided in an amount not less than the following.

\$1,000,000.00 (One Million dollars) per occurrence

Worker's Compensation and Employer's Liability: Coverage as required by Federal and Texas Law. The Respondent shall also require all of its subcontractors to maintain this insurance coverage. Worker's compensation insurer agrees to waive all rights of subrogation against the College for injuries to employees of the insured resulting from work for the College or use of the College's premises or facilities. Worker's Compensation Coverage shall be provided in the amounts proscribed by Federal and Texas State law. Employer's Liability Coverage shall be provided in an amount not less than the following.

\$500,000.00 (Five Hundred Thousand dollars) per accident for bodily injury or disease.

Professional Liability: Insurance with respect to negligent acts and errors and omissions, arising from performance of services under this Contract/Engagement shall be provided in an amount not less than the following.

If Respondent is a Single Firm

\$1,000,000.00 (One Million dollars) per occurrence

\$2,000,000.00 (Two Million dollars) aggregate.

If Respondent is a Joint Venture/Association

\$1,000,000.00 (One Million dollars) per occurrence

\$2,000,000.00 (Two Million dollars) aggregate.

Each Member Firm if Respondent is a Joint Venture/Association

\$1,000,000.00 (One Million dollars) per occurrence

\$2,000,000.00 (Two Million dollars) aggregate.

Each joint venture/association member firm's insurance policy shall be endorsed to provide that the work of the member performed under the joint venture/association is covered under said policy.

Any Deductible shall not exceed \$25,000.00 (Twenty-Five Thousand dollars).

Workers' Compensation / Employer's Liability Exclusions:

Respondents who are sole proprietors or are excluded from coverage on required Workers' Compensation/Employer's Liability policies shall provide proof of health insurance and disability insurance as broad as statutorily required by the State of Texas for employees.

Claims Made Insurance:

The Regents may accept Claims Made Insurance in Lieu of Occurrence Based Insurance for Professional Liability which meets the applicable specifications, requirements and approval of the College for such.

- 1.11. **Termination for Default:** The College may terminate for Default any contract resulting from this request for proposal if the College determines that the Contractor has failed to meet the performance requirements of the contract, fails to perform any provisions of the Contract, or breaches any of the terms hereof or if the Contractor becomes insolvent or commits acts of bankruptcy. Termination shall be affected by delivery to Contractor of a "Notice of Termination" specifying the extent to which performance of the work under the order is terminated and the date upon which such termination becomes effective. Such a right of termination is in addition to, not in lieu of any other remedies, which the College may have in law or equity.
- 1.12. **Loss of Funding:** Performance by College under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of Del Mar College District (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then College shall issue written notice to Contractor and College may terminate this Agreement without further duty or obligation hereunder.

Contractor acknowledges that appropriation, allotment, and allocation of funds are beyond the control of the College.

- 1.13. Publicity. Respondent shall not use, in its external advertising, marketing programs, or other promotional efforts, any data, pictures, or other representation of College except on the specific prior written authorization in advance of College. Respondent shall not install signs or other displays within or without College's Campus unless in each instance the prior written approval of College has been obtained. However, nothing in this clause shall preclude Respondent from listing College on its routine client list for matters of reference.
- 1.14. Prohibition against outside agents. Proposer represents and certifies that it has not employed or retained any other company or person (other than a bona fide employee working exclusively for the Proposer) to solicit or secure this order and that it has not paid or agreed to pay any other company or person (other than a bona fide employee working exclusively for the Proposer) any fee, commission, percentage or brokerage fee contingent upon or resulting from this order.
- 1.15. Terms of Purchase - Modifications. This solicitation (including attachments) contains proposed terms of purchase. These proposed terms address all major issues of the intended procurement. Proposer shall either accept these terms or submit a list of exceptions or requested modifications as part of the proposal.
- 1.16. Independent Contractor. Respondent recognizes that it is engaged as an independent contractor and acknowledges that College shall have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. Respondent, in accordance with its status as an independent contractor, covenants and agrees that it shall conduct itself consistent with such status, that it will neither hold itself out as, nor claim to be an officer, partner, employee or agent of College by reason hereof, and that it will not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer, representative, employee or agent of College, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits. Respondent hereby agrees to make its own arrangements for any of such benefits as it may desire and agrees that it is responsible for all income taxes required by applicable law. All of Respondent's employees furnishing services to College shall be deemed employees solely of Respondent and shall not be deemed for any purposes whatsoever employees or agents of, acting for or on behalf of, College. No acts performed or representations, whether oral or written, made by Respondent with respect to third parties shall be binding upon College.
- 1.17. Smoke and Tobacco Free Environment. The College prohibits the use of tobacco, E-cigarettes, vaping pens and any other related products and devices by any employee, student, or visitor on all premises owned, rented, leased, or supervised by the College District, including all College facilities, buildings, and grounds. This prohibition applies to property owned by others that the College uses by agreement, and further applies to all District vehicles.
- 1.18. Use of Project Site:
 - 1.18.1. The Internal Audit function and its authorized personnel ("Audit Team") may access College facilities, systems, and records ("Project Site") solely for purposes of performing approved audit activities. Such access shall be limited to areas, systems, and information necessary to fulfill the audit scope and shall be subject to prior

