

INVITATION FOR BIDS (IFB) NO. 19-0004
TO MANAGE
THE
ANNUAL AFFORDABLE CARE ACT PROCESSES
AND
IRS REPORTING SERVICES
FOR THE
OFFICE OF HUMAN RESOURCES
UNIVERSITY OF HAWAII
HONOLULU, HAWAII

JULY, 2018

BOARD OF REGENTS
UNIVERSITY OF HAWAII
HONOLULU, HAWAII

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for the Office of Human Resources, University of Hawaii, Honolulu, Hawaii

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**IT IS THE RESPONSIBILITY OF ALL BIDDERS TO CHECK THE TABLE OF CONTENTS
TO CONFIRM THAT ALL PAGES LISTED THEREIN ARE CONTAINED IN THEIR BID
PACKAGE.**

NOTICE TO BIDDERS

BID FORMS for IFB No. 19-0004, To Manage the Affordable Care Act Processes and IRS Reporting Services for the Office of Human Resources, will be available from and received in the OFFICE OF PROCUREMENT AND REAL PROPERTY MANAGEMENT, UNIVERSITY OF HAWAII, 1400 LOWER CAMPUS ROAD, ROOM 15, HONOLULU, HAWAII 96822, and must be submitted no later than **2:30 p.m., July 23, 2018**, and at that time will be publicly opened.19-0

Bids received after the time and date fixed for opening will not be considered.

Contractors located outside the Island of Oahu, Hawaii, USA, may request a copy of the IFB to be sent via U.S. Postal Service by providing the Contractor's name, address, contact person and telephone number. If express shipment is desired, requests must be submitted in writing with an account number, BILLABLE TO THE RECEIVER, and an authorized signature. Requests may be transmitted via facsimile, (808) 956-2093. Direct all questions to Karlee Hisashima, (808) 956-8687.

David Lassner
President, University of Hawaii

Posting Date: July 12, 2018

Contractors downloading the IFB shall be responsible for notifying the Procurement Specialist Karlee Hisashima (e-mail: karlees@hawaii.edu; fax: [808] 956-2093), so that the name, address, phone number, fax number, and e-mail address of the Contractor can be listed on the University's register for the purpose of notification of any amendments to the IFB which are issued.

NOTICE TO BIDDERS

BUSINESS CLASSIFICATION CERTIFICATION STATEMENT

Contractors: Please complete the following information below. If you answer "No" to question No. 1, complete the certification portion and submit together with your bid document or quote.

(Terms used are taken from the Small Business Administration Rules and Regulations and the Federal Acquisition Regulation [FAR].) (Reference Section A on the reverse side of this form for Category Descriptions.)

This is to certify that the company identified below:

1. _____ IS a **small business** as defined in the Small Business Administration regulations.
(see reverse for size standards).
_____ **IS NOT** a small business as defined in the regulations.
(If you checked here, STOP, GO TO CERTIFICATION BELOW.)
2. _____ IS a **small disadvantaged business concern** and is identified, on the date of its representation, as a certified small disadvantaged business in the database maintained by the Small Business Administration (PRO-NET).
3. _____ IS a **women-owned small business concern** of which at least 51% is owned, controlled, and managed by one or more women; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women.
4. _____ IS a **HUBZone small business concern** that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.
5. _____ IS a **veteran-owned small business concern** of which not less than 51 percent is owned, controlled and managed by one or more veterans; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more veterans.
6. _____ IS a **service-disabled veteran-owned small business concern** of which not less than 51 percent is owned, controlled and managed by one or more service-disabled veterans, or in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans as defined in 38 U.S.C. 101 (16).

CERTIFICATION:

I hereby certify the information supplied herein to be true and correct.

Company Name: _____

Signature of Company Officer

Type of Goods/Services: _____

*NAICS Code: _____

Company Address: _____

Print Name: _____

Title: _____

Date: _____

Any misrepresentation shall be subject to the provisions stated in item B on the reverse side.

