
REQUEST FOR PROPOSAL - EXTERNAL AUDIT, TAX, AND ERISA SERVICES



**IT IS THE PROPOSERS' RESPONSIBILITY TO READ THE ENTIRE DOCUMENT
AND TO COMPLY WITH ALL REQUIREMENTS LISTED HEREIN.**

Issue Date: 02/21/2022
Proposal Due Date & Time 03/21/2022 @2:00 p.m. PT

Jinna Matzen
Business Operations Manager
California State University
Dominguez Hills Foundation
jmatzen@csudh.edu
(310) 243.3244

Please **e-mail** a copy of the completed Proposal no later than 2:00 p.m. on March 21st, 2022. Submissions should be made to jmatzen@csudh.edu

Please do not send hard copies of the Proposal.

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1. INTRODUCTION - SUMMARY OF AUXILIARIES

The California State University, Dominguez Hills auxiliary operations are recognized auxiliary organizations of the California State University (CSU) system. Their exclusive purpose is to provide designated support services to California State University, Dominguez Hills (University). The auxiliary operations are qualified, IRS Section 501 (c)(3), tax-exempt charitable organizations, chartered under the nonprofit for public benefit laws of the State of California and authorized by the California Education Code, Section 89900 et. Seq.

California State University Dominguez Hills auxiliary operations are comprised of the following four (4) separate auxiliary organizations:

- **California State University, Dominguez Hills Foundation** (Foundation),
- **Donald P and Katherine B. Loker University Student Union, Inc.** (Student Union),
- **Associated Students, Inc., California State University, Dominguez Hills** (ASI),
- **California State University, Dominguez Hills Philanthropic Foundation** (PF).

The auxiliary operations provide a full array of support services to the campus, including food services, bookstore operations, commercial services, land leases, student activities, a child development center, and gift, trust, and endowment administration.

California State University, Dominguez Hills Foundation, incorporated in 1968, is a nonprofit corporation and an auxiliary organization of CSU Dominguez Hills. The Foundation's corporate purposes include, among other things, establishing and operating commercial services, including dining services, the bookstore, providing financial management services for the University. The Foundation also provides contract services, including administrative, personnel, and payroll functions for University research and sponsored programs, projects, and accounts, as well as to the other campus auxiliaries. For the fiscal year ended June 30th, 2021, the Foundation had total revenues and expenses of \$15,465,021 and \$17,715,915, respectively, and a net position of \$6,393,062. The Foundation is exempt from federal and state income tax under Section 501(c)(3) of the Internal Revenue Code and similar California statutes. It is not classified as a private foundation under (509)(a) of the Internal Revenue Code.

Donald P. and Katherine B. Loker University Student Union, Inc. (Student Union), incorporated in 1992, is organized pursuant to the General Nonprofit Corporation Law of the State of California and is governed by the Board of Directors of the Student Union. The Student Union offers a variety of programs and services for the students and community at California State University, Dominguez Hills. The Student Union also operates its 120,000 sq. ft. facility offering physical space for conferencing and tenant operations. For the fiscal year ended June 30th, 2021, the Student Union had total revenues and expenses of \$3,413,380 and \$2,582,310, respectively, and a net position of \$4,784,427. The Student Union qualifies for exemption from

income taxes under provisions of Section 501(c)(3) of the Internal Revenue Code and similar provisions of state income tax regulations. The ruling provides that the Student Union is not subject to excise tax under Section 4940(d) of the code.

Philanthropic Foundation, the California State University, Dominguez Hills Philanthropic Foundation is a nonprofit corporation governed by a board of directors whose members serve as advisors to the president. The Philanthropic Foundation plays a significant role in the development of the University as a major educational, cultural, and economic resource for the South Bay region. The specific purpose of this corporation is to provide philanthropic support services in support of the University's advancement functions and assist the California State University, Dominguez Hills ("CSUDH") to receive gifts, property, and funds to be used for the benefit of CSUDH. For fiscal year ended June 30, 2021, Philanthropic Foundation had total revenues and expenses of \$7,383,039 and \$3,223,672, respectively, and net position of \$26,509,963. This corporation is a Nonprofit Public Benefit Corporation and is not organized for the private gain of any person. It is organized under the Nonprofit Public Benefit Corporation law for public and charitable purposes. Philanthropic Foundation is a qualified nonprofit organization exempt from income taxes under section 501(c)(3) of the Internal Revenue Code. It operates exclusively for purposes within the meaning of the California Revenue and Taxation Code 23701d or corresponding provisions of any future California Revenue Law.

2. PURPOSE AND OVERVIEW

California State University, Dominguez Hills Auxiliaries seek external financial statement audit, tax, and ERISA services from one of the California State University's list of Approved External Auditors. Auditing services will begin with the 2022-23 fiscal year (ending June 30th) for its four auxiliary organizations listed above.

The objective of this RFP is for Auxiliaries to acquire services from a Qualified Firm, which, at a minimum, meet the requirements set forth in this document.

3. ESTIMATED RFP SCHEDULE

Release of RFP	February 21st, 2022
Deadline for Receipt of Proposals:	March 21, 2022@ 2:00 p.m. (PT)
Semi-Finalists Notified and Invited to Interview	Week of April 4th (estimated)
Finalists Notified and Invited to Final Round Interviews	Week of April 11th, 2022 (estimated)
Best and Final Offer Due	April 22nd, 2022
Committee Makes Recommendation to Audit Committee Boards	Week of May 2nd, 2022 (estimated)
Contract Awarded, Bidder Notified	May 9th, 2022 (estimated)
Entrance Meeting/Meet & Greet	May 16th, 2022

The RFP Schedule (above) may be modified at the option of the Auxiliaries; however, should the deadline for receipt of proposals change, an Addendum to the RFP will be posted in advance.

4. SCOPE OF WORK

1. EXAMINATION OF FINANCIAL STATEMENTS

- a) The audit shall consist of examining the auxiliary organization's financial statements to determine whether the financial statements present the financial position and the results of the organization's financial operations in accordance with generally accepted accounting principles. The audit shall be conducted in accordance with generally accepted auditing standards as adopted by the American Institute of Certified Public Accountants (AICPA). The examination shall conform with the auditing standards applicable to financial audits contained in Government Auditing Standards (GAS), issued by the Controller General of the United States; and Audit Guide for Auxiliary Organizations issued by the California State University (CSU) system (Chapter 8 of the GAAP Manual).
- b) The examination shall also be made in compliance with the laws of the State of California, in particular California Code of Regulations, Section 42400 et. Seq. and applicable directives and executive orders published by the CSU system.

5. CRITICAL EXPECTATIONS

- Timelines will be met – weekly/frequent/follow-up meetings during the audit to discuss the overall status and potential delays and their impact
- Communication – must be early and often, including the CSUDH Audit Team
- Deadlines – clearly outlined and adhered to, which may be different than other CSU campuses
- Staffing issues – Auditor must be prepared and organized to eliminate the duplication of efforts when testing and requesting documentation
- Prior to fieldwork – discussions on expected documentation for testing
- Child Development Center Audit – require an expert on the subject
- Documentation requests – centralized
- Reports/financial drafts need to be on time to the respective Auxiliary Boards and must be sent in advance of board meetings
- Ensure the timely and adequate review of reports; CSUDH and Chancellor Offices deadlines must be met or delivered prior to
- No cancellation of meetings once scheduled unless for extenuating circumstances