authorization by the College.

- 1.18.2. The Audit Team shall comply with all applicable College policies, including those related to confidentiality, data protection, safety, and security, and shall conduct audit activities in a manner that minimizes disruption to College operations.
- 1.18.3. All information obtained during audit activities shall be treated as confidential and used exclusively for audit purposes. The Audit Team shall maintain appropriate documentation supporting audit procedures and conclusions.
- 1.18.4. Any incidents involving safety, security, or data confidentiality arising during audit activities shall be promptly reported to the College. The Audit Team shall exercise reasonable care while on the Project Site and shall be responsible for any damage caused by its actions.

1.19. Presence on College Campus.

- 1.19.1. Coordinated Use. Where it is necessary for the Vendor to use portions of College buildings and or grounds for operations, such use shall be strictly in accordance with requirements and approval of the College. The Vendor shall confine operations at the Project site to areas permitted by the College.
- 1.19.2. College's Rules and Regulations. Respondent agrees that it will insure that all persons working for or on behalf of Respondent whose duties bring them upon College's Campus shall obey the rules and regulations that are established by College and shall comply with such reasonable directions as College's Technical Representative may give to Respondent.
- 1.19.3. Respondent's Employees and Agents. Respondent shall be responsible for acts of its employees and agents while on College's Campus. Accordingly, Respondent agrees to take all necessary measures to prevent injury and loss to persons and property located on College's Campus. Respondent shall be responsible for all damages to persons or property caused by Respondent or any of its agents or employees. Respondent shall promptly repair, in accordance with the specifications of College, any damage that it, or its employees or agents, may cause to College's Campus or equipment. On Respondent's failure to do so, College may repair such damage and Respondent shall reimburse College promptly for the cost of the repair.
- 1.19.4. Accidents. Respondent agrees that, in the event of an accident of any kind, including personal injury to any person in the construction site as a result of Respondent's services, disruption of building's functions, or disruption of normal building security, Respondent will immediately notify College Security Department at (361) 698-1199 and thereafter furnish a full written report of such accident.
- 1.19.5. Working Without Interference with College's Activities. Respondent shall perform the work contemplated in the Contract Documents without interfering in any way with the activities of College's students, employees or visitors.
- 1.19.6. Respondent's Vehicles. Respondent's vehicles shall be allowed to park in the designated college parking lots and must abide by College parking policy. Respondent's vehicles must be kept in good condition and appearance. Equipment must be appropriate for work planned and also kept in good condition. Vehicles must not leak oil onto walk-drive when parked.