* North American Industry Classification System (NAICS)

- A. "SMALL BUSINESS" SIZE STANDARDS FOR FEDERAL SUB-CONTRACTORS. Small business size is determined by the primary NAICS Code. See Title 13 CFR, Part 121 to determine your NAICS Code and the threshold for determining small business (revised as of January 1, 2004).

A "small business" is a concern including its affiliates, which is independently owned and operated. It is not dominant in the field of operations in which it is selling goods and services to a federal contractor. It meets the following size criteria for its particular industry:

1. CONSTRUCTION TRADES - "Small" if average annual receipts for preceding 3 years do not exceed \$12 million.
2. CONSTRUCTION, GENERAL CONTRACTORS - "Small" if average annual receipts for preceding 3 years do not exceed \$28.5 million.
3. MANUFACTURING - "Small" if 500 employees or less, except for some specific products which will increase the complement of employees to 750 and 1,000, respectively.
4. TRANSPORTATION - "Small" if average annual receipts for preceding 3 years do not exceed the amount shown for specific services:

\$21.5 million – general freight trucking, local.
\$3 million – travel agencies.
5. WHOLESALE TRADE, DURABLE AND NON-DURABLE GOODS - "Small" if 100 employees or less.
6. RETAIL TRADE - "Small" if average annual receipts for preceding 3 years do not exceed the amount shown for specific products:

\$6 million - lumber and building materials, paints, hardware.
7. SERVICES - "Small" if average annual receipts for preceding 3 years do not exceed the amount shown for specific services:
 - a. \$21 million – computer systems design services, custom computer programming services.
 - b. \$10.5 million - refuse collection, protective guard services.
 - c. \$14 million - janitorial services.
 - d. \$21.5 million - passenger car rental
 - e. \$21 million – office Machinery and equipment rental & leasing
 - f. \$6 million - general automobile repair, refrigeration & air conditioning.
8. ALL OTHER TYPES OF BUSINESS - "Small" if 500 employees or less.

Where firm sizes are determined by annual receipts, and the concern is less than 3 complete fiscal years old, its total receipts means for the period it has been in business, divided by the number of weeks, including fractions of a week, and multiplied by 52.

- B. Notice. Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, small disadvantaged or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to sections 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall:
1. Be punished by imposition of fine, imprisonment, or both;
 2. Be subject to administrative remedies including suspension and debarment; and
 3. Be ineligible for participation in a program conducted under the authority of the Act.

BID FORM
TO MANAGE
THE ANNUAL AFFORDABLE CARE ACT PROCESSES
AND IRS REPORTING SERVICES

Office of Procurement and
Real Property Management
University of Hawaii
1400 Lower Campus Road, Room 15
Honolulu, Hawaii 96822

To Whom It May Concern:

The undersigned has carefully examined the INVITATION FOR BIDS (IFB)
NO. 19-0004, TO MANAGE THE ANNUAL AFFORDABLE CARE ACT PROCESSES AND IRS
REPORTING SERVICES FOR THE OFFICE OF HUMAN RESOURCES, UNIVERSITY OF
HAWAII, HONOLULU HAWAII, and offers to provide the services in strict accordance with the
true intent and meaning of the IFB for a period of ONE (1) year, from the date designated in
the Notice to Proceed, and thereafter may be renewed annually, from year to year, for TWO
(2) additional years, for a total of THREE (3) years, as follows:

BASIC BID

1. 2018 Management Services (Year 1)

| <u>Item</u> | <u>Description</u> | <u>Quantity</u> | <u>Unit Price</u> | <u>Total Amount</u> |
|-------------------------|--|-----------------|-------------------|---------------------|
| A. | Annual IRS Reporting Services | 1 | \$_____ | \$_____ |
| B. | 1095-C Forms Generated (Estimated Quantity) | 10,000 | \$_____ | \$_____ |
| C. | IRS Reporting Extension Services | 1 | \$_____ | \$_____ |
| TOTAL AMOUNT FOR YEAR 1 | | | | \$_____ |

