



Purchasing Department

P.O. Box 750416
Dallas, Texas 75275

REQUEST FOR PROPOSAL

RFP Number: SMU-20230814
ATHLETICS COMPLIANCE REVIEW

All bids in response to this RFP are due before:

3:00 P.M. Central Time on August 14, 2023

Please Be Sure to Include This RFP # on Any Submissions

Section I

Introduction

1.1 Background

As a private, comprehensive university enriched by its United Methodist heritage and partnership with the Dallas-Fort Worth area, SMU seeks to enhance the intellectual, cultural, technological, ethical, and social development of a diverse student body. SMU offers undergraduate programs centered on the liberal arts and excellent graduate, professional, and continuing education programs. The SMU experience also includes accessible faculty in small classes and abundant opportunities for research experience, international study, leadership development, and service and internship opportunities beyond campus – all with the goal of preparing students to become contributing citizens and leaders for our state, nation and world.

SMU has approximately 11,000 students studying in seven degree-granting schools: Cox School of Business, Dedman College of Humanities and Sciences, Meadows School of the Arts, Bobby B. Lyle School of Engineering, Dedman School of Law, Annette Caldwell Simmons School of Education and Human Development, and Perkins School of Theology.

Founded in 1911 by what is now The United Methodist Church, SMU is nonsectarian in its teaching and committed to academic freedom and open inquiry. Owned by the South Central Jurisdiction of the United Methodist Church, SMU is managed by a Board of Trustees that includes civic, business, education, and religious leaders who represent various faiths and geographic areas.

1.2 Purpose of Request for Proposal

This Request for Proposal (“RFP”) is being issued to selected contractors at SMU’s Office of Legal Affairs request that a confidential and privileged review by undertaken in order to provide a comprehensive Athletics Compliance Review.

It is the intent of SMU to award one or more contracts for the services described in Section III of this RFP to the firm who can provide the best value in performing the duties listed in the Requirements/Statement of Work.

Services shall commence on or around September 1, 2023 or the date when executed, whichever is the later, and be effective for a period of one (1) year. The agreement may, at the option of SMU, be extended for a period up to four (4) years, provided the performance has been satisfactory and the cost of service remains acceptable to SMU. The final draft, including all revisions, must be complete by November 15, 2023.

1.3 Schedule

Issue Request for Proposal	Friday, July 14, 2023
Last Day for Questions	Friday, August 4, 2023
Proposals Due	Monday, August 14, 2023
Orals* (if required)	Week of August 21st
Selection	NLT August 25 th
Award of Contract	NLT August 31 st

1.4 Questing and Inquiries

All inquiries concerning the RFP should be directed to:

Harmony Fan, RFP Coordinator
Email: hfan@smu.edu
Phone: 214-768-6464

Questions should be submitted in writing via email. Written questions should be directly tied to the RFP and should be asked in consecutive order, following the organization of the RFP reference the RFP section. General questions will be shared with all those firms participating in the process. Short procedural inquiries may be accepted by telephone or email by the buyer. However, oral explanations or instructions given over the telephone shall not be binding upon SMU.

1.5 Submission of Offers

Each firm will be required to provide one electronic copy in MS Office Software Format of their bids in response to this RFP.

Offers must be received by 3:00 pm CST on or before Friday, August 14, 2023.

Each firm is required to submit one electronic copy of their proposal to:

hfan@smu.edu

Proposals, modifications or withdrawals received after the date and time set for receipt of bids may not be considered. Proposals submitted in response to this RFP shall be valid for ninety (90) days from the final date to submit bids listed above. SMU is not liable for any costs in preparing proposals in response to this RFP.

Proposals shall be prepared according to the following layout:

- Introductory Letter & Executive Summary

- Recommended approach towards meeting the scope of work addressing your ability to meet the requirements in Part III below to include quality of submittal & ability to complete the specified work in the time specified.
- Key Personnel assigned to this project & their backgrounds and experience as well as a resume that would be used in the contract should you be selected.
- Five references to include contact names and phone numbers as well as the project involved.
- Price for this effort.
- Any Value Added Services not requested in the original requirements.
- Information relevant to the firm's economic and financial capacity.
- Acceptance of SMU's terms and conditions.

We anticipate conducting orals with the most competitive proposals.

Section II

Evaluation Criteria for Award

2.1 Evaluation Information

SMU will utilize a selection committee for the evaluation of the RFP. Generally, the selection teams consist of 3-4 individuals who have a direct interest in the award of this contract.