- 1.20. Invoices:
- 1.20.1. Invoices shall be submitted to the VP of Administration and Human Resources, Del Mar College, 101 Baldwin Blvd, Corpus Christi, TX 78408-3897. Each invoice must clearly indicate the applicable College purchase order or standing order number and the Job to which it applies.
- 1.20.2. For performing the services specified herein, the College agrees to pay the Contractor the applicable, rates then in effect under the Contract.
- 1.20.3. Contractor shall provide necessary invoices of material purchased with a description of item bought (catalog numbers are not sufficient) and cost of said item and shall also include signature of authorized contractor representative. Written notification as to nature of work performed and any other information needed to expedite invoices shall be submitted to the user agency for review, approval and processing.
- 1.20.4. Invoice discrepancies shall be promptly reported to the Contractor. The College reserves the right to withhold payment for an obvious billing error or in the event of an unresolved dispute over a specific transaction. The College shall have the right at any time to set off any amount owed from the Contractor to the College against any amount payable by the College pursuant to this agreement.
- 1.21. Security. College's Security Department has the authority and responsibility to maintain the security of all College Campus and property. Respondent shall cooperate with College's Security Department in all matters including the reporting of suspected security violations. Respondent shall immediately report any evidence of security breaches to College's Security Department. In addition to any other security rules and regulations, Respondent shall inform its employees that no guns, knives, or other dangerous weapons are allowed on the Campus and no dangerous drugs, or other prohibited substances, including alcohol, are allowed on the Campus. Interaction relating to non-job-related issues with students, faculty and staff is discouraged. The College will not tolerate "cat calling", "whistling", "profanity", "derogatory remarks" or any form of sexual harassment toward faculty, staff, students and visitors.
- 1.22. Governing Documents. Where specific terms or conditions of this Solicitation are inconsistent with the Vendor's or any sub-contractor's standard terms of service, then these (i.e., the College's) specific conditions shall prevail.
- 1.23. Severability. In case any provision hereof shall, for any reason, be held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid or unenforceable provision had not been included herein.
- 1.24. Termination for Violation of the Law. The College may terminate without penalty any contract or agreement in which the contractor or vendor engages in conduct that violates any local, state, or federal law.
- 1.25. Transition Assistance. The Contractor shall provide transition assistance to the new contractor to ensure that there is no disruption to services during the transition period. All services shall continue to be provided at the same level of quality and efficiency until the new contractor fully assumes responsibilities.

1.26. Disputes

As required by Chapter 2260, The College has adopted rules under Chapter 2260, codified at 34 Texas Administrative Code §§1.360 – 1.387, regarding dispute resolution processes for certain breach of contract claims applicable to certain contracts for goods and services, and may adopt revisions to these rules throughout the term of this Agreement, including any extensions. Vendor shall comply with such rules.

The dispute resolution process provided for in Chapter 2260 of the Government Code shall be used, as further described herein, by The College and Vendor to attempt to resolve any claim for breach of contract made by Vendor under this Agreement:

- a) Vendor's claim for breach of this Agreement that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, Vendor shall submit written notice, as required by Chapter 2260, to the Deputy Comptroller or his or her designee. Said notice shall also be given to all other representatives of The College and Vendor otherwise entitled to notice under this Agreement. Compliance by Vendor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.
- b) The contested case process provided in Chapter 2260 is Vendor's sole and exclusive process for seeking a remedy for an alleged breach of contract by The College if the parties are unable to resolve their disputes under subparagraph (A) of this Section.
- c) Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civ. Prac. and Rem. Code. Neither the execution of this Agreement by The College nor any other conduct of any representative of The College relating to this Agreement shall be considered a waiver of sovereign immunity to suit.

For all other specific breach of contract claims or disputes under this Agreement, the following shall apply:

Should a dispute arise out of this Agreement, The College and Vendor shall first attempt to resolve it through direct discussions in a spirit of mutual cooperation. If the parties' attempts to resolve their disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by The College and Vendor within fifteen (15) days after written notice by one of them demanding mediation under this Section. Vendor shall pay all costs of the mediation unless The College, in its sole good faith discretion, approves its payment of all or part of such costs. By mutual agreement, The College and Vendor may use a nonbinding form of dispute resolution other than mediation. The purpose of this Section is to reasonably ensure that The College and Vendor shall in good faith utilize mediation or another non-binding dispute resolution process before pursuing litigation. The College's participation in or the results of any mediation or another nonbinding dispute resolution process under this Section or the provisions of this Section shall not be construed as a waiver by The College of: (1) any rights, privileges, defenses, remedies or immunities available to The College as an agency of the State of Texas or otherwise available to The College; (2) The College's termination rights; or (3) other termination provisions or expiration dates of this Agreement.