2. 2019 Management Services (Year 2)

| <u>Item</u> | <u>Description</u> | <u>Quantity</u> | <u>Unit Price</u> | <u>Total Amount</u> |
|-------------------------|--|-----------------|-------------------|---------------------|
| A. | Annual IRS Reporting Services | 1 | \$_____ | \$_____ |
| B. | 1095-C Forms Generated (Estimated Quantity) | 10,000 | \$_____ | \$_____ |
| C. | IRS Reporting Extension Services | 1 | \$_____ | \$_____ |
| TOTAL AMOUNT FOR YEAR 2 | | | | \$_____ |

3. 2020 Management Services (Year 3)

| <u>Item</u> | <u>Description</u> | <u>Quantity</u> | <u>Unit Price</u> | <u>Total Amount</u> |
|-------------------------|--|-----------------|-------------------|---------------------|
| A. | Annual IRS Reporting Services | 1 | \$_____ | \$_____ |
| B. | 1095-C Forms Generated (Estimated Quantity) | 10,000 | \$_____ | \$_____ |
| C. | IRS Reporting Extension Services | 1 | \$_____ | \$_____ |
| TOTAL AMOUNT FOR YEAR 3 | | | | \$_____ |

TOTAL AMOUNT FOR YEARS 1 THROUGH 3 \$_____

Prices include all fees, expenses, and applicable taxes.

TAX LIABILITY

Both out-of-state and Hawaii bidders are advised that the amount bid on this solicitation is subject to the general excise tax imposed by Chapter 237, Hawaii Revised Statutes (HRS) and, if tangible property is being imported into the State of Hawaii for resale, the use tax (currently 1/2%) imposed by Chapter 238, HRS. (Refer to Taxes in the General Provisions.) Bidders are therefore cautioned to consider such taxes in formulating their bids since no adjustments to the prices bid shall be allowed.

BASIS FOR AWARD

The award of contract, if awarded, shall be made to the lowest responsive and responsible bidder on the **TOTAL AMOUNT FOR YEARS 1 THROUGH 3**.

REFERENCES

The names of companies, contact persons, and addresses of Hawaii State agencies for whom the undersigned currently provides or have provided services to are as follows:

| | <u>State of Hawaii Agency</u> | <u>Contact Persons</u> | <u>Address & Telephone No.</u> |
|----|-------------------------------|------------------------|------------------------------------|
| 1. | _____ | _____ | _____ |
| 2. | _____ | _____ | _____ |
| 3. | _____ | _____ | _____ |

NOTE TO BIDDERS

An acceptable bid must conform in all material respects to this Invitation for Bids. Any of the following may be grounds for disqualification:

1. Taking exception to any of the specifications, terms or conditions contained in the IFB.
2. Placing conditions on the furnishing of solicited goods or services.
3. Inclusion of a quotation or order form containing additional specifications, terms or conditions.
4. Referencing external documents containing additional specifications, terms or conditions.

Bidders are advised that bids are evaluated as submitted and requests by bidders to delete conditions contained in their bids after bid opening cannot be considered.

REMITTANCE ADDRESS

In the event that the undersigned is awarded this contract and its remittance address differs from the address shown on page BID – 4, please indicate remittance address below:

Street Address or P. O. Box

City State Zip Code

(IF BY INDIVIDUAL)

NAME (Signature)

TYPED NAME

SOCIAL SECURITY NUMBER

D.B.A.

