



Waco ISD Contract Packet

This top sheet is to be completed in its entirety by Waco ISD staff.

This page is NOT intended for the contractor to complete.

Requestor's Name: _____
Campus or Department: _____

Contractor Name: _____
Contractor Contact Person: _____
Contractor Contact Phone#: _____
Contractor Contact Email: _____

Brief Scope of Service: _____

Contract Term: _____
Budget Code: _____
CIP (if applicable): _____

Is this contract for staff development that you are asking the Professional Development Dept. to pay for? Yes ☐ No ☐

If yes, Contract must be reviewed/approved by Director of Professional Development.

Approval Signature of Dir. of Prof. Dev.: _____

Will this contract be funded with non-local funds (federal & state grants including entitlement funds)? Yes ☐ No ☐

Will federal funds/grants be used to enter into this Agreement? ☐ Yes ☐ No

Will state funds/grants be used to enter into this Agreement? ☐ Yes ☐ No

Contract must be reviewed/approved by Grant Manager.

Approval Signature of Grant Manager: _____

Approval Section:

Principal or Department Head Signature & Date: _____

Leadership Team Signature & Date: _____

Director of Business Services Signature & Date: _____

Superintendent Signature & Date: _____

For Business & Financial Services use only:

Legal counsel review obtained? ☐ yes ☐ no

Superintendent signature required? ☐ yes ☐ no

Board of Trustees approval required? ☐ yes ☐ no

Approval Notes: _____

Debarment/Israel/Terrorist verification notes: _____

Waco Independent School District (the "District" or "Waco ISD") and _____ ("Contractor") enter into this contract on this day of _____, 20__ for the provision of goods and/or services as detailed below (the "Agreement"). All references to the Agreement herein include any contracts entered into by the parties as a result of the scope of services of this Agreement.

Type of Service: (check one)

- ☐ **Minor Contracted Services** (facility venue rentals, equipment repair, custom printing, school pictures, field trips, event services, equipment rentals, seamstress services, instrument accompanist, judging services, etc.)

- ☐ **Administrative Contracted Services** - Administrative Contracted Services are the services of a professional or expert in their respective field, either an individual or entity, rendered on behalf of the District on a short term or infrequent basis, on a fee or per diem basis, and does not involve the traditional relationship of employer and employee. These services can provide administrative and/or technical expertise not otherwise available to or performed by District personnel. These services may consist of providing information, advice, opinions, conclusions, recommendations, demonstrations or direct assistance such as studies, analyses, evaluations, and liaison services. These services may also include, but are not limited to, the following items not already under contract with the District:
 - Professional/Staff Development Training
 - Analysis/Consultant Services
 - Student Specialization Services (such as counseling, medical-related services, evaluation services, etc.)
 - Fine Arts Consultant (such as a band clinician, choreographer, student coaching, etc.)
 - Other services as deemed appropriate and necessary by the District

This contract packet is intended to be the final determining language regarding terms and conditions between the District and Contractor. If Contractor requires a separate contract to also be completed, it must accompany this packet. To the extent there are any conflicting terms as between this Agreement and Contractor's contract, the terms and conditions of this Agreement will control.

Contractor has a separate agreement that is required to be signed by the District and is attached to this contract packet. ☐ yes ☐ no

Detailed Scope of Services:

1. The District agrees to engage Contractor to perform, and Contractor agrees to perform, in a manner satisfactory to District, the following services:

(Describe the services to be performed in this space including any deliverables in detail.)

2. Unless discontinued earlier or mutually agreed to by both parties, the services are to be performed at the following times and places:

Day(s): _____ Hours: _____ Location(s): _____
(Describe the days/hours to be worked and the location where the work will take place.)

Compensation for Services:

Subject to any required approval by the District, the District agrees to pay Contractor:

- ☐ _____ per hour
- ☐ _____ per day
- ☐ _____ flat fee

For a total fee not to exceed \$_____, as compensation for services rendered in accordance with this Agreement. **All services shall be completed during the contract term as noted below.**

The District ☐ shall / ☐ shall not pay Contractor travel expenses as follows:

- ☐ _____ per day
- ☐ _____ actual expenses (after verification with detailed receipts) subject to limits established in the District's Travel Guidelines, which may be viewed on the District's website or provided upon written request.

If nothing is checked above, there will be no reimbursement for travel related expenditures.

To the extent applicable, _____ percent/amount (circle one) of the total compensation and fees owed by the District under this Agreement will come from federal funding. To the extent applicable, _____ percent/amount (circle one) of the total compensation and fees owed by the District under this Agreement will come from state funding.

Contractor shall not be paid in advance. Contractor shall be paid only after presentation of an invoice satisfactory to the District that includes, but is not limited to, the following:

- Description of service(s) provided
- Date(s) of service
- Location(s) of service, if applicable
- Details of amount charged

For services continuing longer than one month, partial payments and/or payments after completion of the performance statement (i.e., milestones) may be made as work is completed if mutually agreed to in a writing signed by the District and provided that satisfactory documentation has been provided to the District by the Contractor to substantiate the making of such payments as required above. All payments to the Contractor shall be made net 30 days from the receipt of the invoice or delivery of services, whichever is later.