Notwithstanding any other provision of this Agreement to the contrary, Vendor shall continue performance and shall not be excused from performance during the period any breach of Contract claim or dispute is pending under either of the above processes; however, Vendor may suspend performance during the pendency of such claim or dispute if Vendor has complied with all provisions of §2251.051, Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.

- 1.27. Limitation of Rights. With the exception of the rights herein expressly conferred, nothing in or to be implied from this Agreement is intended or shall be construed to give any person other than the parties hereto any legal or equitable right, remedy or claim under or in respect to this Agreement or any of the covenants, conditions and provisions herein contained; this Agreement and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and herein provided.
- 1.28. Execution of Counterparts. This Agreement may be simultaneously executed in several separate counterparts, each of which shall be in original and all of which shall constitute but one and the same instrument.
- 1.29. Assignment. This Agreement shall not be assignable by either party hereto, by operation of law or otherwise, without the prior written consent of the other party hereto. Any assignment in violation of this Section shall result in the automatic termination of this Agreement.
- 1.30. Ownership Change. Vendor shall notify the College in writing of any change in its ownership within a reasonable time after such change.
- 1.31. Captions. The captions or headings in the Agreement are for convenience only and in no way define, limit, or describe the scope of intent of any provisions, articles, or sections of this Agreement.
- 1.32. Notice: Any notice provided under the terms of this Contract by the parties to any other shall be in writing and shall be given by hand-delivery or by certified or registered mail, return receipt requested. Notice shall be sufficient if made or addressed to the party at the address listed in the signature line of this Contract. Notice shall be deemed effective upon receipt. Each party may change the address at which notice may be sent to that party by giving notice of such change to the other party by certified mail, return receipt requested.

Notice to the College shall be addressed to the following:

Tammy McDonald
Vice President of Administration and Human Resources
101 Baldwin Blvd
Corpus Christi, TX 78404

Commented [IA1]: This is the Contract Administrator information.

State of Texas Provisions:

- 1.1. Ineligibility. Sec. 2155.004, Certain Bids and Contracts Prohibited:
 - “(a) A state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the bid or contract is based.
 - (b) A bid or award subject to the requirements of this section must include the following statement: *“Under Section 2155.004, Government Code, the Vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.”*
 - (c) If a state agency determines that an individual or business entity holding a state contract was ineligible to have the contract accepted or awarded under Subsection (a), the state agency may immediately terminate the Contract without further obligation to the vendor.
 - (d) This section does not create a cause of action to contest a bid or award of a state contract.
 - (e) This section does not prohibit a bidder or contract participant from providing free technical assistance to a state agency.”
- 1.2. Antitrust. Sec. 2155.005, Compliance with Antitrust Laws: “(a) A bidder offering to sell goods or services to the state shall certify on each bid submitted that neither the bidder, nor the person represented by the bidder, nor any person acting for the represented person has:
 - (a) violated the antitrust laws codified by Chapter 15, Business & Commerce Code, or the federal antitrust laws; or
 - (b) directly or indirectly communicated the bid to a competitor or other person engaged in the same line of business.”
- 1.3. Executive Order 13224. Del Mar College is federally mandated to adhere to the directions provided in the President’s Executive Order (“EO”) 13224, Executive Order on Terrorist Financing – Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, effective 9/24/2001 and any subsequent changes made to it across referencing respondents/vendors with the System for Award Management (“SAM”), <https://sam.gov/content/home>, which is inclusive of the United States Treasury’s Office of Foreign Assets Control (“OFAC”) Specially Designated National (“SDN”) list. Respondent certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government’s terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://sam.gov/content/home>.
- 1.4. Debarment. Respondent certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that

Respondent is in compliance with the State of Texas statutes and rules relating to procurement.