FEDERAL TAXPAYER
IDENTIFICATION NUMBER

ADDRESS

CITY

STATE

ZIP CODE

TELEPHONE NUMBER

FAX NUMBER

(IF BY PARTNERSHIP)

OFFICIAL/LEGAL NAME OF FIRM

FEDERAL TAXPAYER
IDENTIFICATION NUMBER

NAME (Signature)

TYPED NAME

PARTNER

ADDRESS

CITY

STATE

ZIP CODE

TELEPHONE NUMBER

FAX NUMBER

(IF BY CORPORATION)

OFFICIAL/LEGAL NAME OF COMPANY

FEDERAL TAXPAYER
IDENTIFICATION NUMBER

*OFFICER (Signature)

TYPED NAME

TITLE

ADDRESS OF COMPANY

CITY

STATE

ZIP CODE

TELEPHONE NUMBER

FAX NUMBER

(SEAL)

IF LICENSED OR INCORPORATED TO DO BUSINESS WITHIN THE STATE OF HAWAII AND
SUBJECT TO THE PROVISIONS OF THE HAWAII GENERAL EXCISE TAX LAWS, INDICATE
GENERAL EXCISE TAX LICENSE NUMBER _____.

*Please attach to this page evidence of the authority of this officer to submit a bid on behalf of the
corporation, giving also, the address and names and addresses of the **other officers**.

NOTE: FILL IN ALL BLANK SPACES WITH INFORMATION ASKED FOR OR BID MAY BE INVALIDATED.

TECHNICAL SPECIFICATIONS

This section indicates the Technical Specifications for the services required. The Technical Specifications listed herein are the minimum requirements and are mandatory for an accepted bid.

The University of Hawaii's Office of Human Resources System office (UH OHRS) is seeking services from a reputable organization with demonstrated experience in assisting Hawaii State agencies with their annual Affordable Care Act (ACA) processes, data file transmission to the IRS and any IRS reporting requirements.

- I. IRS reporting services (for calendar/benefit plan years 2018, 2019, and 2020) where Contractor will assist in ensuring compliance with the annual informational tax reporting requirements under IRC §§ 6055 and 6056.
 - Provide a UH OHRS kickoff session to assist UH OHRS in completing their data delivery responsibilities outlined herein;
 - Provide reference materials such as UH OHRS and Contractor roles and responsibilities, data specification definitions, UH OHRS Profile instructions, data upload instructions, and a Frequently Asked Questions (FAQ) document;
 - Identify the right populations for whom IRS Forms 1095-C are required (including COBRA, pre-65 retirees, etc.) across all System offices and TEN (10) campuses inclusive of our student employment population;
 - Configure UH OHRS in the ACA COMPASSSM system within THIRTY (30) days of receipt and approval of the UH OHRS Profile document;
 - Compute appropriate indicator codes on IRS Forms 1095-C per the ACA regulations based upon the data provided by UH OHRS;
 - Provide UH OHRS with set up and data readiness preparations and troubleshooting support by a data analyst assigned to UH OHRS, with up to TWENTY (20) hours of support per reporting plan year;
 - Contractor will utilize IRC § 4980H full-time determination conclusions, as calculated and provided by the UH OHRS for IRC §§ 6055 and 6056 reporting purposes;
 - Provide a secure file transfer protocol ("SFTP") site for the UH OHRS to upload their data per the Contractor's prescribed data specification document in alignment with the IRS requirements;
 - Assign a dedicated subject matter professional (SMP) and data analyst to the engagement;