6. MINIMUM TECHNICAL REQUIREMENTS AND QUALIFICATIONS

1. Perform an annual audit of the following auxiliaries of CSU Dominguez Hills:
 - California State University, Dominguez Hills Foundation
 - Donald P. and Katherine B. Loker University Student Union
 - Associated Students, Inc., California State University, Dominguez Hills
 - Philanthropic Foundation
2. Conduct an audit of the financial statements of California State University Dominguez Hills Foundation 403(b) DC Plan, which comprises the statement of net assets available for the benefit year in connection with the plan's annual reporting obligation under the Employee Retirement Income Security Act of 1974 (ERISA).
 - Preparation of a trial balance
 - Preparation of financial statements and written report
 - Preparation of adjusting journal entries
3. Prepare all necessary audited financial statements for all the above auxiliaries.
4. Meet the minimum Auxiliary Organization External Auditor Firms Qualifications
5. Before engagement, complete the questionnaire necessary to demonstrate the audit firm's compliance with the requirements. The questionnaire is attached as Exhibit A

6. Prepare management letter to include findings, observations, opinions, comments, or recommendations with regard to internal controls, accounting systems, compliance with laws, and any other material matter.
7. Conform and comply with California State University financial statement reporting and presentation policies and procedures.
8. If applicable, report on internal control and compliance following OMB circulars A-21 and A-110.
9. Prepare tax returns 990, 990-T, 199, 109, and RRF-1, where necessary.
10. Ensure that audits comply with OMB Circular A-133, if applicable.
11. Conduct inventory counts, if necessary, on or around June 30th each year if the audit firm would like to perform a physical observation.
12. Commit to the Foundation, Philanthropic Foundation, Loker Student Union, and Associated Students Inc. for the entire term of the contract.
13. Immediately notify the auxiliary of any changes in key personnel or other developments which might affect the engagement in any material way.
14. An ability to meet deadlines for completing each auxiliary's final audit drafts and final audit report for the auxiliaries to meet both campus and Chancellor's Office reporting deadlines.
15. Evidence of the successful completion of an external peer review conducted every three years and which receives an unqualified opinion.
16. Staff Expertise in Child Development Center Audits

7. PROPOSAL FORMAT

The RFP shall be organized with numbered tabs corresponding to the following contents. Any proposal not organized as stated below may be deemed non-responsive, therefore, disqualified from further consideration.

Tab 1: Cover Letter:

Requirements:

- Reference the RFP and confirm that all elements of the RFP, including the Scope of Work and Solicitation Provisions, have been read and understood.

- A description of your firm, including its history, client profile, size, structure, staffing, audit and tax philosophy, mission, and specifically what makes you unique and different from others who might be included in this process.
- Read auxiliary expectations and speak to how you will address
- An individual authorized to extend the Proposal and contractually bind the Proposer shall sign the cover letter. Provide name and title.

Tab 2: Describe how your firm will approach the audit of the auxiliary operations, including the use of any association or affiliate member firm personnel. Your statement should include your understanding of the work, descriptions of the audit approach, and illustrations of procedures to be employed. Also, please provide the earliest date the audit can begin (including preliminary fieldwork) and the date it will end. Confirm that your firm can attend the estimated Audit Entrance meeting date noted in clause 3. "Estimated RFP Schedule."

Tab 3: Identify the partner, manager, and in-charge accountant who will be assigned to our job if you are successful in your bid, and provide biographies including experience in (FASB) organizations auditing endowment and trust administration and computer-based financial systems. The individuals identified in this section are required to attend finalist presentations (if applicable).

Tab 4: Include a copy of your firm's most recent peer review report, the related letter of comments, and the firm's response to the letter of comments.

Tab 5: Provide three references - at least one of which must be a CSU auxiliary organization, preferably (FASB). Our interest in references are with the account managers or equivalent (the person your firm replied to). Please provide their reference contact name, title, company/campus name, phone number, and date audit services were provided.

Tab 6: Exhibit A: Submission Required - Audit Firm Questionnaire

Tab 7: Exhibits B: Submission Required - Rate Form. Include estimated hours to complete the engagement by staff level for each auxiliary. Please include a comprehensive itemization of fees, including the preparation of annual tax returns, for each of the auxiliary organizations, for the three years to be covered by the contract. It should also outline the fee or the amount of discount allowed if all four auxiliary organizations agree on contracting with the same audit firm.

Exhibits C- Informational Purpose Only. Please read "CSU General Provisions for Acquisitions of Goods."

Tab 8: A statement listing any exclusions, namely, any minimum requirements or other aspects of the RFP that the firm cannot meet.

Please e-mail a copy of the completed Proposal no later than 2:00 p.m. on March 21st, 2022, to:

Jinna Matzen
Business Operations Manager California State University, Dominguez Hills Foundation
1000 East Victoria Street, Cain Library 3rd Floor
Carson, CA 90747
E-Mail: jmatzen@csudh.edu

8. PERIOD AND TIMING OF AUDIT SERVICES

The initial audits will cover the fiscal year July 1st, 2022, to June 30th, 2023. The initial engagement term will be for three years, subject to ongoing satisfactory performance and concluding with the 2024-2025 fiscal year audit.

The Agreement shall be subject to renewal past the initial three-year term, subject to ongoing satisfactory performance and negotiation of fees.

The Chancellor's Office requires CSU auxiliaries to submit final external audit reports to the CSU, usually no later than September 21st for the independent annual audit and November 28th for the A-133 Single Audit. As a result, and to allow for a sufficient period of review and approval by the respective Boards of Directors and Audit Committees, the audit firm is expected to schedule fieldwork and complete the audit in order to be able to meet the following deadlines for each auxiliary client:

<u>Report</u>	<u>Annual Due Date</u>
• Draft Independent Audit Report	August 29
• Final Independent Audit Report	September 5
• Draft A-133 Single Audit (Foundation only)	August 29
• Final A-133 Single Audit (Foundation only)	September 5
• Final Child Development Contractor Audit (ASI only)	November 1
• ERISA audit report (Foundation only)	March 1

9. REPORTS REQUIRED

The following reports are expected at the completion of the audit in accordance with CSU guidelines

- a) Financial Statements (FASB) - An independent auditor's report on the examination for each of the auxiliary organization's financial statements, including all funds and accounts. The auxiliary organization staff will prepare all financial statements (including notes) and supplemental schedules required for the audit and assist the auditors as necessary. Auditors will assist in the preparation of select footnotes. The auditors will provide each auxiliary's governing board a summary of the audit results, referring to section(s) of the report containing detailed descriptions of specific findings.
- b) Supplemental Information - The GASB financial statement information must also be provided to California State University, Dominguez Hills, to include the auxiliary financial information in the University Financial Statements; these reports are prepared by the auxiliary organization staff and included in the supplemental information to the financial statements. The external audit firm will be required to review the financial statements and ensure that they are consistent with the CSU guidelines.
- c) Management Letter - A letter prepared by the auditor which may include findings, observations, opinions, comments, or recommendations with regard to systems of internal control, accounting systems compliance with laws, rules, and regulations, or any other material matter that may come to the attention of the auditor during the examination. Such findings, observations, opinions, comments, or recommendations shall not be construed as special or additional studies but shall be limited to those usually associated with such an examination. The supplemental information should be included in the findings, observations, opinions, comments, or recommendations.
- d) ERISA Report – Prepare and complete an audit report by March 1st of every year for the California State University Dominguez Hills Foundation.

10. SCHEDULE OF REPORTS

- a) Reports - The auditor shall provide regular verbal reports to University Auxiliary Management in conjunction with the audit work performed as required by University (e.g., daily during audit fieldwork, etc.)
- b) Deliverables - The auditor is required to submit one (1) original auxiliary organization Audited Financial Statements, Supplemental Schedules, Executive Summary, and Management Letter by the due date set forth annually by the CSU system or within 65 days of the fiscal year-end (June 30th) whichever occurs first.

- c) Although tax returns may be extended (with written permission from University Auxiliaries) as allowed by cognizant agencies, reviews of returns by respective boards shall be completed timely as required by guidelines expressed in accordance with new Form 990, Form 990T State Form 99 and RRF-1.