1.5. Interested Parties. Sec. 2252.908, Disclosure of Interested Parties (Form 1295):

- (a) A governmental entity or state agency may not enter into a contract described by Subsection (b) with a business entity unless the business entity, in accordance with this section and rules adopted under this section, submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency.
- (b) The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission that includes:
 - (1) a list of each interested party for the contract of which the contracting business entity is aware; and
 - (2) the signature of the authorized agent of the contracting business entity, acknowledging that the disclosure is made under oath and under penalty of perjury. Disclosure of Interested Parties Form

1.6. Felony Conviction. Sec. 44.034. Notification of Criminal History of Contractor:

- (a) A person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.
- (b) A school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.
- (c) Publicly Held Corporations. This section does not apply to a publicly held corporation.

1.7. Non-Collusion Affidavit: By submission of this proposal, the undersigned certifies that:

- A. The price or proposal has been independently arrived at without collusion with any other proposer or with any other competitor;
- B. This price or proposal has not knowingly disclosed and will not be knowingly disclosed, to any other proposer or competitor or potential competitor, prior to the opening of the prices, or proposals for this project.
- C. No attempt has been or will be made to induce any other person, partnership or corporation to submit or not submit a price or proposal.
- D. The undersigned certifies that he is fully informed regarding the accuracy of the statements contained in this certification, and that the penalties herein are applicable to the proposer as well as to any other person signing in his behalf.

1.8. Human Trafficking Clause:

Pursuant to Section 2155.0061 of the Texas Government Code, Contractor certifies that it is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if Contractor's certification in this matter is inaccurate. TFC may not award a contract, including a contract for which purchasing authority is delegated to a state agency, that includes proposed financial participation by a person who, during the five-year (5) period preceding the date of the award, has been convicted of any offense related to the direct support or promotion of human trafficking.

1.9. Prior Disaster Relief Contract Violation Clause:

Under Sections 2155.006 and 2261.053 of the Texas Government Code, the contractor certifies that they are not ineligible to receive the contract due to past violations related to disaster relief efforts.

1.10. Payments. The College shall pay for goods or services in accordance with Title 10. General Government, Subtitle F. State and Local Contracts and Fund Management, Chapter 2251. Payment for Goods and Services.

1.11. Delinquency in Paying Child Support. Pursuant to Texas Family Code Section 231.006, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the award of or payment for the Project and acknowledges that any agreement may be terminated and payment may be withheld if this certification is inaccurate.

1.12. Certification of Franchise Tax Status. The Respondent, by submitting its Proposal, certifies that its Texas Franchise Tax payments are current, or that it is exempt from or not subject to such tax.

1.13. Equal Opportunity. Pursuant to federal, state and local laws, Respondent represents and warrants that it is an equal opportunity employer and does not discriminate on the basis of race, color, religion, national origin, age, mental or physical disability or sex.

Commented [IA2]: Do we need to reference the specific federal clause 41 CFR Part 60?

Commented [P3]: Should this be categorized as a General, State or Federal Provision?

1.14. Governing Law. The Contract and all of the rights and obligations of the parties thereto and all of the terms and conditions thereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas, Nueces County, Texas, shall be the proper place of venue for suit on or in respect of the Agreement.

1.14.1.1.1.

1.15. Boycott of Israel. Pursuant to the provisions of Subtitle F, Title 10, Government Code Chapter 2270, by acknowledging this attribute, vendor verifies that their company: 1. Does not boycott Israel currently, and 2. Will not boycott Israel during the term of the contract with Del Mar College District.

1.16. Terrorist Organization Prohibition. Pursuant to the provisions of Subtitle F, Title 10, Texas Government Code 2252.152 (CONTRACTS WITH COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR FOREIGN TERRORIST ORGANIZATION PROHIBITED) a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code Section 806.051, 807.051, or 2252.153.

1.17. Prohibition on Contracts with Companies that Discriminate Against Firearm and Ammunition Industries.

If Respondent is a company with 10 or more full-time employees and if this Agreement has a value of at least \$100,000 or more, Respondent verifies that, pursuant to Texas Government Code Chapter 2274, it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the contract against a firearm entity or firearm trade association. This verification is not required for an agreement with a sole-source provider; or a governmental entity that does not receive bids from a company that is able to provide this verification.