The selection team will ensure that the contractor with the best overall value to the University will be selected. The selection committee shall be the sole judge of the comparative evaluation of the bids received. The decision of the selection committee will be final. Southern Methodist University reserves the right to reject any and all bids.

2.2 Evaluation Criteria and Weights

SMU Athletics will utilize a selection team to ensure that the contractor with the best overall value and ability to meet the requirements is selected. The evaluation criteria are listed in no particular order of importance. SMU at its sole discretion may choose to award part or all of the scope of work contained in this RFP to single or multiple firms. Furthermore, the University does not guarantee that any actual Agreement will ensue as a result of the RFP and its evaluation process. All costs for proposal preparation & submittal are at the contractor's expense. The Evaluation Criteria, in no particular priority listing, is provided below.

CRITERIA:

- The firm's planned approach to meet the scope of work along with the ability to meet the requirements stated in the RFP.
- Prices submitted for the entire project.
- The firm's relevant experience, qualifications and previous success in providing work related to this project as well as the backgrounds of the Key Personnel, in the form of a resume, assigned to this project.
- References from other institutions of higher education for work performed relevant to the scope of work to this project
- Any "value added services" that may be available that were not requested in the original requirements.
- Factors relevant to the firm's economic and financial capacity and willingness to satisfy the University.
- Acceptance of SMU terms and conditions.

Section III

Requirements/Statement of Work

The SMU Department of Athletics seeks the assistance of a reputable outside consulting firm to provide a comprehensive Athletics Compliance Review based on NCAA standards. To accomplish this goal, the following objectives must be met:

- Work with athletics department staff to gather data concerning athletic compliance activities at SMU
- Work with athletics department staff to develop recommendations, if necessary, for specific educational interventions for staff and/or student-athletes regarding athletics compliance
- Development of an Athletics Compliance review that would meet best practices and standards ensuring that systems are also created to allow the athletics director or designees to regularly review critical indicators directly related to progress toward the achievement of desired outcomes of that review
- Final draft, including all revisions, completed **by November 15, 2023**
- Formal presentation of results to the Office of Legal Affairs, and athletics department staff
- Conduct education sessions for SMU staff and other constituents as needed

**ATTACHMENT A
SAMPLE CONTRACT**

CONTRACT

TO PROVIDE SERVICES

ON A ONE-TIME BASIS

TO SOUTHERN METHODIST UNIVERSITY

BY

(CONSULTANT)

This Contract to Provide Services on a One-Time Basis (this "Contract") is made by and between Southern Methodist University ("SMU"), a Texas nonprofit corporation, and _____ ("Consultant"), a [state of organization] [corporation] [limited partnership] [other].

ARTICLE 1

SERVICES TO BE PROVIDED UNDER THIS CONTRACT

Consultant shall provide the following services (the "Services") to SMU:

Furnish materials, equipment and labor to *[short description of services]* _____; to be performed as detailed on the Statement of Services, dated _____, attached hereto as Exhibit A.

The term "Services" means the services to be provided pursuant to this Contract, and includes all labor, materials, equipment, subcontractor services and/or miscellaneous items provided by Consultant to fulfill Consultant's obligations hereunder. Labor shall include straight-time wages, fringe benefits, workers' compensation and other insurance, applicable taxes, small tools expenses, truck allowance, overhead and profit. Consultant shall not charge SMU for overtime unless authorized by SMU's Representative designated in Exhibit C.

ARTICLE 2

TERM

The term of this Contract shall commence on _____, 2023 and shall end at the conclusion of business on _____, 2024.

ARTICLE 3

CONTRACT SUM AND PAYMENTS

3.1 SMU shall pay to Consultant the Contract sum of \$_____ for satisfactory completion of the Services. Consultant shall invoice SMU upon completion of the Services. Such invoice shall specify location of work, the Services performed, and the SMU purchase order number. The invoice shall be delivered to SMU at the address set forth in Exhibit C.

3.2 The invoice shall be due and payable by SMU thirty (30) days after satisfactory completion of Services and acceptance and approval of the Services and of such invoice by SMU.

3.3 Payments by SMU for the Services shall be made only to Consultant and shall be sent to Consultant at the address designated in Exhibit C.