11. MEETING REQUIREMENTS AND DUE DATES

- a) A pre-audit conference will be held to review and set the schedule and particular scope of the audit. Given the complexity of the year-end closings and limited time available for post-year-end fieldwork, the auditor is encouraged to complete as much work possible prior to June 30th. During the audit, the auditor may be required to meet with various officials to discuss the auditor or related matters. The auditors will present the reports to the audit committee of each auxiliary organization before the due date set forth annually by the CSU system or within 65 days of the fiscal year-end (June 30th), whichever occurs first.

12. TERM

The selected Bidder will begin work no later than May 20th, 2022, for audit services for the fiscal year 2022-2023 (July-June).

The initial audit term will cover fiscal years 2022-2023 through 2024-2025. The engagement term will be for three (3) years, with the option to renew for two (2) additional years at the sole discretion of the auxiliary governing board. Based upon an annual evaluation of performance, the governing board will determine the continued engagement of the accounting firm using the following criteria:

- a) Did the firm meet all audit requirements, including the instructions, procedures, and format called for by the CSU for auxiliary organizations?
- b) Did the firm maintain an audit schedule that met specification requirements?
- c) Were reports and recommendations timely, clear, complete, and fair?
- d) Was the firm responsive to special procedures?

13. ADDITIONAL SERVICES

- a) In the event disclosures in the audit indicate extraordinary circumstances which warrant more intensive and detailed services, the auditor shall provide all pertinent facts relative to the extraordinary circumstances together with the fee basis for such additional services to the auxiliary organization's audit committee and management for consideration, if different from the hourly rates proposed for this engagement. If not, please state so.
- b) During the course of normal operations, the auxiliary organizations may occasionally look for assistance and opinion on general accounting matters, not necessarily audit-

related. The firm shall provide a fee schedule for assisting with these inquiries if different from the hourly rates proposed for this engagement. If not, please state so.

14. PERSONNEL PRE-APPROVAL REQUIRED BY UNIVERSITY AUXILIARIES

- a) All personnel assigned to this project as a result of this RFP must be pre-approved by the University Auxiliaries. If at any time the University Auxiliaries are dissatisfied with the performance of any of the awarded vendor's pre-approved personnel on this project, the awarded vendor will provide a qualified substitute that must be approved by the University Auxiliaries and is subject to the same standards of the satisfaction to the University Auxiliaries throughout the term of the Agreement.

15. INSTRUCTIONS TO BIDDER

Proposals are due no later than 2:00 p.m. (PT) on March 21st, 2022. Please ONLY submit proposals via e-mail electronically to jmatzen@csudh.edu.

It shall be the Bidder's sole responsibility to ensure all documents are received in a timely manner. Proposals received after 2:00 p.m. (PT) on March 21st, 2022, will not be considered. No Exceptions.

Prior to the submission of proposals, it is requested that Qualified Firms coordinate, in advance, all contacts with University Auxiliary personnel through Foundation's Procurement and Contract Services/Business Operations department.

Failure to comply with this request may result in an interpretation of an intent to evade RFP requirements and result in firm disqualification.

Any questions regarding this RFP may be e-mailed to Jinna Matzen, jmatzen@csudh.edu. The subject line of the e-mail should read, RFP – Audit Question. Responses to questions will be shared with all potential bidders.

Addenda - University Auxiliaries may modify this RFP, any of its vital action dates, or any of its attachments prior to the due date for submission by the issuance of a written addendum.

Once a decision is made to award, a Notice of Intent to Award will be sent to the selected Bidder.

Proposals should be submitted in the format described in the RFP. Conditional proposals will not be considered. All proposals must be signed by an individual authorized to extend a formal proposal. Submissions that are not signed may be rejected.

If submitting any information you consider to be proprietary, you must clearly mark "Proprietary Information" on each page. If you wish to use a secure method to transmit information (Dropbox), please reach out to Jinna Matzen at Jmatzen@csudh.edu.

The University Auxiliaries reserve the right to reject any or all proposals or any part thereof, or to accept any proposals, or any part thereof, or to withhold the award and to waive or decline to waive irregularities in any proposal when it determines that it is in its best interest to do so. The University Auxiliaries also reserves the right to hold all proposals for a period of 120 days after the closing date and the right to accept a proposal not withdrawn before the scheduled Proposal due date.

The successful Bidder is expected to enter into an agreement with University Auxiliaries for external auditing services in accordance with the terms and conditions of this RFP.

Any person, firm, corporation, or association submitting a proposal shall be deemed to have read and understood all the terms, conditions, and requirements of the statement of work and deemed to have the authority to enter into an agreement with the University Auxiliaries to the full extent of the Agreement.

The bid price is to include all collateral materials and associated services necessary to support the project as described in this RFP.

16. EVALUATION CRITERIA

Firms with demonstrated experience and competency in governmental or CSU Auxiliary Organization auditing are invited to respond. A committee will review, evaluate, and score all responsive proposals based on these categories (not listed in order of importance):

- Quality of Proposal Submission (professionalism and attention to detail)
- Proposed Methodology/Solution
- Timeline for Performance of Services
- Experience of Staff
- Peer Review
- Quality of Customer Service (including references)
- Cost

17. FINALISTS

Award shall be made to the responsive, responsible Bidder whose Proposal and presentation is determined to be the most advantageous to the University Auxiliaries based on a combination of the evaluation committee's scoring of the Evaluation Criteria listed above and Finalist presentation scores. As indicated above, price will not be the sole determining factor.

It is anticipated that Finalists will be invited to campus during the week of April 11th, 2022, to

conduct a mock presentation to the RFP committee and appropriate University Executive members as well as answer any University and Auxiliaries' questions. University Auxiliaries will provide instructions to Finalists.

18. SOLICITATION PROVISIONS AND PROPOSERS' CERTIFICATION

Definitions

- a) The Trustees of the California State University are referred to as "CSU," "University," or "Trustees."
- b) The terms "bid" and "proposal" are synonymous and mean an offer made in response to a solicitation to perform a contract for work and labor or to supply goods at a specified price, whether or not it is considered a "seal bid" or results in award of a contract to a single or sole source.
- c) "Bidder," "Proposer," and/or "Contractor" may be used interchangeably, and each shall apply to the business entity which submits a bid/proposal or is awarded a contract.

Reservation of Rights

University Auxiliaries may reject any proposals and waive any immaterial deviation in a Proposal. The University Auxiliaries' waiver of an immaterial defect shall in no way modify the RFP documents or excuse the Bidder from full compliance with the specifications if the Bidder is awarded the contract. Proposals that include terms and conditions other than the University's terms and conditions may be rejected as being non-responsive. In the event that all proposals are rejected, or the University Auxiliaries determine alternative solutions are in its best interest, the University Auxiliaries may cancel this solicitation and pursue alternative sourcing options.

The University Auxiliaries may make such investigations as deemed necessary to determine the ability of the Bidder to perform the work, and the Bidder shall furnish all such information and data for this purpose. The University Auxiliaries reserves the right to reject any submittal made pursuant to this RFP or any subsequent Proposal or bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the University that such Bidder is appropriately qualified to carry out the obligations of the contract and to complete the work specified. Additionally, the University reserves the right to request additional performance guarantees if, in the sole opinion of the University, financial stability or capability cannot be established.

Non-Endorsement

If selected as a Qualified Bidder, the Bidder shall not issue any news releases or other

statements pertaining to selection which state or imply University or Auxiliaries endorsement of Bidder's services.

Dispute/Protests

University Auxiliaries encourage potential Bidders to resolve issues regarding the requirements or the procurement process through written correspondence and discussions. The University Auxiliaries wish to foster cooperative relationships and to reach a fair agreement in a timely manner.