The District ☐ agrees / ☐ does not agree to the making of partial payments after completion of the performance statement.

If nothing is checked above, there will be no making of partial payments after completion of the performance statement.

Contract Term:

This Agreement shall be in effect from _____ to _____ (the "Term"). Either party may terminate this Agreement at any time, with or without cause, by providing at least five (5) calendar days' written notice to the other party. In the event of termination by the District or Contractor prior to completion of the Term, compensation for services shall be prorated on the basis of actual work performed by the Contractor, provided satisfactory documentation to substantiate the making of such payments is provided to the District. The Contractor shall only be entitled to receive just and equitable compensation for any satisfactory work completed prior to the effective date of termination and approved expenses incurred up to the date of termination. There are no renewal provisions provided for in this Agreement.

No Assignment:

Contractor may not assign this contract to a third party without the written consent of the District.

Compliance:

Contractor shall observe and comply with all applicable Federal, State, and local laws, rules, regulations and ordinances.

Insurance Certificates:

At the District's request, the Contractor must provide the following to the District: a certificate of insurance for general liability, auto liability and workers' compensation coverage meeting minimum statutory limits.

Criminal Background Checks:

During the course of performing services under this Agreement, the Contractor (check two):

- | | |
|---|---|
| ☐ will have direct contact with students | ☐ will <u>not</u> have direct contact with students |
| ☐ will provide continuing services to District | ☐ will <u>not</u> provide continuing services to District |

The enclosed Contractor Certification form must be completed by Contractor (including any of Contractor's subcontractors) and returned to the District with this Agreement. If Contractor (including any employees acting on behalf of Contractor) will be providing services to the District on a continuing basis and will have direct contact with the District's students, by signing this Agreement and returning the Contractor Certification form Contractor certifies that it has obtained criminal history record information on all of Contractor's employees (or applicants to become employees) who will have direct contact with students and will provide continuing services to the District, in accordance with Texas Education Code Section 22.0834. Contractor agrees to provide the District with written certification that it has obtained all criminal history record information as required by law. The District may request additional information from the Contractor in order to verify that the background check has been completed.

Additionally, in its sole discretion, the District may also obtain criminal history record information of Contractor and Contractor's employees. Please provide the legal name and either birthdate or Texas driver's license number of the Contractor and Contractor's employees who will have direct contact with students and who will provide continuing services to the District, which information is required in order to conduct the verification.

Please submit a separate page with this Agreement with the below information if more than one individual will have direct contact with students and will provide continuing services to District.

Full Legal Name at the time fingerprints were taken: _____
Birthdate: _____ or TDL#: _____

Former Employee Status:

Has Contractor, or any of Contractor's employees, previously been employed by Waco ISD?

☐ Yes ☐ No

If yes, who and in what capacity? Provide their legal name during the time of their employment: _____

Attach an additional sheet if necessary.

Independent Contractor:

Contractor understands and agrees that they are an independent contractor and not an employee of the District, and they are not entitled to fringe benefits, pension, workers' compensation, retirement, or any other benefits provided to employees of the District. Contractor is responsible for any and all taxes owed on payments made to Contractor by the District.

INDEMNIFICATION:

TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR AGREES TO DEFEND, INDEMNIFY AND HOLD HARMLESS THE DISTRICT, ITS TRUSTEES, OFFICERS, EMPLOYEES, AGENTS, AND REPRESENTATIVES AGAINST ANY AND ALL LIABILITY (INCLUDING ANY DEMANDS, CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, PENALTIES, EXPENSES, COSTS, ATTORNEY'S FEES, SETTLEMENTS AND/OR JUDGMENTS OF ANY TYPE), WHETHER HELD BY CONTRACTOR OR A THIRD PARTY, WHETHER KNOWN OR UNKNOWN, WHETHER BASED IN TORT, CONTRACT, COMMON LAW, LOCAL, STATE OR FEDERAL STATUTE OR ORDINANCE, OR ANY OTHER THEORY OF RECOVERY TO THE EXTENT IT IS RELATED TO OR ANY WAY ARISES OUT OF (DIRECTLY OR INDIRECTLY) THE CONTRACTOR'S OBLIGATIONS, ACTIVITIES AND SERVICES PROVIDED PURSUANT TO THIS AGREEMENT, EXCEPT IN THE EVENT OF THE DISTRICT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. THIS INDEMNIFICATION OBLIGATION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

Federal Funds:

Will federal funds or grants be used to enter into this Agreement? ☐ Yes ☐ No

If yes, the District has entered into this Agreement under the provisions set forth by the Code of Federal Regulations (CFR) Title 2 Grants and Agreements, Part 200 Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (2 CFR 200).