3.4 Reimbursable expenses are in addition to Consultant's compensation and include expenses incurred by Consultant and its consultants in the interest of the Project for:

- Expense of transportation and living expenses in connection with out-of-town travel beyond the Dallas/Fort Worth area, if authorized in writing by SMU;
- SMU-requested special documents and reproductions;
- SMU-requested special postage and handling of documents, courier service, etc.;

ARTICLE 4

CONTRACT DOCUMENTS

The following documents form a part of this Contract and are attached hereto and incorporated herein by reference (including plans, specifications and drawings, if applicable):

<u>Exhibit</u>	<u>Title</u>	<u>No. of Pages</u>
A	Statement of Services	
B	Insurance Requirements	2
C	Primary Location of Business to Receive Notices, Invoices, & Payments; Designated Persons to Receive Notices and Authorized to Sign	2

In the event of a conflict between (i) the provisions of this Contract and the attached Exhibits A, B and C and (ii) the provisions of any proposal or bid from Consultant, then the provisions of this Contract and the attached Exhibits A, B and C will control.

ARTICLE 5

RESPONSIBILITIES OF CONSULTANT

5.1 By execution of this Contract, Consultant represents that Consultant has visited the premises where Consultant is to perform the Services under this Contract and is familiar with the local conditions under which the Services are to be performed. Consultant understands and agrees that work shall be scheduled in such a manner as to not conflict with academic or administrative activities.

5.2 Consultant shall be responsible to SMU for the acts and omissions of Consultant's employees, subcontractors, sub-subcontractors, suppliers, volunteers, agents and any other persons performing any part of the Services hereunder. Consultant is responsible for ensuring that all persons performing any part of the Services comply with the obligations of the Consultant set forth in this Contract.

5.3 Consultant shall not subcontract any portion of the Services to be performed under this Contract without advance written approval by SMU. Consultant shall notify SMU's Representative of the names of any subcontractors, persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each of the principal portions of the Services. Consultant shall not contract with any subcontractor, person or entity to which SMU has made reasonable objection. By appropriate written agreement, Consultant shall (a) require each subcontractor, person or entity, to the extent of the Services to be performed, to be bound to Consultant by terms of this Contract, and to assume toward Consultant all obligations and responsibilities which Consultant, by this Contract, assumes toward SMU; (b) allow to each subcontractor, person or entity the benefit of all rights, remedies and redress afforded to Consultant by this Contract; and (c) require each subcontractor to enter into similar agreements with sub-subcontractors. Consultant shall maintain all subcontractor agreements, purchase orders, and certificates of insurance at its offices and upon SMU's request shall provide SMU with copies of same.

5.4 Consultant shall give notices required by and comply with all applicable laws, ordinances, rules, regulations and lawful orders of public authorities relating to the Services, including, without limitation, those bearing on safety of persons and property and their protection from damage, injury or loss. Consultant shall obtain and pay for all required permits, licenses and inspections and shall pay all governmental fees. Consultant shall be responsible for all fines, penalties and other costs resulting from Consultant's failure to meet its obligations under this Contract.

5.5 Consultant shall supervise and direct the performance of the Services, using Consultant's best skill and attention. Consultant shall be solely responsible for and have control over the means, methods, techniques, sequences and procedures involved in performance of the Services, so long as such are consistent with all specifications of this Contract, and for coordination of all portions of performance of the Services under this Contract, unless otherwise specifically agreed by the parties elsewhere in this Contract.

5.6 Unless otherwise provided in this Contract, Consultant shall provide and pay for labor, materials, subcontractors, equipment, tools, machinery, transportation, and other facilities and services necessary for the proper performance of the Services hereunder, whether temporary or permanent.

5.7 (a) Consultant shall enforce strict discipline and good order among Consultant's employees and others performing any part of the Services under this Contract. Consultant shall not permit unfit persons or persons unskilled in the tasks assigned to them to perform any part of the Services hereunder. Consultant shall independently verify whether any person assigned to work on SMU property has a record of a conviction of any felony or of a misdemeanor involving alcoholic beverages, animals, assault, computers, controlled substances, criminal mischief, dishonesty, disorderly conduct, explosives, fire alarms, fraud, harassment, indecent exposure, public indecency, public lewdness, riot, stalking or theft ("Misdemeanor") under Texas law or the equivalent under the laws of another jurisdiction. Consultant shall also ensure that employment screenings are conducted on all persons who are expected to perform Services, consistent with the duties and responsibilities associated with such individuals' positions, locations of work and other factors. Consultant shall not permit any person to perform Services hereunder if Consultant deems such individual to be an unreasonable risk on the basis of the results of such screenings. In addition, Consultant shall not permit any person to perform Services on SMU property who has been convicted of any felony or Misdemeanor under Texas law, or the equivalent under the laws of another jurisdiction, without first obtaining written approval from the SMU Police Department. SMU reserves the right to refuse to grant such permission if, in its sole judgment, business necessity requires it to do so. SMU reserves the right to remove immediately from SMU's property (or to require Consultant to remove immediately) any person performing any part of the Services, should such person pose, in the reasonable judgment of SMU, an immediate threat of harm or nuisance to persons or property.