Bidder's filing a notification to protest must do so within three (3) business days after a Notice of Intent to Award has been publicly posted. The protesting Bidder shall submit a full and complete written statement detailing the facts in support of the protest within 5 (five) calendar days after expressing notification to protest. Protest must be sent by certified or registered mail to CSU Dominguez Hills Foundation, Attention: Jinna Matzen, 1000 East Victoria Street, Cain Library 3rd floor, Carson CA 90747. Within a reasonable time after receipt of the written statement of protest, the University Auxiliaries, in consultation with the University CFO, will decide on the matter. The decision will be in writing and sent by certified or registered mail or delivered in person to the protesting Bidder. The decision of the University is final.

Award of Contract

The University Auxiliaries reserves the right to reject any and all proposals and to award one or more contracts. Award, if any, will be to the Bidder, whose Proposal best complies with all of the requirements of the RFP documents and any addenda. A "Notice of Intent to Award" will be posted publicly for five (5) consecutive working days prior to the award. Written notification will be made to unsuccessful vendors.

The selected Bidder and the University Auxiliaries shall commit to negotiation for the final scope of services to be accepted and execution of an agreement, in substantial accordance with the terms and conditions herein, within 30 days of the Notice of Intent to Award. Should the parties be unable to reach a final Agreement within this time frame, the parties may mutually agree upon a time extension to complete negotiations and contract execution. If the parties are unable to agree upon a time extension, or if the University Auxiliaries determine that a time extension would not be beneficial to the project, the University Auxiliaries reserves the right to terminate negotiations and proceed with a secondary finalist.

Execution of the Agreement

The Agreement shall be signed by the Contractor and returned, along with the required attachments, to University Auxiliaries within seven (7) calendar days from receipt of the contract. The period for execution may be changed by mutual agreement of the parties.

Contracts are not effective until approved by the appropriate University officials. Any work performed prior to receipt of a fully executed contract shall be at Contractor's own risk.

Failure to Execute the Agreement

Failure to execute the Agreement within the time frame identified above shall be sufficient cause for voiding the award. Failure to comply with other requirements within the set time shall constitute a failure to execute the Agreement. If the successful Bidder refuses or fails to execute the Agreement, University Auxiliaries may award the Agreement to another qualified Bidder.

Conflict of Interest

Potential Contractors are advised that Contractor's officers and employees shall comply with the disclosure, disqualification, and other provisions of California's Political Reform Act of 1974 (Government Code Section 81000 et seq.) if their responsibilities include the making or participation in the making of a University decision.

Public Contracts Code Restrictions for University and Auxiliary Employees

University and Auxiliary employees and immediate past employees must comply with restrictions regarding contracting with the University. Bidder needs to be aware of the following provisions regarding current or former University or Auxiliary employees. In submitting a bid, Bidder certifies that the Bidder is eligible to contract with the University Auxiliaries pursuant to the Public Contracts Code (PCC) sections listed below:

- a) Current University Employees (PCC Section 10831):
 - i. No officer or employee shall engage in any employment, activity, or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any University department through or by a University contract unless the employment, activity, or enterprise is within the course and scope of the officer's or employee's regular University employment.
 - ii. No officer or employee shall contract on his, her, or their own behalf as an independent Bidder with any University department to provide goods or services.

This prohibition does not apply to officers or employees of the University with teaching or research responsibilities.

- b) Former University Employees (PCC Section 10832):
 - i. For the two-year period from the date he, she, or they left University

employment, no former University officer or employee may enter into a contract in which he, she, or they engaged in any of the negotiations, transactions, planning, arrangements, or any parties of the decision-making process relevant to the contract while employed in any capacity by any University department.

- ii. For the twelve-month period from the date he, she, or they left state employment, no former University officer or employee may enter into a contract with any University department if he, she, or they were employed by that University department in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his, her, or their leaving University service.

Proposals Become the Property of University and Auxiliaries

Proposals become the property of the University and Auxiliaries, and information contained therein shall become public documents subject to disclosure laws after Notice of Intent to Award. The University reserves the right to use any information or ideas contained in the Proposal. Responses to this RFP and any other information that is currently or may become available as an outcome of the RFP process may be used by the University to structure an RFP or other solicitation. If the Proposer fails to notify the University of a known error that reasonably should have been known prior to the final filing date for submission, the Proposer shall assume the risk. If awarded the contract, the Proposer(s) shall not be entitled to additional compensation or time by reason of error or late correction.

EXHIBIT A

QUALIFICATIONS REVIEW QUESTIONNAIRE

Section I: General Information

1. Please fill out the information below for your firm.

Name of Proposed Audit Firm	
Address	
Phone	
Website (if any)	
Firm License Number and Expiration Date	
Number of Full-Time Employees	
Contact Name and Title	
Email Address	

2. Explain your firm's experience and expertise.

3. Indicate below the number of audit engagements completed by your firm by type and industry in the previous year.

Engagement Type	Public Education	Other Government	Other Not-For-Profit	Total
A-133 Audit Engagements				
GASB Audit Engagements				
FASB Audit Engagements				
Other Audit Engagements				
Total	0	0	0	0

Section II: Minimum Experience and Proficiency

A. Experience and Proficiency in Auditing GASB, FASB 501(c)3 Not-for-Profit Organizations and Public Education Institutions.

4. Provide a list of not-for-profit / public education clients that are currently audited by your firm. The list should include best examples of both FASB and GASB clients. If your firm does not currently have GASB clients, then explain the circumstances and provide evidence your firm has sufficient knowledge of GASB requirements and experience to perform a GASB audit as well as a FASB audit.

	Client Name	Client Website	Phone Number	Industry	Type of Organization (Foundation, Union, etc.)	Reporting Standards (enter GASB or FASB)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						

5. List 5 clients from Section IIA-4 above that the auxiliary organization can contact to check references for your firm.

	Client Name	Contact Information
1		
2		
3		
4		
5		

B. Experience and Proficiency in Performing OMB Circular A-133 Single Audits (Not Applicable if the Auxiliary Organization Receives Total Annual Federal Grants less than \$500,000)

6. List 5 clients audited according to OMB Circular A-133 Single Audit Act in the last 3 years and indicate the type of grants audited (financial aid, Research & Development, ARRA, etc.)

	Client Name	Client Website	Phone Number	Industry	Type of Grants	Office Location that Performs the Audit
1						
2						
3						
4						
5						

C. Governmental Auditing Standards (GAS) Compliance

- 7. Engagement Team Members' Competence and Continuing Education:** All financial statement audits of CSU recognized auxiliary organizations are required to be performed in accordance with GAS. According to GAS 3.46, auditors responsible for planning, directing, conducting, or reporting on government audits should complete at least 80 hours of Continuing Professional Education (CPE) every 2 years and a minimum of 20 hours each year. Twenty-four of the 80 hours of CPE must be related to government auditing.
- a. For each of the proposed engagement team members, list below whether they are CPAs and also whether each has completed the GAS required continuing education requirements (24 hours of government, 80 hours of qualifying CPE). (CPE requirements are to be met prior to signing an engagement letter).

Name of Engagement Team Member	Job Title	Office Location of Audit Firm	Phone Number	CPA (Yes/No)	GAS CPE (Yes/No)

- b. For each member of the prospective engagement team listed in the table above, indicate how many years of audit experience he/she has in the following industries and engagements.

Category	Industry Type			Audit Engagement Type		
	Public Education	Other Government	Other Not-For-Profit	A-133	GASB	FASB
Partners:						
Managers:						
Seniors:						
Staff:						

8. **External Peer Review:** CSU requires that all audit firms of auxiliary organizations have an onsite peer review conducted every three years and received an unmodified opinion. Please provide a copy of the most recent peer review report for the proposed audit firm and answer the questions below:

- a. What was the date of the last peer review report?
b. What was the peer review period year-end date?
c. What was the opinion in the peer review report?

D. Record of Providing High Quality Financial Statements Audits for Not-For-Profit Organizations

9. The proposed audit firm is required to submit audited not-for-profit (non-CSU) financial statements recently audited by their firm. The Chancellor's Office will perform a technical review of those statements to evaluate the application of accounting principles.