Provisions for Contracts Funded with Federal and State Grants:

All contracts for which the source of funds are federal and state grants must meet federal, state and local requirements. If applicable to this Agreement's funding source as indicated in this Agreement, by signing this Agreement the Contractor affirms and represents that as an individual or entity, they have received and understand, agree, and affirm to all applicable federal, state and local requirements. To the extent any federal, state and/or local requirement is in the control of or applicable to the Contractor, it is the sole responsibility of the Contractor to ensure it is aware of and meets said applicable federal, state and local requirements, regardless of whether it is explicitly listed in this Agreement.

Examples of federal requirements for all such contracts include, but are not limited to, the following:

- Contracts over \$10,000 must address termination for cause and for convenience by the District, including the manner by which it will be effected and the basis for settlement.
- Contracts must include the following:
 - Equal Employment Opportunity clause
 - Debarment and Suspension clause, which prohibits awarding a contract to a vendor who has been debarred, suspended or otherwise excluded from federal awards.
- The regulations for procurement in 2 CFR §§ 200.318-323 must be followed.
- All professional services provided under the contract will follow the provisions of 2 CFR § 200.459.

Examples of state requirements for all such contracts include, but are not limited to, the following:

- Receipt by District of Notice of Grant Award (NOGA) from federal/state awarding agency.
- Alignment of contract period to grant period of availability as stated on the NOGA.
- All services must be completed during the effective dates of the contract.
- All services must be invoiced monthly after services are received and paid upon verification of receipt of services (rather than paid lump sum at the beginning of the period of availability before services are rendered).
- Contract must identify the funding sources that will be charged for the services provided, including the specific amount and/or percentage of the total contract amount to be charged to each funding source.
- Contract must identify and list only reasonable, necessary, and allocable services to be provided during the period of availability of the funding sources.
- The administrative costs charged to the grant in the contract must comply with any limitations for administrative costs for funding sources (if applicable).
- Contract must specify that invoice provided by vendor will include list of services provided, dates of services, and location(s) where services were provided during the billing period.

Representations and Certifications

Please review the below representations and certifications carefully and fill out any additional information as requested. By making this submission and signing below, the undersigned represents and certifies as follows:

1. Contractor is not indebted to Waco ISD. Indebtedness to the District may constitute basis for termination of this Agreement and any corresponding contracts thereto.
2. Contractor is not under any suspension or debarment that would preclude them from receiving a federally and/or state funded contract.
3. Contractor (except for publicly held corporations) or its owner or operator has not been convicted of a felony, except as disclosed below as required by Texas Education Code Section 44.034. Failure to provide notice as required or misrepresenting the conduct resulting in the conviction may result in termination of this Agreement and any corresponding contracts thereto at the District's sole discretion. If not owned or operated by anyone who has been convicted of a felony, please write "None."

Name of Felon(s): _____

General Description of Conduct Resulting in Felony Conviction(s): _____

4. Contractor has not prepared or entered into this Agreement in collusion (i.e., an agreement between two or more parties to deceive the District or defraud the District of its rights) with any District board member, District employee or any other third party and the contents of this Agreement, including but not limited to prices, quality of services, quantity of services, and any other terms and/or conditions, have not been communicated by the undersigned or by any other employee, agent, representative and/or officer of the Contractor to any other person engaged in this type of business prior to entering into this Agreement for the intent or purpose of collusion.
5. No District employee will have a direct financial interest in this Agreement or any contract the Contractor may enter into with the District as a result of this Agreement, including, but not limited to, in the sale of any equipment, supplies, materials or service. Any violation of this requirement will render this Agreement null and void, unless approved by the District's Board of Trustees after full disclosure is made below.

Name of District employee(s): _____

Nature of Financial Interest: _____

6. No employee of the Contractor has any financial and/or familial relationship by birth or marriage (spouse, children, parents, sibling, grandparents, grandchildren, aunts,

uncles, cousins, etc.) with any employee or trustee of the District, except as disclosed below.

Name of Vendor's Employee(s): _____

Title: _____

Name of District Employee/Trustee: _____

Relationship: _____

7. Contractor (or its ultimate parent company or majority owner) is a Texas Resident with its principal place of business in the State of Texas. If Contractor is not a Texas Resident, then Contractor is a nonresident from the State of _____, wherein is located Contractor's principal place of business.
8. If Contractor is required to make a certification pursuant to Section 2271.002 of the Texas Government Code, Contractor certifies that it does not boycott Israel and will not boycott Israel during the Term of this Agreement. This certification is required if Contractor is a company with ten or more full-time employees and the Agreement has a value of \$100,000 or more which is to be paid wholly or partly from the District's public funds. This certification is not required if Contractor is a sole proprietor.
9. If vendor is required to make a certification pursuant to Section 2274.002 of the Texas Government Code, vendor certifies that it does not and will not boycott energy companies during the term of any contract resulting from this Solicitation. This certification is required if vendor is a company with ten or more full-time employees and the contract has a value of \$100,000 or more which is to be paid wholly or partly from the District's public funds. This certification is not required if vendor is a sole proprietor.
10. If vendor is required to make a certification pursuant to Section 2274.002 of the Texas Government Code, vendor certifies that it does not and will not discriminate against a firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association during the term of any contract resulting from this Solicitation. Vendor further certifies that it does not have a written or unwritten internal practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association based solely on its status as a firearm entity or firearm trade association. This certification is required if vendor is a company with ten or more full-time employees and the contract has a value of \$100,000 or more which is to be paid wholly or partly from the District's public funds. This certification is not required if vendor is a sole proprietor.
11. Contractor's name is not on the Texas Comptroller's list of companies known to have contracts with or provide supplies or services to a foreign terrorist organization as provided under Texas Government Code Section 2252.152.