(b) To the extent required by law, all persons performing any part of the Services shall be United States citizens or nationals, lawful permanent residents, or aliens properly authorized to work in the United States.

(c) At SMU's request, Consultant shall provide appropriate documentation demonstrating compliance with the requirements of this Section 5.7.

5.8 Consultant warrants to SMU that the Services performed hereunder shall be performed in a good and workmanlike manner and that they will conform to the requirements of this Contract. If Consultant provides professional or other expertise for performance of the Services, Consultant warrants that the Services will be performed in accord with the highest appropriate professional and/or industry standard. SMU relies upon Consultant's expertise to perform the Services in a manner fit to accomplish those particular purposes stated herein and all other foreseeable purposes. If required by SMU, Consultant will furnish to SMU satisfactory evidence of the kind and quality of materials and equipment it will use to perform the Services hereunder. Consultant will correct any defect in the Services at no cost to SMU for a period of one year following completion of the Services. Consultant shall provide to SMU any documentation from manufacturer(s), including, but not limited to, warranties, service manuals and operating instructions.

5.9 Unless otherwise provided in this Contract, Consultant shall pay sales, consumer, use and other similar taxes which are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect during the term of this Contract.

5.10 Consultant shall confine the Services to areas permitted by law, ordinances, permits and this Contract, and shall not unreasonably encumber the area with materials or equipment. In addition, Consultant shall restrict all persons performing any part of the Services to such

areas. Consultant must obtain authorization for parking of vehicles or equipment on SMU property from SMU's Representative. Vehicles and equipment will also conform to all parking regulations of SMU as directed by SMU's Police Department.

5.11 This section left intentionally blank.

5.12 This section left intentionally blank.

5.13 INDEMNIFICATION

(a) TO THE FULLEST EXTENT PERMITTED BY LAW, AND EXCEPT TO THE EXTENT CAUSED BY THE NEGLIGENCE OR FAULT OF THE INDEMNIFIED PARTY, CONTRACTOR SHALL INDEMNIFY, DEFEND (WITH COUNSEL ACCEPTABLE TO SMU) AND HOLD HARMLESS SMU, ITS TRUSTEES, OFFICERS, EMPLOYEES, VOLUNTEERS AND/OR AGENTS AND/OR THE SUCCESSORS AND/OR ASSIGNS OF ANY OF THEM (EACH, AN "INDEMNIFIED PARTY") FROM AND AGAINST ANY AND ALL LOSS, COST, EXPENSE, DAMAGE, INJURY, LIABILITY, CLAIM, DEMAND OR CAUSE OF ACTION, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COSTS AND EXPENSES OF ANY DISPUTE RESOLUTION PROCEEDING (EACH A "CLAIM" AND COLLECTIVELY, "CLAIMS"), DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATING TO CONTRACTOR'S PERFORMANCE OF THE SERVICES HEREUNDER OR OTHER ACTIVITIES OF THE CONTRACTOR, INCLUDING, BUT NOT LIMITED TO:

(i) CONTRACTOR'S BREACH OF THIS CONTRACT;

(ii) ANY CLAIM ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE, OR DEATH OF ANY PERSON, OR TO INJURY TO OR DESTRUCTION OF PROPERTY, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE OF THE PROPERTY;

(iii) ANY LIEN CLAIM OR NOTICE OF LIEN CLAIM ASSERTED BY ANY SUBCONTRACTOR, SUB-SUBCONTRACTOR, SUPPLIER OR EQUIPMENT PROVIDER OF ANY TIER WHO PROVIDES LABOR, MATERIALS OR EQUIPMENT TO THE PROJECT TO CARRY OUT ANY OF THE SERVICES PROVIDED IN THIS CONTRACT, TO THE EXTENT CONTRACTOR HAS BEEN PAID FOR THE SERVICES; OR

(iv) THE ACT OR OMISSION OF CONTRACTOR, A SUBCONTRACTOR, SUB-SUBCONTRACTOR, SUPPLIER, OR ANY OTHER PERSON OR ENTITY DIRECTLY OR INDIRECTLY EMPLOYED BY SUCH PARTIES OR FOR WHOSE ACTS OR OMISSIONS THEY MAY BE LIABLE.