1.18. Prohibition on Contracts with Companies Boycotting Certain Energy Companies:

If Respondent is a company with 10 or more full-time employees and if this Agreement has a value of at least \$100,000 or more, Respondent verifies that, pursuant to Texas Government Code Chapter 2274, it does not boycott energy companies; and will not boycott energy companies during the term of the Agreement. This verification is not required for an agreement where a governmental entity determines that these requirements are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds.

1.19. Basic Safeguarding of Contractor Information Systems

The Vendor shall apply basic safeguarding requirements and procedures to protect the Vendor's information systems whenever the information systems store, process or transmit any information, not intended for public release, which is provided by or generated for the College. This requirement does not include information provided by the District to the public or simple transactional information, such as that necessary to process payments. These requirements and procedures shall include, at a minimum, the security control requirements "reflective of actions a prudent business person would employ" which are outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. § 52.204-21(b) (2016).

Vendor shall include the substance of this clause in subcontracts under this contract (including subcontracts for the acquisition of commercial items other than commercially available off-the-shelf items) in which the subcontractor may have District contract information residing in or transiting through its information system.

1.20. Cybersecurity Training Program

Bidder shall ensure that any Bidder employee or subcontractor employee who has access to a District computer system or database shall complete a cybersecurity training program certified under Section 2054.519 of the Texas Government Code. Such training is required to occur during the contract term and the renewal period. Respondent shall provide District with verification of the completion of the requisite training. Clause only applies to solicitations and contracts where contractors have access to a state computer system or database.

1.21. Cloud Computing State Risk and Authorization Management Program (TX-RAMP)

Pursuant to Section 2054.0593(d)-(f) of the Texas Government Code, relating to cloud computing state risk and authorization management program, Respondent represents and warrants that it complies with the requirements of the state risk and authorization management program and Respondent agrees that throughout the term of the contract it shall maintain its certifications and comply with the program requirements in the

performance of the contract. Clause only applies to contractors doing business with an agency for cloud computer services subjected to the state risk and authorization management program.

1.22. Certification Regarding Contracting Information

If Vendor is not a governmental body and (a) this Agreement has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by Del Mar College; or (b) this Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by Del Mar College in a fiscal year of Del Mar College, the following certification shall apply; otherwise, this certification is not required. As required by Tex. Gov't Code § 552.374(b), the following statement is included in the RFQ and the Agreement (unless the Agreement is (1) related to the purchase or underwriting of a public security; (2) is or may be used as collateral on a loan; or (3) proceeds from which are used to pay debt service of a public security of loan): "The requirements of Subchapter J, Chapter 552, Government Code, may apply to this RFQ and Agreement and the contractor or vendor agrees that the contract can be terminated if the contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter." Pursuant to Subchapter J, Chapter 552, Texas Government Code, the Vendor hereby certifies and agrees to (1) preserve all contracting information related to this Agreement as provided by the records retention requirements applicable to Del Mar College for the duration of the Agreement; (2) promptly provide to Del Mar College any contracting information related to the Agreement that is in the custody or possession of the Vendor on request of Del Mar College; and (3) on completion of the Agreement, either (a) provide at no cost to Del Mar College all contracting information related to the Agreement that is in the custody or possession of Vendor, or (b) preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to Del Mar College.

1.23. Compliance with Executive Order GA-48

Pursuant to Executive Order GA-48, issued by Governor Greg Abbott on November 19, 2024, the Supplier certifies that neither the company, nor any of its holding companies, subsidiaries, or affiliates, is:

- A. Listed in Section 889 of the 2019 National Defense Authorization Act (NDAA); or
- B. Listed in Section 1260H of the 2021 National Defense Authorization Act (NDAA); or
- C. Owned by the government of a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4; or
- D. Controlled by any governing or regulatory body located in a country on the U.S. Department of Commerce's foreign adversaries list under 15 C.F.R. § 791.4.

The Supplier further certifies that it does not engage in any contractual, business, or operational activities that would otherwise grant access, control, or influence to an entity meeting any of the above-listed criteria.

If at any time during the term of the contract, the Supplier becomes aware of any such affiliation or activity, it shall immediately notify Del Mar College. The contract may be subject to termination, and the Supplier may face legal action as deemed necessary by the College.