12. If an award of a contract is made and the same constitutes a taxpayer resource transaction as provided under Chapter 2272 of the Texas Government Code, then subject to any exceptions therein, Contractor certifies that it is not an abortion provider or an affiliate of an abortion provider. If this provision is violated by Contractor, then the Agreement is voidable by the District and Contractor agrees to indemnify the District against any action brought by the Office of the Attorney General for a violation of Section 2272.003.
13. In order to obtain and maintain a contract with the District, Contractor agrees to abide by all applicable federal, state and local laws, statutes, rules, codes, regulations, guidance, and ordinances, including, but not limited to, those applicable to contracts that are funded by federal and/or state grants, as provided in the "Provisions for Contracts Awarded Under Federal & State Grants."
14. If federal funds will be used to enter into this Agreement, Contractor (including its principals and affiliates) certifies they have not been debarred, suspended, disqualified or otherwise excluded from federal awards. Contractor must verify that they are not listed on the government wide exclusions in the System for Award Management.
15. Contractor has read and understands the requirements of this Agreement and has therefore submitted true, accurate and complete documents made in accordance with those requirements.
16. Contractor has completed Form 1295 – Disclosure of Interested Parties, which must be filed electronically with the Texas Ethics Commission using its online application, at www.ethics.state.tx.us/File. The completed certificate must be printed, signed, notarized and included with this Agreement, if applicable.
17. Contractor has completed a contractor and/or independent contractor certification form as appropriate, which must be printed, signed and included with this Agreement.
18. Contractor has completed the Conflict of Interest Questionnaire (Form CIQ), which must be printed, signed and included with this Agreement.
19. Contractor has completed a Form W-9, which must be printed, signed and included with this Agreement.
20. Contractor has read, understands and agrees to the "General Terms and Conditions" and all other terms and conditions of this Agreement. Contractor understands and agrees that these terms and conditions govern the relationship between the District and Contractor and are hereby made an integral part of this Agreement. These terms and conditions take precedence and prevail over any conflicting terms and conditions unless specifically identified and such changes are signed by both parties.

By signing below, the undersigned certifies that he/she is a duly authorized agent, representative or officer of the Contractor, with the authority and capacity to enter into and execute binding contracts on behalf of the Contractor, and declares under penalty of perjury that the foregoing representations and certifications are true and correct.

Contractor Name: _____

Address/City/State/Zip: _____

Phone # & Fax #: _____

E-Mail Address: _____

Primary Scope of Business: _____

Name: _____

Title: _____

Signature: _____

Date: _____

GENERAL TERMS AND CONDITIONS

The following Terms and Conditions shall apply to this Agreement entered into by and between the District and Contractor.

1. **Agreement.** This Agreement must be fully completed, on forms or in the format provided by the District. No alteration to the District's forms will be permitted, including substitutions, additions, deletions or interlineations, without written consent by the District. Reproduction of the District's documents is permitted, so long as reproduced copies are exactly the same in size, format, and content as forms prepared by the District. Any submission of this Agreement made in altered form shall result in rejection of the Agreement at the sole discretion of the District. All fees must be typed or legibly written in ink. Agreements filled out in pencil will not be accepted. Mistakes may be crossed out and corrections may be inserted with the initials of the Contractor's authorized representative.
2. **Expenses.** The District will not be liable for any expenses not listed in this Agreement and not approved in a writing signed by the District.
3. **Compensation.** The District will not be liable for any compensation not listed in this Agreement and not approved in a writing signed by the District.
4. **Discounts.** Contractors are encouraged to offer discounts for extended term contracts and/or prompt payment incentives as "value-adds."
5. **Invoices.** Invoices provided by Contractor must include a detailed list of the goods and/or services provided, dates on which the goods and/or services are provided, location(s) where the goods and/or services were provided, and details of the amounts charged for the goods and/or services provided during the billing period.
6. **Payment Terms.** Payment terms will be net thirty (30) days after acceptance of delivery of goods and/or services or receipt of correct invoice, whichever occurs later, unless a prompt payment discount is offered and agreed to by the District.
7. **Taxes.** Contractor must exclude Federal and State sales and ad valorem taxes in its invoices. In the event that a Contractor is or subsequently becomes delinquent in the payment of its school ad valorem taxes, such fact shall constitute grounds for termination of the Agreement. However, the District reserves the right, in its sole discretion, to deduct any amounts owed for delinquent taxes from payments that the District may owe to the delinquent Contractor as a result of this Agreement.
8. **Time.** Time is of the essence in this Agreement. Contractor agrees to perform all obligations, deliver goods, and/or render services set forth herein in a timely manner.
9. **Good Faith Compliance.** The Contractor shall abide by and comply with the true intent of the scope of services in this Agreement and not take advantage of any unintentional error(s) or omission(s).
10. **Contractor's Expertise.** By signing this Agreement, the Contractor represents that they are knowledgeable in the goods and/or services being offered, including historical, current and future market conditions and that the District can rely on this representation.
11. **Quantities.** The quantities in this Agreement are estimated based on the District's projected use and need. It is specifically understood and agreed that these quantities are approximate figures only and shall in no way obligate the District to purchase those quantities. An increase or decrease in any quantities specified will be adjusted in the Agreement and invoiced amount based upon the unit price quoted by the Contractor for said item. It is further understood that the Contractor shall not have any claim against Waco ISD for quantities less than the estimated amount.
12. **Deduction of Damages from Price.** If Contractor fails to deliver the quality and/or quantity of goods and/or services on which an award is made by the promised delivery or service date at the prices specified in this Agreement, the District reserves the right to purchase the specified goods and/or services elsewhere and