In the event that an Indemnified Party is found by final award to be negligent or at fault at whole or in part, the indemnity and hold harmless obligation of Contractor with regard to attorneys' fees and costs and expenses of any dispute resolution proceeding shall be reduced by the percentage of fault or negligence of the Indemnified Party. These obligations shall not be construed to negate, abridge or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 5.13.

(b) INDEMNITY – EMPLOYEE INJURY CLAIMS; INTELLECTUAL PROPERTY INFRINGEMENT CLAIMS. IN ADDITION TO THE INDEMNIFICATION PROVIDED IN SECTION 5.13(a) AND TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL INDEMNIFY, DEFEND (WITH COUNSEL ACCEPTABLE TO SMU), AND HOLD

HARMLESS EACH INDEMNIFIED PARTY FROM AND AGAINST ANY CLAIM (i) DIRECTLY OR INDIRECTLY ARISING OUT OF, RESULTING FROM, OR RELATING TO BODILY INJURY, SICKNESS, DISEASE OR DEATH OF ANY EMPLOYEE OF CONTRACTOR, ANY SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY EITHER, BROUGHT BY SUCH INJURED EMPLOYEE OR THE EMPLOYEE'S WORKERS' COMPENSATION INSURANCE CARRIER; AND/OR (ii) ANY CLAIM THAT ANY MATERIALS CONTRACTOR PRODUCES FOR OR USES AT SMU INFRINGE ON THE COPYRIGHT, TRADEMARK, SERVICE MARK, OR TRADE NAME OR OTHER INTELLECTUAL PROPERTY RIGHT OF A THIRD PARTY, OR PLAGIARIZE THE WORK OF A THIRD PARTY, IT BEING THE EXPRESSED INTENT OF SMU AND CONTRACTOR THAT THE CONTRACTOR IS TO INDEMNIFY, DEFEND AND HOLD HARMLESS EACH INDEMNIFIED PARTY EVEN TO THE EXTENT SUCH CLAIM IS ALLEGED TO BE CAUSED, IN WHOLE OR IN PART, BY THE SOLE OR CONCURRENT NEGLIGENCE OF AN INDEMNIFIED PARTY.

(c) The indemnification of this Section 5.13 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for Contractor under workers' compensation acts, disability benefit acts or other employee benefit acts. The obligations of Contractor under this Section 5.13 shall survive the expiration of this Contract.

5.14 (a) The consumption of alcoholic beverages and the illegal use of controlled substances shall not be permitted on SMU's property nor shall Consultant employees or any other person performing any part of the Services be under the influence of such substances while on SMU's property. Consultant will comply with SMU's Non-Smoking Policy, a copy of which can be obtained from SMU's Representative. Smoking will not be permitted at any location where either SMU or Consultant has posted a "No Smoking" sign, it being understood that Consultant has the obligation to post appropriate "No Smoking" signs as necessary for safety reasons within the spaces for which Consultant is responsible. Further, it is understood that SMU has designated all campus buildings as "No Smoking" areas, which designation must be respected unless a "Smoking Permitted" sign has been posted by SMU.

(b) To the extent permitted by law, the use or possession of dangerous weapons or facsimiles of dangerous weapons on SMU property is prohibited for all persons except for persons duly authorized by the SMU Police Department or by an accredited law enforcement office, to carry a firearm in the performance of their duty.

5.15 Without altering in any way Consultant's liability under this Contract or applicable law, Consultant agrees to comply with the "Insurance Requirements of the Contract" attached hereto as Exhibit B and incorporated herein by reference.

5.16 Consultant shall be responsible for ensuring that the performance of the Services and the completed work comply with the Americans with Disabilities Act of (42 U.S.C. Section 12101 et seq.) and with Chapter 469, Texas Government Code, *Elimination of Architectural Barriers*, and related federal and state regulations, as amended from time to time. If required by law or by SMU's Representative, Consultant will enter into a subcontract with a third-party Registered Accessibility Specialist (RAS) acceptable to SMU. The cost of RAS services will be billed by Consultant as a direct pass-through cost to SMU without mark-up.