- Perform a technical review, including a review for accuracy and completeness of IRS Form 1094-C for each Applicable Large Employer (ALE) and a sample of Form 1095-C's based on the data provided by UH OHRS;
- Generate the Quarterly Activity Report based on the data submitted by the UH OHRS and loaded into the ACACOMPASSSM system;
- Contractor will annually prepare the IRS Forms 1095-C for review and approval, including an electronic file of all form data for the recipient population in either a .csv or .xls format. The final forms package will include a final version of the pdf file of Forms 1095-C and an electronic all form data file in .xls format;
- Contractor will prepare the electronic filing of the IRS transmittal for UH OHRS's review and approval prior to the statutory filing deadline for each tax year, subject to UH OHRS providing all required data by the deadlines mutually agreed upon between the Contractor and UH OHRS. The package provided for UH OHRS's review will be in an .xls format and will include all Forms 1094-C and 1095-C information for UH OHRS's Applicable Large Employer ("ALE") member(s) contracted for Contractor services. Contractor will prepare the IRS forms under the general reporting method, unless an alternative reporting option is chosen by UH OHRS, approved by Contractor and documented in writing;
- Upon UH OHRS approval, Contractor will electronically transmit the IRS forms to the IRS, as tax preparer;
- At UH OHRS's direction, Contractor will prepare corrected Forms 1095-C/1094-C (changes made post IRS transmittal). Corrections will be subject to additional fees based upon the time incurred, including any additional per form fulfillment charges if corrections are furnished to recipients;
- Contractor can prepare individually indexed Forms 1095-C from the bulk PDF of Forms 1095-C and an .xls index search database to be delivered to UH OHRS within TEN (10) to TWENTY (20) business days from the date of UH OHRS approval of Form 1095-C distribution; and
- Prepare approved IRS Forms 1095-C for distribution via hard copy mail directly to intended recipients.

II. As part of the review process, Contractor will provide UH OHRS with an automated means, preferably a web based interface, to view the prepared Forms 1095-C to provide UH OHRS with capability to search for a single employee form utilizing the applicable employee SSN or name inclusive of capability to generate documents in PDF format, save, and print.

- III. IRS Reporting Extension Services: Assist UH OHRS with preparing extensions for additional time to furnish Forms 1095-C to recipients and/or transmit Forms 1094-C/1095-C to the IRS for System offices and all campuses as part of this scope.

These services shall include:

- Extension to furnish Forms 1095-C: Upon UH OHRS request and approval, prepare application letter(s) for extension of time to furnish Forms 1095-C to individuals;
 - Automatic THIRTY (30) day extension to transmit IRS Forms 1094-C/1095-C: Upon UH OHRS request and approval, prepare Form(s) 8809 for automatic extension of time to transmit information returns, Forms 1094-C and associated Forms 1095-C, with the IRS. Form(s) 8809 may be electronically submitted through the IRS FIRE system;
 - Additional extension to transmit Forms 1094-C/1095-C: Upon UH OHRS request and approval, prepare Form(s) 8809, for additional extension of time through the IRS to garner approval for the additional automatic THIRTY (30) day extension with sufficient cause explanation documenting the need for the additional time to transmit;
- IV. Contractor will advise UH OHRS of any changes to ACA laws from either the IRS or state and local government's issuance of future regulations or procedures that may impact these services. Contractor shall have a process to assess and advise on the impact and will promptly contact UH OHRS to discuss any adjustments to engagement. Any services not related to the successful and accurate transmission of the University's ACA data to the IRS, along with all reporting requirements, should be outlined in the Bidder's response to this IFB.
- V. Bidder's shall outline UH OHRS' obligation and data responsibilities during the term of this engagement in the Bidder's response to this IFB.
- VI. Bidders shall provide documentation to outline in detail their fees for the services outlined above. (Bidders are cautioned not to include additional terms and conditions that may take exception to the IFB. See NOTE TO BIDDERS on page BID – 3.)

All questions pertaining to the Technical Specifications shall be directed to Katherine Wong-Nakamura, Director of Systems Integration, telephone (808) 956-8989 (email: kwongna@hawaii.edu).

Bidders are cautioned to review the Technical Specifications carefully and thoroughly. Objections to or requests for clarification of the specifications shall be made in writing in accordance with the General Provisions to the Office of Procurement and Real Property Management prior to the submittal of a bid. The submittal of a bid shall be considered as acceptance of the specifications as published.