Additional Questions – California State University Dominguez Hills Auxiliaries



1. Indicate below the number of audit engagements completed by your firm by type and industry in the previous year.

Engagement Type	Public Education	Other Government	Other Not-For-Profit	Total
ERISA Audit				
Child Care Center Audit				

2. Experience and Proficiency in providing auditing services for ERISA and Child Care Center Audits

a) Provide a list of clients that you provided auditing services to for ERISA and Child Care Center Audits.

	Client Name	Client Website	Phone Number	Industry	Type of Organization (Foundation, Union, etc.)
1					
2					
3					

b. List the staff members assigned to our organizations who are considered experts in the field of ERISA and Child Care Center Audits. Indicate how many years of audit experience he/she/they have with these specific audits

Name	Level	Audit Engagement Type		
	Partner, Manager, Senior, Staff	ERISA	Child Care Centers	Years of Experience

EXHIBIT B

RATE FORM - HOURLY RATE INFORMATION

1. Specify in the appropriate sections below your firms' guaranteed not-to-exceed fees. Include the estimated hours and hourly rates for each firm member (by the level of staff: partner, manager in charge, staff accountant, etc.) who will be providing services to complete the engagement and the estimated fees on future engagements. Fill in categories as needed.
2. The audit firm will be required to attend Audit Committee and Governing Board meetings as needed. For this proposal, assume two (2) meetings each, with a duration of two (2) hours.
3. Prices must be held firm for three (3) years.

AUDIT REPORTS, FINANCIAL STATEMENTS, SUPPLEMENTAL INFORMATION, MANAGEMENT LETTER, and REQUIRED MEETINGS			
LABOR CATEGORY	HOURLY RATE	ESTIMATED HOURS (per engagement)	TOTAL
Partner			
Manager in Charge			
Senior			
Staff			
TOTAL COST GUARANTEED NOT TO EXCEED (per engagement)			\$

Maximum Escalation Rates, if applicable, shall be based on original contract hourly rates.

Escalation Rates for Year 4: %

Escalation Rates for Year 5: %

EXHIBIT C

CSU GENERAL PROVISIONS FOR ACQUISITION OF GOODS

Revised 05/14/2020

CSU GENERAL PROVISIONS FOR ACQUISITION OF GOODS
Revised 05/14/2020

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1. Commencement of Work

Contractor shall not commence work under the Contract until Contractor has received a fully executed Contract and been given written approval to proceed. Any work performed by Contractor prior to the date of approval shall be considered as having been performed at Contractor's own risk and as a volunteer

2. Contract Alterations & Integration

No alteration or variation of the Contract shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated in writing in the Contract shall be binding on any of the parties hereto.

3. Severability

Contractor and CSU agree that if any provision of this Contract is found to be illegal or unenforceable, such term or provision shall be deemed stricken and the remainder of the Contract shall remain in full force and effect. Either party having knowledge of such term or provision shall promptly inform the other of its presumed non-applicability of such provision. Should the illegal or unenforceable provision be a material or essential term of the Contract, the Contract shall be terminated in a manner commensurate with the interests of both parties, to the maximum extent reasonable.

4. Independent Status

Contractor and its employees and agents, and subcontractors, in the performance of this Contract, shall act in an independent capacity and not as officers, employees or agents of CSU or the State of California. While Contractor may be required by this Contract to carry Worker's Compensation Insurance, in no event shall Contractor and its employees and agents be entitled to unemployment or workers' compensation benefits from the CSU.

5. Governing Law

To the extent not inconsistent with applicable federal law, this Contract shall be construed in accordance with and governed by the laws of the State of California.

6. Contractor's Power and Authority

Contractor warrants it has full power and authority to enter into this Contract and will hold CSU harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, Contractor shall not enter into any arrangement, agreement or contract with any third party that might abridge any rights of the CSU under this Contract.

7. Assignments

Contractor shall not assign this Contract, either in whole or in part, without CSU's written consent, which will not be unreasonably withheld.

8. Personnel

Contractor shall give its personal attention to the performance of the Contract and shall make every effort consistent with sound business practices to honor CSU's requests regarding Contractor's assignment of its employees. However, Contractor maintains the sole right to determine the assignment of its employees in order to keep all phases of work under its control. If an employee of Contractor is unable to perform due to illness, resignation or other factors beyond Contractor's control, Contractor shall use its best effort to provide suitable substitute personnel.

9. Waiver of Rights

Any action or inaction by CSU or the failure of CSU on any occasion to enforce any right or provision of this Contract shall not be a waiver by CSU of its rights hereunder and shall not prevent CSU from enforcing such provision or right on any future occasion. CSU's rights and remedies provided in this Contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

10. Time

Time is of the essence in the performance of this Contract.

11. Entire Contract

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of each party.

12. Appropriation of Funds

- (a) If the term of this Contract extends into fiscal years subsequent to that in which it is approved such continuation of the Contract is subject to the appropriation of funds for such purpose by the Legislature. If funds to effect such continued payment are not appropriated, Contractor agrees to take back any commodities furnished under the Contract and not yet paid for by CSU, terminate any future services and commodities to be supplied to the CSU under the Contract, and relieve the CSU of any further obligation therefore.
- (b) CSU agrees that if provision (a) above is involved, commodities shall be returned to Contractor in substantially the same condition in which they were delivered, subject to normal wear and tear. CSU further agrees to pay for packing, crating, transportation to Contractor's nearest facility and for reimbursement to Contractor for expenses incurred for its assistance in such packing and crating.

13. Cancellation

CSU has the right to cancel this Contract at any time and without future financial obligation upon thirty (30) days written notice to Contractor.

14. Termination for Default

CSU may terminate the Contract and be relieved of the payment of any consideration to Contractor should Contractor fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, the CSU may proceed with the work in any manner deemed proper by the CSU. The cost to the CSU shall be deducted from any sum due the Contractor under the Contract, and the balance, if any, shall be paid the Contractor upon demand.

15. Rights and Remedies of CSU for Default

- (a) In the event any Deliverables furnished or services provided by Contractor in the performance of this Contract should fail to conform to the requirements herein, or to the sample submitted by Contractor, CSU may reject the same, and it shall thereupon become Contractor's duty to forthwith reclaim and remove all nonconforming deliverables and correct the performance of services, without expense to the CSU, and to immediately replace all such rejected items with others conforming to the specifications or samples. Should Contractor fail, neglect, or refuse to do so, CSU shall thereupon have the right, but not the obligation, to purchase in the open market, in lieu thereof, a corresponding quantity of any such items and to deduct the cost of such cover from any moneys due or that may thereafter become due to Contractor.
- (b) In the event Contractor fails to make prompt delivery of any item as specified in the Contract, the same conditions as to CSU's right, but not obligation, to purchase in the open market and receive reimbursement from Contractor, as set forth in (a), above shall apply.
- (c) In the event the CSU terminates this Contract, either in whole or in part, for Contractor's default or breach, Contractor shall compensate CSU, in addition to any other remedy CSU may have available to it, for any loss or damage sustained and cost incurred by the CSU in procuring any items that Contractor agreed to supply.
- (d) CSU's rights and remedies provided above shall not be exclusive and shall be in addition to any other rights and remedies provided by law, equity or this Contract.