5.17 (a) Consultant covenants that it will secure its information technology systems with commercially appropriate security measures in accordance with the highest industry standards. Any data transmitted over any network or other information technology system

must be encrypted with commercially appropriate security measures in accordance with the highest industry standards. Consultant shall report in writing to SMU any unauthorized use or disclosure of confidential information or other security breach within five (5) business days after Consultant learns of such use or disclosure or security breach. Consultant acknowledges that if a third party obtains unauthorized access to Consultant's systems or to SMU's systems or otherwise as a result of an action or omission of Consultant obtains access to information pertaining to SMU or to its trustees, officers, employees, students, volunteers, donors, alumni, guests, tenants, agents or others affiliated with SMU, then that shall be considered a material breach of this Contract. Upon such breach, in addition to any other remedies available to SMU at law or in equity, without limitation of the foregoing, Consultant shall pay all costs of notifying system users of such security breach and of credit watch services (or, if directed by SMU, Consultant will perform such notifications of system users and will arrange for credit watch services for such users) and SMU may terminate the Contract immediately without further obligation to make payments for services not theretofore delivered, and will receive a refund of any prepaid fees for the period following the date of termination.

(b) If computer hardware and other equipment is used in the performance of this Contract, Consultant will use all security measures necessary to ensure that SMU data is not copied or otherwise compromised. At the time this Contract is terminated, SMU data must be promptly returned to SMU in usable form as directed by SMU and all equipment used to copy or scan SMU materials or otherwise containing SMU data must be erased according to U.S. Department of Defense standard 5220.22-M and overwritten to guarantee that all hard drive space contains no SMU data. Consultant shall provide to SMU's Chief Information Officer evidence to confirm that all appropriate security measures required by this Contract and by good industry practices have been taken to ensure that SMU's data is protected. USE FOR CONTENT DEVELOPMENT CONTRACTS [e.g. where the Consultant is providing text or drawings or developing software for SMU's use:

5.18 (a) All work product developed by Consultant under this Contract shall be considered works made for hire by Consultant for SMU and all intellectual property developed pursuant to this Contract shall be owned by SMU. To the extent that any such work product, by operation of law, may not be considered a work made for hire, Consultant agrees to assign, and, upon creation of work product, hereby automatically assigns to SMU ownership of all intellectual property rights to such work product including, without limitation, all trade secrets, patents, copyrights, trademarks, know-how and similar rights of any type under the laws of any governmental authority, domestic or foreign, including all renewals thereof, and agrees to waive any moral rights in such work product. From time to time upon SMU's request, Consultant shall confirm such assignment and waiver by execution and delivery of such assignments, confirmation of assignments, or other written instruments as SMU may request. If SMU is unable for any reason whatsoever to secure Consultant's signature to any such written instruments, Consultant irrevocably designates and appoints SMU and any of its authorized signatories as Consultant's attorney-in-fact to act for and in its behalf and to execute and file any such written instrument in furtherance of the protection and enforcement of such intellectual property rights, with the same legal force and effect as if executed by Consultant.

(b) Should Consultant wish to incorporate into the work product pre-existing materials of Consultant's creation to which Consultant holds the copyright, Consultant agrees to clearly identify and disclose such pre-existing materials to SMU and hereby grants SMU a non-exclusive, transferable and royalty-free license to exercise all intellectual property rights in such material. Consultant warrants to SMU that all material produced for SMU in connection

with the Services will contain no third party copyrighted material, or that approvals have been obtained (in writing), or royalties paid, for any such copyrighted materials (e.g., articles, readers, photographs, artworks etc.). Consultant further warrants that any software or content it provides as part of the Services will not infringe upon any proprietary right or copyright of others, and will not be libelous, slanderous or in violation of any other right of any person or party.

5.19 Minors on Campus. Consultant agrees to comply with Texas Education Code, Section 51.976, which mandates that all persons in a position involving contact with minors enrolled in a "campus program for minors" as defined in Texas Education Code, Section 51.976, must successfully complete an approved training and examination program on sexual abuse and child molestation. Consultant agrees to provide to SMU written certification of such training of Consultant employees, volunteers or others performing any part of the Services who will have contact with minors enrolled in a campus program for minors on SMU property.

ARTICLE 6

MISCELLANEOUS PROVISIONS

6.1 With respect to the Services to be provided by Consultant and the administration of this Contract, SMU and Consultant shall designate a) the primary location of business to receive notices, invoices and payments; b) the parties to receive notices and communications and to act for SMU and Consultant in all respects; and c) the parties authorized to sign agreements and changes to this Contract. Such designations are listed in the Primary Location of Business to Receive Notices, Invoices and Payments; Designated Persons to Receive Notices and Authorized to Sign, attached hereto as Exhibit C.