SPECIAL PROVISIONS

1. SCOPE

The Managing of the Annual Affordable Care Act Processes and IRS Reporting Services for the Office of Human Resources, University of Hawaii, Honolulu, Hawaii shall be in accordance with the terms and conditions of IFB No. 19-0004 and the General Provisions dated September 2013 included by reference. Copies of the General Provisions are available at the Office of Procurement and Real Property Management, University of Hawaii, 1400 Lower Campus Road, Room 15, Honolulu, Hawaii 96822 or the General Provisions may be viewed at:
<http://www.hawaii.edu/oprpm/docs/GP0913.pdf>

2. AUTHORITY

IFB No. 19-0004 is issued under the provisions of the Hawaii Revised Statutes, Chapters 103 and 103D. All prospective bidders are charged with presumptive knowledge of all requirements of the cited legal authorities. Submission of a valid executed bid by any prospective bidder shall constitute an affirmation of such knowledge on the part of such prospective bidder.

3. TECHNICAL REPRESENTATIVE OF THE PROCUREMENT OFFICER (TRPO)

The Technical Representative of the Procurement Officer is Katherine Wong-Nakamura, Director of Systems Integration, telephone (808) 956-8989 (email: kwongna@hawaii.edu).

4. PAST EXPERIENCE

Bidders shall have demonstrated experience in assisting Hawaii State agencies with their annual Affordable Care Act (ACA) processes, data file transmission to the IRS and any IRS reporting requirements.

5. REFERENCES

Each bidder shall provide the names and addresses of Hawaii State agencies, for which the services specified herein have been or is currently provided, that can attest to the reliability of the bidder's service and personnel. The University reserves the right to reject the bid submitted by any bidder whose performance on other jobs has been unsatisfactory. References shall be included in the space provided in the Bid Form.

6. ESTIMATED QUANTITIES

The quantities shown in the Bid Form are for bid purposes only and should not be considered firm. In the event the quantities shown do not materialize, such failure shall

not constitute grounds for equitable adjustment. The University reserves the right to increase or decrease the quantity during the period of the contract, and the Contractor agrees to furnish and deliver the additional or decreased quantity at the unit price quoted herein.

7. PAYMENT

The Contractor shall be remunerated monthly upon satisfactory delivery, installation, on-site training, and acceptance of the equipment, and submission of a properly executed original invoice and ONE (1) copy, indicating the contract number, to the University of Hawaii, Office of Human Resources, Attention: Katherine Wong-Nakamura, Director of Systems Integration, 2440 Campus Road, Administrative Services Building 2, Honolulu, Hawaii 96822.

8. TERM OF CONTRACT

The Contractor shall enter into a contract for a period of ONE (1) year commencing on the date designated in the Notice to Proceed, and the price(s) bid shall remain firm for the initial term. Thereafter, the contract shall be renewable from year to year, for TWO (2) additional years, for a total of THREE (3) years, without the necessity of rebidding, upon mutual agreement in writing, NINETY (90) days prior to the annual renewal date, and the price(s) bid shall remain firm for each renewal term. Further, the University may terminate the contract at any time, after the first year, upon THIRTY (30) days prior written notice.

9. PROTECTION AND HANDLING OF DATA

A. Definitions:

- 1) Institutional Data - Institutional data is defined as data elements that are created, received, maintained and/or transmitted by the University in the course of meeting its administrative and academic requirements. Institutional data is the property of the University and shall be managed as a key asset. Institutional data shall be managed through defined governance standards, policies and procedures. Data is categorized in two ways: Public Information and Sensitive Information.
- 2) Public Information – any information to which access is not restricted.
- 3) Sensitive Information – Sensitive Information is subject to privacy considerations or has been classified as confidential and subject to protection from public access or appropriate disclosure. Examples of Sensitive Information include but are not limited to: student records, including anything protected by the Family Educational Rights and Privacy Act (FERPA); Health information, including anything covered by the Health Insurance Portability and Accountability Act (HIPAA); Personal financial