Contractor agrees to allow the District to deduct the difference in price and cost of handling, if any, from Contractor's pending invoices, as permitted under Article II of the Uniform Commercial Code.

13. **Errors.** This Agreement shall be deemed final, conclusive, and irrevocable, and not shall be subject to correction or amended for errors or miscalculations by the Contractor, unless agreed to in a writing signed by the District.
14. **Ambiguity.** In case of ambiguity or lack of clarity, the District reserves the right to consider the most advantageous construction thereof, or to terminate the Agreement.
15. **District's Discretionary Authority.** The District reserves the right, in its sole discretion, to take any action deemed in the best interests of the District, including but not limited to, the following: to accept and/or reject any and all agreements, or any part thereof; to waive any informalities, technicalities and/or irregularities in the Agreement; to increase or decrease any quantities specified in the Agreement; to negotiate any and all terms and conditions with contractors; to accept and/or reject each item and/or service separately or as a whole; to negotiate separately with any source whatsoever, in any manner necessary; to purchase in total from one contractor or divide the purchase by selection of various items from multiple contractors; to alter the timeline upon providing notice of the alteration; and to reissue the agreement. In its sole discretion, the District may, but is not required to, enter into an agreement with the most favorable and/or responsible contractor(s) based on a determination by the District that it is in the best interest of the District and provides the best value to the District, although it may not necessarily represent the lowest prices available for the goods and/or services.
16. **Acceptance by District.** This Agreement and any contract entered into as a result of this Agreement shall not be valid, and no agreement or contract is created or binding, until approved by the District's appropriate approval authority.
17. **Ethics.** Contractor shall not offer gifts or anything of value or enter into any business arrangement with any District trustee, officer, employee or agent.
18. **Equal Employment Opportunity.** Waco ISD does not discriminate on the basis of race, creed, color, sex, sexual orientation, gender identity, age, national origin, disability, political belief, or religion in providing education services, activities or programs. It is the intent and policy of this District to conduct its activities in compliance with all Federal and State laws prohibiting discrimination of any form, including but not limited to on the basis of race, sex, age, religion, color, national origin or disability. Thus, during the performance of any contract awarded, Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, sex, sexual orientation, gender identity, age, national origin, disability, political belief, or religion, except where it is a bona fide occupational qualification reasonably necessary to the normal operations of the Contractor. Contractor agrees to post notices setting forth the provisions of this non-discrimination clause in conspicuous places that are accessible and available to employees and applicants for employment. Contractor, in all solicitations or advertisements for employees placed by or on behalf of Contractor, will state that Contractor is an equal opportunity employer. Notices, advertisements and solicitations placed in accordance with Federal laws, rules or regulations shall be deemed sufficient for the purpose of meeting the requirements of this section. Contractor shall include the provisions of the foregoing in every subcontract or purchase order over \$10,000.00, making these provisions binding upon each subcontractor or third-party contractor.
19. **Sexual Harassment Prohibited.** Sexual harassment or sexual misconduct with District employees or students is strictly forbidden and is subject to disciplinary action.
20. **Safety.** All contractors and subcontractors performing services for the District are required to comply with all federal, state and local safety laws and regulations, including but not limited to the Occupational Safety and Health Administration (OSHA) State and County Safety and Occupational Health Standards. All contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any person or property within and around the work site area under the contract.
21. **Environment of the District.** The District is a tobacco-free, drug-free, weapon-free and alcohol-free environment. It is the responsibility of the Contractor to ensure that employees, agents, subcontractors, or any

other representative of the Contractor refrain from being under the influence and/or in possession of firearms, illegal drugs, tobacco, and alcoholic beverages while performing duties in accordance with this Agreement.