6.2 Any assignment of this Contract by Consultant, and more specifically assignment to a factoring company, shall be void without the express written consent of the President or a Vice President of SMU. Consultant shall not be relieved of its obligations under this Contract in the event of an authorized assignment. It is agreed that any sale, merger, corporate reorganization, or significant change of ownership of Consultant or any substantial alteration in the nature or character of its business shall constitute a change in Consultant and it is agreed that continuation of this Contract after such a change shall be considered to be an assignment.

6.3 It is understood and agreed that the relationship of Consultant to SMU shall be that of an independent contractor. Nothing contained herein or inferable herefrom shall be deemed or construed to (1) make Consultant the agent, servant or employee of SMU; or (2) create any partnership, joint venture or other association between SMU and Consultant. Any directions or instructions by SMU in respect of the Services shall relate to the results SMU desires to obtain from the Services and shall in no way affect Consultant's independent contractor status as described herein.

6.4 (a) In the event of the breach of any of the terms of this Contract by either party, the non-breaching party may terminate this Contract if (1) the non-breaching party provides written notice to the breaching party that a breach has occurred, the nature of the breach, and the date this Contract shall terminate, which shall be no less than thirty (30) days from the date of the written notice, and (2) the breaching party fails to cure the breach within the thirty (30) day period. In no event shall SMU be liable to Consultant for damages for delay.

(b) If a party files a petition or be adjudged bankrupt or insolvent under any applicable federal or state bankruptcy or insolvency law, or admits that it cannot meet its financial obligations as they become due; or if a receiver or trustee is appointed for all or substantially all of the assets of the party; or if a party makes a transfer in fraud of creditors or makes an assignment for the benefit of creditors that shall be considered a breach of this Contract and the non-breaching party may terminate this Contract immediately.

6.5 Consultant represents and warrants that no trustee, officer, employee, student or agent of SMU has been or will be employed, retained, or paid a fee, or otherwise has received or will receive any personal compensation or consideration by or from Consultant or any of Consultant's directors, officers, employees or agents in connection with the obtaining, arranging, or negotiation of this Contract. Consultant agrees that the consideration to be paid by SMU under this Contract represents fair and reasonable consideration relative to the value of services to be provided by Consultant to SMU.

6.6 In its performance of this Contract, Consultant warrants that it will not discriminate against any person on the basis of race, color, religion, national origin, sex, age, disability, genetic information or veteran status. Consultant will also not discriminate against any person on the basis of sexual orientation or gender identity and expression. Consultant affirms that it is an equal opportunity and affirmative action employer and that it will comply with all applicable federal, state and local laws and regulations. The parties hereby incorporate the equal employment opportunity and affirmative action requirements, if applicable, of 41 C.F.R. 60-1.4(a) and 29 C.F.R. Part 471, Appendix A to Subpart A. **Consultant and all subcontractors shall abide by the requirements of 41 CFR 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified protected veterans and qualified individuals on the basis of disability, and require affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans and qualified individuals with disabilities.**

6.7 No waiver of any breach of any provision of this Contract shall operate as a waiver of any other or subsequent breach thereof or of the provision itself, or of any other provision. No provision of this Contract shall be deemed to have been waived unless such waiver is in writing and is signed by the party waiving the same.

6.8 Consultant shall not disclose the terms of this Contract without the express written consent of the President or a Vice President of SMU, unless such disclosure is required by law or court order.

6.9 Nothing contained herein allows Consultant to use the name "SMU" or "Southern Methodist University", or any of its logos or images, except for the purposes set forth in this Contract, unless prior written permission of SMU's President or Vice President for Development and External Affairs or their respective designees is obtained. Consultant shall take no action that states or implies or allows another to infer that SMU has approved or endorsed Consultant's products or services.

6.10 Consultant shall not report or release information concerning SMU or its trustees, officers, employees, students, volunteers, donors, guests, tenants, agents or alumni or others affiliated with SMU to third parties without SMU's prior written approval. Without limiting the foregoing, any such report or release of information shall, at a minimum, comply with those requirements enumerated in the Gramm-Leach Bliley Act (15 U.S.C. §6801 et seq.; 16 CFR

§314 et seq.) and all other applicable laws regarding privacy or protection of personally identifiable information.