information such as credit card information, bank account information, debit card information, etc. Job applicant records (names, transcripts, etc.); Social Security Numbers; Dates of birth; Private home addresses and phone numbers; driver license numbers and State ID Card numbers; access codes, passwords and PINs for online information systems; Answers to "security questions" such as "what is the name of your favorite pet?"; confidential information subject to attorney-client privilege; detailed information about security systems; (physical and/or network); Confidential salary information; information made confidential by a collective bargaining agreement. To the extent there is any uncertainty as to whether any data constitutes Sensitive Information, the data in question shall be treated as Sensitive Information until a determination is made by the University or proper legal authority.

- B. Data Confidentiality. Contractor shall implement appropriate measures (including written agreements signed by Contractor personnel with access to data) designed to ensure the confidentiality and security of Sensitive Information, protect against any anticipated hazards or threats to the integrity or security of such information, protect against unauthorized access or disclosure of information, and prevent any other action that could result in substantial harm to the University or an individual identified with the data or information in the Contractor's custody, as applicable.
- C. Compliance with Laws and University Policies and Procedures. Contractor agrees to comply with all applicable state and federal laws, regulations, and University policies pertaining to information designated as private, protected, sensitive or confidential by law or by the University, including, but not limited to, E2.210 (Use and Management of Information Technology Resources), E2.214 (Security and Protection of Sensitive Information), A7.022 (Procedures Relating to Protection of the Educational Rights and Privacy of Students), Hawai'i Revised Statutes (HRS) §487J (Social Security Number Protection), HRS §487N (Security Breach of Personal Information), HRS §487R (Destruction of Personal Information Records), and Act 10, Part V, 2008 Special Session, Session Laws of Hawai'i; the Family Educational Records Protection Act (FERPA), Health Information Privacy and Accountability Act (HIPAA), and the Gramm-Leach Bliley Act (GLBA). Contractor shall obtain and maintain all necessary permits, licenses and certificates required to provide for the delivery of service.
- D. Network Security. Contractor agrees at all times to maintain network security within the Contractor's hosted environment that – at a minimum – includes: network firewall provisioning, intrusion detection, and regular (three or more annually) third party vulnerability assessments. Likewise, Contractor agrees to maintain network security that conforms to generally recognized industry standards and best practices.
- E. Application Security. Contractor agrees at all times, when University is covered under a paid-up application maintenance and support agreement, to provide, maintain and support its Software and subsequent updates, upgrades, and bug

fixes such that the Software is, and remains secure from those vulnerabilities.

- F. Data Security. Contractor agrees to protect and maintain the security of data with protection security measures that include maintaining secure environments that are patched and up to date with all appropriate security updates as designated by a relevant authority (e.g. Microsoft notifications, etc.). Likewise Contractor agrees to conform to the following measures to protect and secure data:
- 1) Data Transmission. Contractor agrees that any and all transmission or exchange of system application data with the University and other parties shall take place via secure means, e.g. HTTPS, FTPS, SFTP or equivalent means.
 - 2) Data Storage and Backup. Contractor agrees that any and all University data will be stored, processed, and maintained solely on designated servers and that no University data at any time will be processed on or transferred to any portable or laptop computing device or any portable storage medium, unless that storage medium is in use as part of the Contractor designated backup and recovery processes. All servers, storage, backups, and network paths utilized in the delivery of the service shall be contained within the states, districts, and territories of the United States unless specifically agreed to in writing by an agent of the University with designated data, security, or signature authority. Contractor agrees to store all University backup data stored, in Contractor's possession, as part of its backup and recovery processes in encrypted form, using no less than 128 bit key.
 - 3) Data Re-Use. Contractor agrees that any and all data exchanged shall be used expressly and solely for the purposes enumerated in the Agreement. Data shall not be distributed, repurposed or shared across other applications, environments, or business units of the Contractor. The Contractor further agrees that no University data of any kind shall be revealed, transmitted, exchanged or otherwise passed to other vendors or interested parties except on a case-by-case basis as specifically agreed to in writing by a University officer with designated data, security, or signature authority.
 - 4) Data Encryption. Contractor agrees to store all University backup data, as applicable, as part of its designated backup and recovery processes in encrypted form, using a commercially supported encryption solution. Contractor further agrees that any and all University data defined as personally identifiable information under current legislation or regulations stored on any portable or laptop computing device or any portable storage medium is likewise encrypted.