22. **Warranties.** The products, goods, and/or services furnished under this Agreement shall be covered by the most favorable commercial warranties available to any customer for the same or similar products, goods and/or services. Contractor further warrants that the prompt payment discount terms, distribution allowance, quality and performance of products and/or services, prices, product/services warranty, and any other conditions and provisions offered in this Agreement are the same or better than those offered to the Contractor's most favored customer.
23. **Out of State Contractors.** The "Reciprocity Rule" applies. Contractors whose principal place of business is located in a state which gives preference to its residents are subject to the same restrictions when submitting an offer with the District.
24. **Advertising.** Contractor shall not advertise or publish, without the District's prior written consent, the fact that the District has entered into any contract with Contractor, except to the extent necessary to comply with valid requests for information from an authorized representative of the federal, state, or local government.
25. **Right to Assurance.** Should the District have a good faith basis to question the Contractor's intent to perform, the District may demand that the Contractor give written assurance of their intent to perform. In the event that such a demand is made and no assurance is given within five (5) calendar days, the District may treat this failure as anticipatory repudiation of this Agreement.
26. **Audit.** The District reserves the right to audit the books of the awarded Contractor in regards to the goods and/or services to be provided under this Agreement, and under any corresponding contracts thereto, and all supporting documentation surrounding the same.
27. **Criminal History Records.** In accordance with Section 22.083 of the Texas Education Code, the District may obtain from any law enforcement agency, criminal justice agency, the department or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act all criminal history record information that relates to a person who is an employee of an entity that contracts with the District if that individual's duties are or will be performed on school property or at another location where students are regularly present.
28. **Records Retention.** The District's records retention policy will vary based on the type of goods and/or services contract entered into and can be determined by contacting the District's records management department. Upon written request by the District to the Contractor to provide requested information, the Contractor shall have five (5) business days to provide the District with the requested information. If the Contractor fails to provide the requested information, the District shall notify the Contractor in writing and allow ten (10) business days to cure the violation. The District may terminate this Agreement, and any corresponding contract thereto, with the Contractor if it determines that the Contractor knowingly and intentionally failed to timely cure the violation and failed to take adequate steps to ensure future compliance, absent an exception.
29. **Non-Appropriation of Funds.** Should the District not have sufficient funds appropriated for the purchase of the goods and/or services mentioned in this Agreement and after timely notification is provided to the Contractor, the District is fully and expressly released from all obligations under this Agreement and any incidental contracts hereto.
30. **Collaborative Contract Management.** Waco ISD is a member in good standing of the Central Texas Purchasing Alliance (www.txctp.org), an alliance of over forty school districts in Texas representing over a million students, sharing information, services and contractual opportunities. CTPA is an alliance created in accordance with Section 791.001 of the Texas Government Code through Interlocal agreements. In support of this collaborative effort, all contracts entered into by Waco ISD may be adopted by other active CTPA member districts. There is no obligation on either party to participate unless both parties agree to do so. The goods and services provided under the contract will be at the same or better contract pricing and purchasing terms established by the originating district. The adopting district shall be responsible for the management of the new contract and all payments to the contracted contractor. The originating district shall have no responsibilities under the new contract agreement.

31. **Software Remote Access.** Contractor shall not install a remote access or backdoor into Contractor's systems during its analysis of the District's system or at any other time. Contractor will remove remote access or backdoor from third party software before use by the Contractor or District on any District property or facility.
32. **Workers' Compensation.** The District will not provide workers' compensation coverage to the Contractor or any of its employees. All of Contractor's employees, subcontractors, agents, representatives, etc. who will provide goods and/or services to the District must be covered by Contractor's workers' compensation coverage for the duration of the Agreement. The coverage must be based on proper reporting of classification codes and payroll amounts and all coverage agreements must be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance regulation. Providing false or misleading information may subject the Contractor to administrative, criminal or civil penalties or other civil actions.
33. **Independent Contractor Relationship.** In this Agreement and any incidental contract thereto, Contractor is being engaged as an independent contractor and the District shall have no responsibility or obligation to provide transportation, insurance, workers' compensation, or employee benefits normally associated with employee status. Contractor covenants and agrees to conduct itself consistent with independent contractor status and it will neither hold itself out as nor claim to be an officer, partner, employee, or agent of the District. Contractor will disclose to the District any relationship that could be construed as a conflict of interest or potential conflict of interest or otherwise prejudice in any way the independent relationship of the District and the Contractor.
34. **Effective Date.** The effective date of this Agreement, if any, is the date that the Agreement is approved by Waco ISD's Board of Trustees or designated representative. In some cases, the effective date and the date for start of services may be separated by several weeks and/or months.
35. **Amendment.** No verbal agreement or conversation with any officer, representative, agent or employee of the District either before or after the execution of this Agreement and any incidental contract thereto or follow-up negotiations shall affect, amend or modify any of these Terms and Conditions or any other terms and conditions contained in any written contract between the parties. No alterations, modifications or amendments to the terms and conditions of this Agreement and any incidental contract thereto shall be valid or binding unless made in writing and signed by the District's Board of Trustees, Director of Business Services or their authorized designee and an authorized Contractor representative.
36. **Assignment.** No assignment or transfer of this Agreement, in whole or in part (including any other contracts entered into thereto), to any other party shall be allowed unless the Contractor provides written request to and receives written approval from the District's Board of Trustees, Director of Business Services or their authorized designee. Written approval must be requested and received prior to any assignment or transfer. In the event the Contractor fails to comply with this provision, the District may take any action(s) to require compliance or take any other measures deemed appropriate.
37. **Remedies for Non-Performance.** If at any time, the Contractor fails to fulfill or abide by the terms, conditions, or specifications of this Agreement or any resulting contract thereto, (i.e., delays, defaults, non-performance, etc.), then the District reserves the right to employ any remedy allowed by this Agreement and/or the contract, in law, in equity, or by the Uniform Commercial Code (UCC) including, but not limited to, to purchase on the open market and charge the Contractor the difference between the contract and actual purchase price and/or terminate this Agreement with five (5) days' written notification to the Contractor.
38. **Liquidated Damages.** If the Contractor fails to deliver or defaults on this Agreement or any resulting contract thereto within the time specified therein, then the Contractor shall pay (or have withheld from payments due), at the option of the District as liquidated damages as follows: for goods the Contractor shall pay \$300, or the amount identified elsewhere in this Agreement and/or any other resulting contract thereto, per line item of the purchase order that is delinquent, whichever is greater, and for services the Contractor shall pay \$15,000, or the amount identified elsewhere in this Agreement and/or any other resulting contract thereto for the defaulted services, whichever is greater. In no event shall these liquidated damages limit any other remedy or recovery available to the District.
39. **Termination/Cancellation.** This Agreement, any other resulting contract thereto, may be terminated or cancelled under the following circumstances:
- a. The District may cancel or terminate the contract for convenience upon providing a 5-days' written