16. Warranty

- (a) Contractor warrants that (i) Deliverables and services furnished hereunder will conform to the requirements of this Contract (including, without limitation, all descriptions, specifications, and drawings identified in the Statement of Work), and (ii) the Deliverables will be free from defects in materials and workmanship. Where the parties have agreed to design specifications in the Statement of Work directly or by reference, Contractor warrants the Deliverables shall provide all functionality required thereby. In addition to the other warranties set forth herein, where the Contract calls for delivery of Commercial Software, Contractor warrants such Software shall perform in accordance with its license and accompanying Documentation. CSU's approval of designs or specifications furnished by Contractor shall not relieve Contractor of its obligations under this warranty.
- (b) Contractor warrants that at the time of delivery, deliverables (i) shall be free of harmful code (i.e. computer viruses, worms, trap doors, time bombs, disabling code, or any similar malicious mechanism designed to interfere with the intended operation of, or cause damage to, computers, data, or software); and (ii) shall not infringe or violate any U.S. Intellectual Property Right. Without limiting the generality of the foregoing, if CSU believes harmful code may be present in any Commercial Software delivered, Contractor shall, upon CSU's request, provide a master copy of the Software for comparison and correction. (c) Unless otherwise specified in the Statement of Work: (i). Where Contractor resells Hardware or Software it purchased from a third party, and such third party offers additional or more advantageous warranties than those set forth herein, Contractor shall pass through any such warranties to CSU and shall cooperate in enforcing them. Such warranty pass-through shall be supplemental to, and not relieve Contractor from, Contractor's warranty obligations set forth above.
- (d) All warranties, including special warranties specified elsewhere herein, shall inure to CSU, its successors, assigns, customer agencies, and other governmental users of the Deliverables or services.

17. Insurance Requirements

The Contractor shall not commence Work until it has obtained all the insurance required in this Contract, and such insurance has been approved by the CSU.

(a) Policies and Coverage.

(1) The Contractor shall obtain and maintain the following policies and coverage:

- (i) Comprehensive or Commercial Form General Liability Insurance, on an occurrence basis, covering Work done or to be done by or on behalf of the Contractor and providing insurance for bodily injury, personal injury, property damage, and contractual liability. The aggregate limit shall apply separately to the Work.
- (ii) Business Automobile Liability Insurance on an occurrence basis, covering owned, hired, and non-owned automobiles used by or on behalf of the Contractor and providing insurance for bodily injury, property damage, and contractual liability. Such insurance shall include coverage for uninsured and underinsured motorists.
- (iii) Worker's Compensation including Employers Liability Insurance as required by law.

(2) The Contractor also may be required to obtain and maintain the following policies and coverage:

- (i) Environmental Impairment Liability Insurance should the Work involve hazardous materials, such as asbestos, lead, fuel storage tanks, and PCBs.
- (ii) Other Insurance by agreement between the Trustees and the Contractor.

(b) Verification of Coverage. The Contractor shall submit original certificates of insurance and endorsements to the policies of insurance required by the Contract to the Trustees as evidence of the insurance coverage. Renewal certifications and endorsements shall be timely filed by the Contractor for all coverage until the Work is accepted as complete. Trustees reserve the right to require the Contractor to furnish the Trustees complete, certified copies of all required insurance policies.

(c) Insurance Provisions. Nothing in these insurance provisions shall be deemed to alter the indemnification provisions in this Contract. The insurance policies shall contain, or be endorsed to contain, the following provisions.

- (1) For the general and automobile liability policies, the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents are to be covered as additional insureds.
- (2) For any claims related to the Work, the Contractor's insurance coverage shall be primary insurance as respects the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents. Any insurance or self-insurance maintained by the State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall be in excess of the Contractor's insurance and shall not contribute with it.
- (3) Each insurance policy required by this Article shall state that coverage shall not be canceled by either the Contractor or the insurance carrier, except after thirty (30) Days prior written notice by certified mail, return receipt requested, has been given to the Trustees.
- (4) The State of California, the Trustees of the California State University, the University, their officers, employees, representatives, volunteers, and agents shall not by reason of their inclusion as additional insureds incur liability to the insurance carriers for payment of premiums for such insurance.

(d) Amount of Insurance.

(1) For all projects, the insurance furnished by Contractor under this Article shall provide coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions:

- (i) Comprehensive or Commercial Form General Liability Insurance--Limits of Liability
 - \$2,000,000 General Aggregate
 - \$1,000,000 Each Occurrence--combined single limit for bodily injury and property damage.
- (ii) Business Automobile Liability Insurance-Limits of Liability
 - \$1,000,000 Each Accident-- combined single limit for bodily injury and property damage to include uninsured and underinsured motorist coverage.
- (iii) Workers' Compensation limits as required by law with Employers Liability limits of \$1,000,000.

(2) For projects involving hazardous materials, the Contractor shall provide additional coverage in amounts not less than the following, unless a different amount is stated in the Supplementary General Conditions:

- (i) Environmental Impairment (pollution) Liability Insurance-Limits of Liability
 - \$10,000,000 General Aggregate
 - \$ 5,000,000 Each Occurrence-- combined single limit for bodily injury and property damage, including cleanup costs.
- (ii) In addition to the coverage for Business Automobile Liability Insurance, the Contractor shall obtain for hazardous material transporter services:
- (iii) MCS-90 endorsement

- (iv) Sudden & Accidental Pollution endorsement--Limits of Liability*
 - \$2,000,000 Each Occurrence
 - \$2,000,000 General Aggregate

*A higher limit on the MCS-90 endorsement required by law must be matched by the Sudden & Accidental Pollution Insurance. With the Trustees' approval, the Contractor may delegate the responsibility to provide this additional coverage to its hazardous materials subcontractor. When the Contractor returns its signed project construction phase agreement to the Trustees, the Contractor shall also provide the Trustees with a letter stating that it is requiring its hazardous materials subcontractor to provide this additional coverage, if applicable. The Contractor shall affirm in this letter that the hazardous materials subcontractor's certificate of insurance shall also adhere to all insurance requirements. Further, this letter will provide that the subcontractor's certificate of insurance will be provided to the Trustees as soon as the Contractor fully executes its subcontract with the hazardous materials subcontractor, or within 30 Days of the Notice to Proceed, whichever is less.

(e) Acceptability of Insurers.

Insurers shall be licensed by the State of California to transact insurance and shall hold a current A.M. Best's rating of A:VII, or shall be a carrier otherwise acceptable to the University.

(f) Subcontractor's Insurance.

Contractor shall ensure that its subcontractors are covered by insurance of the types required by this Contract, and that the amount of insurance for each subcontractor is appropriate for that subcontractor's Work. Contractor shall not allow any subcontractor to commence Work on its subcontract until the insurance has been obtained. Only the Contractor and its hazardous materials subcontractor(s) shall have the coverage for projects involving hazardous materials.

(g) Miscellaneous.

- (1) Any deductible under any policy of insurance required in this Article shall be Contractor's liability.
- (2) Acceptance of certificates of insurance by the Trustees shall not limit the Contractor's liability under the Contract.
- (3) In the event the Contractor does not comply with these insurance requirements, the Trustees may, at its option, provide insurance coverage to protect the Trustees. The cost of the insurance shall be paid by the Contractor and, if prompt payment is not received, may be deducted from Contract sums otherwise due the Contractor.
- (4) If the Trustees are damaged by the failure of Contractor to provide or maintain the required insurance, the Contractor shall pay the Trustees for all such damages.
- (5) The Contractor's obligations to obtain and maintain all required insurance are non-delegable duties under this Contract.
- (6) The Contractor's liability for damages proximately caused by acts of God (as defined in Public Contract Code section 7105) and not involving Contractor negligence shall be limited to five percent of the Contract.

18. General Indemnity

Contractor shall indemnify, defend, and hold harmless the State of California, Board of Trustees of the California State University, CSU, and their respective officers, agents and employees from any and all claims and losses accruing or resulting to any other person, firm or corporation furnishing or supplying work, service, materials or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation related to, arising out of or resulting from Contractor's performance of this Contract.