- G. PCI DSS Compliance. Contractor agrees to demonstrate compliance with PCI DSS (Payment Card Industry Data Security Standard). Contractor should be prepared to demonstrate compliance of any system or component used to process, store, or transmit cardholder data that is operated by the Contractor as part of its service. Similarly, Contractor should be prepared to demonstrate the compliance of any third party it has sub-contracted as part of the service offering. As evidence of compliance, the Contractor shall provide upon request a current attestation of compliance signed by a PCI QSA (Qualified Security Assessor).
- H. End of Agreement Data Handling. Contractor agrees that upon termination of this Agreement it shall return all data to the University in a useable electronic form, and erase, destroy, and render unreadable all University data in its entirety in a manner that prevents its physical reconstruction through the use of commonly available file restoration utilities, and certify in writing that these actions have been completed within THIRTY (30) days of the termination of this Agreement or within SEVEN (7) days of the request of an agent of the University, whichever shall come first.
- I. Data Breach. Contractor agrees to comply with all applicable laws, including but not limited to Chapter 487N, HRS (Security Breach of Personal Information), that require the notification of individuals in the event of unauthorized release of personally identifiable information or other event requiring notification. In the event of a breach of any of the Contractor's security obligations, or other event requiring notification under applicable law due to breach of Contractor's security obligations, Contractor agrees to:
- 1) Notify the University by telephone and e-mail of such an event within TWENTY FOUR (24) hours of discovery, and
 - 2) Assume responsibility for informing all such individuals in accordance with applicable law, and
 - 3) Indemnify, hold harmless and defend the University and its trustees, officers, and employees from and against any claims, damages, or other harm related to such Notification Event.
- J. Right to Audit. Contractor agrees that, as required by applicable state and federal law, auditors from state, federal, University System, or other agencies so designated by the State or University, shall have the option to audit the procured service. Records pertaining to the service shall be made available to auditors and the University during normal working hours for this purpose.
- K. Mandatory Disclosure of Protected Information. If the Contractor becomes compelled by law or regulation (including securities' laws) to disclose any Protected Information, the Contractor will provide the University with prompt written notice so that the University may seek an appropriate protective order or other remedy. If a remedy acceptable to the University is not obtained by the date that

the Contractor must comply with the request, the Contractor will furnish only that portion of the Sensitive Information that it is legally required to furnish, and the Contractor shall require any recipient of the Sensitive Information to exercise commercially reasonable efforts to keep the Sensitive Information confidential.

- L. Remedies for Disclosure of Confidential Information. Contractor and the University acknowledge that unauthorized disclosure or use of Sensitive Information may irreparably damage the University in such a way that adequate compensation could not be obtained from damages in an action at law. Accordingly, the actual or threatened unauthorized disclosure or use of any Sensitive Information shall give the University the right to seek injunctive relief restraining such unauthorized disclosure or use, in addition to any other remedy otherwise available (including reasonable attorneys' fees). Contractor hereby waives the posting of a bond with respect to any action for injunctive relief. Contractor further grants the University the right, but not the obligation, to enforce these provisions in the Contractor's name against any of the Contractor's employees, officers, board members, owners, representatives, agents, contractors, and subcontractors violating the above provisions.
- M. Survival. The confidentiality obligations shall survive termination of any agreement with Contractor for a period of TEN (10) years or for so long as the information remains confidential, whichever is longer.