notice to the Contractor.

- b. The District may terminate the Agreement during the Term of the Agreement if, at the expiration of each District budget period, funds are not adequately appropriated for payment under the Agreement.
- c. Good and/or services under the Agreement may be terminated in whole or in part by the District upon delivery to Contractor of a notice of termination specifying the extent to which the delivery of goods and/or performance of services is terminated and the date upon which the termination becomes effective. This right of termination is in addition to and not in lieu of the District's right to cancel undelivered goods or services under the Agreement.
- d. The District may cancel all or any part of the undelivered goods or services of the Agreement for cause if the Contractor breaches any of the terms of the Agreement, including, but not limited to, non-performance by the Contractor, warranties of the Contractor, if the Contractor becomes insolvent, or if the Contractor begins bankruptcy or reorganization proceedings. The District's rights of termination or cancellation are in addition to other remedies the District may have in law or equity.
- e. The District may cancel or terminate all or any part of the Agreement for cause if the Contractor fails to meet applicable federal, state or local laws as required.

The Should the District terminate all or any part of the Agreement for cause, the Contractor shall be liable to the District for its damages, including but not limited to actual damages, exemplary damages, liquidated damages, specific performance, reasonable attorney's fees, court costs, and any other remedies available to the District at law or in equity.

- 40. **Title & Risk of Loss.** The title and risk of loss of goods shall not pass to the District until the District actually receives and takes possession of the goods at the point or points of delivery.
- 41. **Force Majeure.** The District shall not be liable for defaults or delays due to acts of God or the public enemy, acts or demands of any governmental agency, strikes, fires, floods, accidents, or other unforeseeable causes beyond its control and not due to its own fault or negligence.
- 42. **Liability & Waiver of Claims.** By entering into this Agreement, the Contractor agrees to waive any claim it has or may have against the District, its trustees, officers, employees, representatives, agents and attorneys arising out of or in connection with the administration, evaluation, or recommendation of, waiver of any requirements under, and acceptance or rejection of this Agreement and any other resulting contract thereto.
- 43. **Indemnification.** Contractor agrees to indemnify, defend, and hold the District harmless from any patent, copyright, trademark, or trade secret infringement claim or cause of action, or any similar intellectual or proprietary rights infringement claim or cause of action, suits, demands, proceedings costs, damages, and liabilities, arising out of, connected with, or resulting from any acts of omissions of the Contractor, the Contractor's contractors or any agents, employees, or suppliers of Contractor or Contractor's contractors in the execution of or performance of any contract that is based on or related to the goods and/or services sold or used by the Contractor in connection with this Agreement or any contract entered into as a result of this Agreement. Contractor agrees to indemnify, defend, and hold harmless the District, its officers, directors, trustees, agents and employees from and against any and all claims, losses, damages, causes of action, suits, and liability of every kind, including all expenses of litigation, court costs, and reasonable attorneys' fees, for damages arising out of or in connection with the Contractor's negligence and/or intentional acts in providing the goods and/or services furnished in this Agreement or in any contract based on this Agreement. Contractor shall defend any such claims or causes of action at its own expense, and the District shall have the right to have such litigation monitored by its own counsel at the District's expense.
- 44. **Waiver.** No claim or right arising out of a breach of the contract by the Contractor shall be discharged in whole or in part by a waiver or enunciation of the claim or right unless the waiver or enunciation is supported by consideration and in writing signed by the District.
- 45. **Severability.** In case any one or more of the provisions contained in the Agreement or any contract entered into as a result of this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and the remainder of this Agreement or any contract entered into as a result of this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