19. Invoices

Invoices shall be submitted, in arrears, to the address provided in the Contract. Each invoice must contain the Contract number and Contractor's Identification number. Final invoice shall be marked as such. Contractor shall submit invoices to CSU for payment of goods and services rendered. Unless otherwise specified, CSU shall pay properly submitted invoices not more than 45 days after (i) CSU's acceptance of goods; (ii) the performance completion date of services; or (iii) receipt of an undisputed invoice, whichever is later. Late payment penalties shall not apply to this Contract. The consideration to be paid Contractor, as described within the Contract, shall be in full compensation for all of Contractor's expenses incurred in the performance of this Contract, including travel and per diem, unless otherwise expressly so provided.

20. Packing and Shipment

- (1) All goods are to be packed in suitable containers for protection in shipment and storage, and in accordance with applicable specifications. Each container of a multiple container shipment shall be identified to:
 - (i) show the number of the container and the total number of containers in the shipment; and
 - (ii) the number of the container in which the packing sheet has been enclosed.
- (2) All shipments by Contractor or its subcontractors must include packing sheets identifying: the CSU's contract number; item number; quantity and unit of measure; part number and description of the goods shipped; and appropriate evidence of inspection, if required. Goods for different contracts shall be listed on separate packing sheets.

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21. Delivery

Contractor shall strictly adhere to the delivery and completion schedules specified in this contract. Time, if stated as a number of days shall mean calendar days unless otherwise specified. The quantities specified herein are the only quantities required. If Contractor delivers in excess of the quantities specified herein, the CSU shall not be required to make any payment for the excess deliverables, and may return them to Contractor at Contractor's expense or utilize any other rights available to the CSU at law or in equity.

22. Substitutions

Substitution of Deliverables may not be tendered without advance written consent of the CSU. Contractor shall not use any specification in lieu of those contained in the Contract without written consent of the CSU.

23. Inspection, Acceptance and Rejection

Unless otherwise specified in the Statement of Work all deliverables may be subject to inspection and test by the CSU.

24. Taxes, Fees, Expenses, and Extras

- (a) Contractor certifies that it shall comply with all California Sale and Use Tax requirements. Articles sold to CSU are exempt from certain Federal Excise Taxes. CSU will furnish an exemption certificate on request.
- (b) Unless specified otherwise, prices quoted shall include all required and applicable taxes.
- (c) No charge for delivery, drayage, express, parcel post, packing, cartage, insurance, license fees, permits, cost of bonds, or for any other purpose will be paid by CSU unless expressly included and itemized in the Contract. Unless otherwise indicated on the Purchase Order or Contract, on "FOB Shipping Point" transactions vendor shall arrange for lowest cost transportation, prepay, add freight to invoice, and furnish supporting freight bills over \$50. On "FOB Shipping Point" transactions, should any shipments under this Contract be received by CSU in a damaged condition and any related freight loss and damage claims filed against the carrier or carriers by wholly or partially declined by the carrier or carriers with the inference that damage was the result of the act of the shipper, such as inadequate packing or loading or some inherent defect in the equipment and/or material, vendor shall, at its own expense, assist CSU in establishing carrier liability.
- (d) Contractor certifies it will immediately advise CSU of any change in its retailers seller's permit or certification of registration or applicable affiliate's sellers permit or certificate of registration.

25. Electronic Software Tax Liability

Contractor further agrees to deliver purchased software solely in an intangible form and via electronic means. Contractor shall be responsible for ensuring that the software is not delivered to the CSU in tangible form, and shall defend and indemnify the CSU for any and all tax liability resulting from Contractors failure to deliver the software as required by this Agreement.

26. Document Referencing

All correspondence, invoices, bills of lading, shipping memos, packages, etc., must show the Contract number. If factory shipment, the factory must be advised to comply. Invoices not properly identified with the Contract number and Contractor identification number may be returned to Contractor and may cause delay in payment.

27. Patent, Copyright, and Trade Secret Indemnity

- (a) Contractor shall indemnify, defend, and hold harmless the State of California, Board of Trustees of the California State University, CSU, and their respective officers, agents, and employees (collectively referred to as CSU), from any and all third party claims, costs (including without limitation reasonable attorneys' fees), and losses for infringement or violation of any Intellectual Property Right, domestic or foreign, by any product or service provided hereunder. With respect to claims arising from computer Hardware or Software manufactured by a third party and sold by Contractor as a reseller, Contractor will pass through to CSU, in addition to the foregoing provision, such indemnity rights as it receives from such third party ("Third Party Obligation") and will cooperate in enforcing them; provided that if the third party manufacturer fails to honor the Third Party Obligation, Contractor will provide CSU with indemnity protection.
 - (i) CSU will notify Contractor of such claim in writing and tender its defense within a reasonable time; and
 - (ii) Contractor will control the defense of any action on such claim and all negotiations for its settlement or compromise, except when substantial principles of government or public law are involved, when litigation might create precedent affecting future CSU operations or liability, or when involvement of the CSU is otherwise mandated by law. In such case no settlement shall be entered into on behalf of CSU without CSU's written approval.
- (b) Contractor may be required to furnish CSU a bond against any and all loss, damage, costs, expenses, claims and liability for patent, copyright and trade secret infringement.

- (c) Should the Deliverables or Software, or the operation thereof, become, or in the Contractor's opinion are likely to become, the subject of a claim of infringement or violation of a Intellectual Property Right, whether domestic or foreign, CSU shall permit Contractor at its option and expense either to procure for CSU the right to continue using the Deliverables or Software or to replace or modify the same so they become non-infringing, provided they comply with Contract and performance requirements and/or expectations. If neither option can reasonably be practicable or if the use of such Deliverables or Software by CSU shall be prevented by injunction, Contractor agrees to take back such Deliverables or Software and use its best effort to assist CSU in procuring substitute Deliverables or Software at Contractor's cost and expense. If, in the sole opinion of CSU, the return of such infringing Deliverables or Software makes the retention of other Deliverables or Software acquired from Contractor under this Contract impracticable, CSU shall then have the option of terminating this Contract, or applicable portions thereof, without penalty or termination charge. Contractor agrees to take back such Deliverables or Software and refund any sums CSU paid Contractor less any reasonable amount for use or damage.
- (d) Contractor certifies it has appropriate systems and controls in place to ensure State funds will not be used in the performance of this Contract for the acquisition, operation or maintenance of computer Software in violation of copyright laws.

28. Rights in Work Product

a) All inventions, discoveries, intellectual property, technical communications and records originated or prepared by Contractor pursuant to this Contract, including papers, reports, charts, computer programs, and other Documentation or improvements thereto, and including Contractor's administrative communications and records relating to this Contract (collectively, the "Work Product"), shall be Contractor's exclusive property. The provisions of this section may be revised in a Statement of Work.

29. Examination and Audit

For contracts in excess of \$10,000, Contractor shall be subject to the examination and audit by (a) the Office of the University Auditor, and (b) the Bureau of State Audits, for a period of three (3) years after final payment under the Contract. The examination and audit shall be confined to those matters connected with the performance of the contract, including, but not limited to, the costs of administering the Contract. Note: Authority Cited: Government Code Section 8546.7; Education Code Section 89045(c&d), respectively.

30. Dispute

Any dispute arising under or resulting from this Contract that is not resolved within 60 days of time by authorized representatives of Contractor and CSU shall be brought to the attention of Contractor's Chief Executive Officer (or designee) and CSU's Chief Business Officer (or designee) for resolution. Either Contractor or CSU may request that the CSU Vice Chancellor, Business and Finance (or designee) participate in the dispute resolution process to provide advice regarding CSU contracting policies and procedures. If this informal dispute resolution process is unsuccessful, the parties may pursue all remedies not inconsistent with this Contract. Despite an unresolved dispute, Contractor shall continue without delay in performing its responsibilities under this Contract. Contractor shall accurately and adequately document all service it has performed under this Contract.

31. Conflict of Interest

CSU requires a Statement of Economic Interests (California Form 700) to be filed by any Consultant (or Contractor) who is involved in the making or participation in the making of decisions which may foreseeably have a material effect on any CSU financial interest.