46. **Applicable Law and Venue.** This Agreement and any contract entered into as a result of this Agreement shall be governed by the laws of the State of Texas and Uniform Commercial Code as applicable and as adopted and amended from time to time by the Texas Legislature. Both parties agree that the venue for any litigation arising out of any contract entered into as a result of this award shall lie in Waco, McLennan County, Texas. The District does not agree to the use of arbitration in resolving any conflicts and such a term in this Agreement and any contract entered into as a result of this Agreement will be deemed voidable and stricken by the signing of this Agreement by the parties.
47. **Attorneys' Fees.** This Agreement and any contract entered into as a result of this Agreement constitutes a contract between the District and the Contractor. The prevailing party in an action, whether in state or federal court, to enforce or interpret this Agreement and any contract entered into as a result of this Agreement or any disputes related thereto is entitled to recover its reasonable attorneys' fees and court costs from the other party. Without waiving any other rights available to the District for recovery, if the District is the prevailing party, Contractor hereby agrees and authorizes the District to deduct the reasonable attorneys' fees and court costs from amounts, if any, owed to Contractor under this Agreement and any contract entered into as a result of this Agreement.
48. **Governance.** The contents of this Agreement, these General Terms and Conditions, and any other Terms and Conditions will become part of any contract entered into as a result of this Agreement and govern the relationship between the District and Contractor.

CONTRACTOR CERTIFICATION

Introduction:

The Texas Education Code requires contractors (including independent contractors and any subcontractors of the contractor) who enter into a service contract with school districts to obtain criminal history records on covered employees. Covered employees with disqualifying criminal histories are prohibited from serving at a school district. Contractors must certify to the District that they have complied and must obtain similar certifications from their subcontractors.

The District may not obtain criminal histories for contractors. The law requires each contractor to obtain the criminal histories of its covered employees. For more information or to set up an account, a contractor should contact the Texas Department of Public Safety's Crime Records Service at 512.424.2474.

Definitions:

Covered employees: Employees of a contractor (including independent contractors) who have or will have continuing duties related to the service to be performed at the District and have or will have direct contact with students. The District will be the final arbiter of what constitutes *continuing duties* or *direct contact* with students.

Disqualifying criminal history: (1) a conviction or other criminal history information designated by the District; or (2) one of the following offenses, if at the time of the offense, the victim was under 18 or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense under federal law or the laws of another state.

Note: For a covered employee employed by a contractor before January 1, 2008, contractors must obtain state criminal histories, which may obtained from the Texas Department of Public Safety, a law enforcement agency, or a private consumer reporting agency. For a covered employee employed by a contractor on or after January 1, 2008, contractors must obtain national criminal histories through the Texas Department of Public Safety's Fingerprint-based Applicant Clearinghouse of Texas (FACT).

On behalf of _____ ("Contractor"), I, the undersigned authorized signatory for Contractor, certify to Waco Independent School District ("District") that I have obtained all required criminal history record information regarding any of Contractor's covered employees and that [check one]:

[☐] None of Contractor's employees are *covered employees*, as defined above. If this box is checked, I further certify that Contractor has taken precautions or imposed conditions to ensure that its employees will not become *covered employees*. Contractor will maintain these precautions or conditions throughout the time the contracted services are provided.

Or

[] Some or all of Contractor's employees are *covered employees*. If this box is checked, I further certify that:

- 1) Contractor has obtained all required criminal history record information regarding its covered employees as required by the Texas Education Code. None of the covered employees have a disqualifying criminal history. Contractor has taken reasonable steps to ensure that its employees who are not covered employees do not have continuing duties related to the contract services or direct contact with students.
- 2) If Contractor receives information that a covered employee subsequently has a reported disqualifying criminal history, Contractor will immediately remove the covered employee from contract duties and notify the District in writing within 3 business days.
- 3) Upon request, Contractor will provide the District with the name and any other requested information of covered employees so that the District may obtain criminal history record information on the covered employees.
- 4) If the District objects to the assignment of a covered employee on the basis of the covered employee's criminal history record information, Contractor agrees to discontinue using that covered employee to provide services at the District.

I also certify to the District on behalf of Contractor that Contractor has obtained certifications from its subcontractors of compliance with Texas Education Code, Chapter 22.

Noncompliance or misrepresentation regarding this certification may be grounds for contract termination.

Contractor: _____
Signature: _____
Printed Name: _____
Title: _____
Date: _____

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes ☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes ☐ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

- (a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

- (2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;

or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

- (a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

- (a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

- (1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

- (2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):
	☐ Individual/sole proprietor or single-member LLC ☐ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate	Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ <i>(Applies to accounts maintained outside the U.S.)</i>
	☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ▶ _____	
5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)	
6 City, state, and ZIP code		
7 List account number(s) here (optional)		

Part I	Taxpayer Identification Number (TIN)
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Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

			-			-				
--	--	--	---	--	--	---	--	--	--	--

or

Employer identification number

		-						
--	--	---	--	--	--	--	--	--

Part II	Certification
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Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

**Sign
Here**

Signature of
U.S. person ►

Date ▶

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.