32. Endorsement

Nothing contained in this Contract shall be construed as conferring on any party, any right to use the other party's name as an endorsement of product/service or to advertise, promote or otherwise market any product or service without the prior written consent of the other party. Furthermore nothing in this Contract shall be construed as endorsement of any commercial product or service by the CSU, its officers or employees.

33. Covenant Against Gratuities

Contractor shall warrant that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by Contractor, or any agent or representative of Contractor, to any officer or employee of CSU with a view toward securing the Contract or securing favorable treatment with respect to any determinations concerning the performance of the Contract. For breach or violation of this warranty, CSU shall have the right to terminate the Contract, either in whole or in part, and any loss or damage sustained by CSU in procuring on the open market any items that Contractor agreed to supply shall be borne and paid for solely by Contractor. CSU's rights and remedies provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law, equity or under the Contract.

34. Nondiscrimination

- (a) During the performance of this Contract, Contractor and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, sexual orientation, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition, age, marital status, and denial of family care leave.

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Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.

- (b) Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12990 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Contract by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.
- (c) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Contract.

35. Compliance with NLRB Orders

Contractor declares under penalty of perjury under the laws of the State of California that no more than one final, unappealable finding of contempt of court by a federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a federal court to comply with an order of the National Labor Relations Board. Note: Cite Authority: PCC 10296

36. Drug-Free Workplace Certification

Contractor certifies that Contractor shall comply with the requirements of the Drug-Free Workplace Act of 1990 and shall provide a drug-free workplace by taking the following actions:

- (a) Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations
- (b) Establish a Drug-Free Awareness Program to inform employees about all of the following:
 - (i) the dangers of drug abuse in the workplace;
 - (ii) the person's or organization's policy of maintaining a drug-free workplace;
 - (iii) any available counseling, rehabilitation and employee assistance programs; and, (iv) penalties that may be imposed upon employees for drug abuse violations.
- (c) Provide that every employee who works on the proposed or resulting Contract:
 - (i) will receive a copy of the company's drug-free policy statement; and,
 - (ii) will agree to abide by the terms of the company's statement as a condition of employment on the Contract. Note: Authority Cited: Government Code Section 8350-8357.

37. Forced, Convict, Indentured and Child Labor

By accepting a contract with CSU, Contractor:

- (a) Certifies that no equipment, materials, or supplies furnished to CSU pursuant to this Contract have been produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor.
Contractor further certifies it will adhere to the Sweat free Code of Conduct as set forth on the California Department of Industrial Relations website located at <http://www.dir.ca.gov/>, and Public Contract Code Section 6108.
- (b) Agrees to cooperate fully in providing reasonable access to its records, documents, agents or employees, or premises if reasonably required by authorized officials of the State, the Department of Industrial Relations, or the Department of Justice to determine Contractor's compliance with the requirements under paragraph (a).

38. Recycled Content Certification

Contractor shall certify in writing the minimum, if not exact, percentage of postconsumer material, as defined in Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to CSU regardless whether the product meets the requirements of Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (PCC 12205).

39. Child Support Compliance Act

For any contract in excess of \$100,000, Contractor acknowledges in accordance with Public Contract Code Section 7110, that:

- (a) Contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with Section 5200) of Part 5 of Division 9 of the Family Code; and

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(b) Contractor, to the best of its knowledge, is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

40. Americans With Disabilities Act (ADA)

Contractor warrants that it complies with California and federal disabilities laws and regulations. (Americans with Disabilities Act of 1990, 42 U.S.C. 12101 et seq). Contractor hereby warrants the products or services it will provide under this Contract comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Contractor further agrees to indemnify and hold harmless CSU from any claims arising out of Contractor's failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a material breach of this Contract.

41. Expatriate Corporations

Contractor declares and certifies that it is not an expatriate corporation, and is not precluded from contracting with CSU by The California Taxpayer and Shareholder Protection Act of 2003, Public Contract Code Section 10286, et seq.

42. Citizenship and Public Benefits

If Contractor is a natural person, Contractor certifies he or she is a citizen or national of the United States or otherwise qualified to receive public benefits under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193; 110 STAT.2105, 2268-69).

43. Loss Leader

Contractor certifies and declares it is not engaged in business within this State of California to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. Note: Authority Cite: (PCC 12104.5(b).)

44. DVBE and Small Business Participation

- (a) If Contractor has committed to achieve small business (SB) participation it shall, within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract), report to CSU:
- (1) the name and address of the SB(s) who participated in the performance of the Contract;
 - (2) the total amount the prime Contractor received under the Contract; and
 - (3) the amount each SB received from the prime Contractor. (Govt. Code § 14841.)
- (b) If Contractor has committed to achieve disabled veteran business enterprise (DVBE) participation, it shall, within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract), report to CSU:
- (1) the name and address of the DVBE(s) who participated in the performance of the Contract;
 - (2) the total amount the prime Contractor received under the Contract; and
 - (3) the amount each DVBE received from the prime Contractor. The Contractor shall also certify that all payments under the Contract have been made to the DVBE. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841).

45. Debarment and Suspension

By accepting a contract with the CSU, Contractor certifies neither it nor its principals or its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency (2 Code Federal Regulations [CFR] 180.220, in accordance with the Office of Management and Budget guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235)).

46. Force Majeure

- (a) Neither Party shall be liable for any failure to perform its obligations under this Contract for the period of time that it is prevented, hindered, or delayed in performing those obligations by circumstances beyond its control, including, but not limited to, fire, strike, war, riots, acts of terrorism, disaster, acts of God, acts of any governmental authority, communicable disease outbreak, epidemic or pandemic, unavailability or shortages of labor, materials, or equipment, disruption of transportation, or any other comparable event beyond the control of the Party whose performance is affected (each, a "Force Majeure Event").
- (b) The Party claiming Force Majeure shall, as soon as reasonably practicable after the occurrence of a Force Majeure Event, provide written notice to the other Party of the nature, extent, and expected duration of the Force Majeure Event and use its diligent efforts to mitigate the effects of the Force Majeure Event upon such Party's performance under this Contract, it being understood that upon completion of the Force Majeure Event, the Party whose performance was affected must, as soon as reasonably practicable, recommence the performance of its obligations under this Contract.

- (c) Notwithstanding any other term in this Contract, including, but not limited to, the foregoing subsections of this section 46, during the period of a Force Majeure Event affecting performance by Contractor, CSU may elect to do all or any of the following:
- (i) suspend the Contract for the duration of the Force Majeure Event and be relieved of any payment obligation for goods [or services] not delivered or accepted due to the Force Majeure Event;
 - (ii) obtain elsewhere the goods [or services] not delivered or accepted due to the Force Majeure Event;
 - (iii) extend the time for Contractor's performance by a period equal to the duration of the Force Majeure Event; and/or
 - (iv) terminate the Contract as to any goods [or services] not already received with no further financial obligation if the Force Majeure Event continues to exist for more than thirty (30) days.

47. COVID-19

The Parties acknowledge that the future impact of COVID-19 is not currently known or reasonably foreseeable. In the event that circumstances related to COVID-19, or to any reoccurrence of the COVID-19 outbreak, prevent, hinder, or delay a Party from performing its obligations under this Contract, the Party whose performance is affected may invoke the Force Majeure clause of this Contract and be relieved of its performance obligations hereunder to the extent permitted by section 46 above, even if the circumstances related to COVID-19 were foreseeable at the time of the Parties' execution of this Contract.

48. Material Change of Circumstances

The terms of this Contract are based on conditions in existence on the date that Contractor commences performance. In the event of a material change in the conditions that adversely affects the ability of Contractor to perform its obligations, Contractor shall reasonably cooperate with CSU to minimize the impact from such change in conditions on Contractor's performance and shall, if requested by CSU, negotiate in good faith to adjust the terms of this Contract on a mutually agreeable basis to address the impact of such material change in conditions.