6.11 This Contract shall be governed by and construed under the laws of the State of Texas. Each party to this Contract hereby irrevocably submits to the exclusive jurisdiction of the federal or state courts in Dallas County, Texas and consents to venue in Dallas County, Texas for any action arising out of this Contract.

6.12 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations or any additional insured requirements under this Contract, such legal limitations are made a part of the contractual obligations and shall operate to amend the obligations to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect. Should any provision of this Contract be held invalid, unenforceable or contrary to public policy, law, statute or ordinance, then the remainder of the provision, paragraph, section and/or Contract shall not be affected thereby and shall remain valid and fully enforceable.

6.13 This Contract, including its exhibits (as set forth specifically in this Contract), constitutes the entire agreement of the parties and supersedes any previous oral or written agreements regarding the subject of this Contract. Article and section headings are inserted for convenience of reference only and shall in no way alter, modify, or define, or be used in construing the text of such articles or sections. Terms and conditions submitted by Consultant with a proposal, an invoice or otherwise are not incorporated in this Contract. This Contract shall not be modified or altered, including without limitation, making changes to the scope or cost of the work, except by mutual agreement, confirmed in writing and signed by the parties, with the signature on behalf of SMU being that of the President, a Vice President, the Chief Information Officer, the Associate Vice President for Facilities Planning and Management, or the Director of Purchasing.

6.14 This Contract may be executed in multiple counterparts, including facsimile counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. This Contract and any other documents requiring a signature hereunder may be signed electronically or by an original signature. Each party agrees not to deny the legal effect or enforceability of this Contract or any such other document on the ground that it is an electronic record or bears an electronic signature.

6.15 The obligations contained in Sections 5.2, 5.4, 5.8, 5.13, 5.15, 5.16, [5.17, 5.18,], 6.1, 6.2, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 6.13, 6.14 and 6.15 of this Contract shall survive the expiration, completion, abandonment and/or termination of the Contract and final completion of the Services.

6.16 Either party may terminate this Contract for convenience upon thirty (30) days' written notice to the other party. Each party shall remain responsible for all obligations accruing prior to the termination date.

This Contract is hereby executed and effective on the date on which it is signed and initialed by the last of those required to sign and initial this Contract.

SOUTHERN METHODIST UNIVERSITY

BY: _____
R. Gerald Turner
President

DATE: _____

[NAME OF CONSULTANT]

BY: _____

NAME: _____

TITLE: _____

DATE: _____

EXHIBIT A

STATEMENT OF SERVICES

INSERT DETAILED DESCRIPTION OF SERVICES TO BE PERFORMED AS PRESENTED IN
THE RFP RESPONSE

EXHIBIT B
Southern Methodist University
Office of Risk Management
Insurance Requirements of the Agreement
(Third Party Doing Business with SMU) as of 2/15/22

A valid Certificate of Insurance, along with copies of policy provisions and the required endorsements, must be provided to SMU's Office of Risk Management by any person or entity who is (i) providing goods or services to or for SMU, (ii) using SMU property for events, programs or other purposes or (iii) otherwise doing business with SMU (each a "Contractor"). Insurance must be in place prior to commencement or provision of goods or services or the use of property or other business engagement and must be maintained throughout the term of the contract or other agreement or engagement between SMU and the Contractor (the "Contract"), and thereafter. Contractor, at its sole cost and expense including payment of any premiums, deductibles, and/or self-insured retentions, will provide the insurance required pursuant to this **Exhibit A** sufficient to insure all of the Contractor's duties and responsibilities under the Contract, as required below:

1. These requirements apply to Contractor, and to Contractor's sub-subcontractors, consultants, suppliers and others fulfilling Contractor's obligations under the Contract, whether individuals or entities and including international providers (collectively, "Subcontractors"). Contractor must require all Subcontractors to comply with the insurance requirements applicable to Contractor.
2. The Contractor must be licensed or otherwise authorized to do business in the State of Texas.
3. Insurance must be issued by insurance companies with not less than an AM Best A-III rating.
4. Contractor and its insurers must waive subrogation against SMU, its trustees, officers, employees, students, volunteers and agents for claims or any other loss arising out of Contractor's negligence, willful misconduct, or omission.
5. Contractor will provide coverage for broad-form indemnification if such indemnification is required by the Contract.
6. Contractor will maintain all insurance required by this **Exhibit A** throughout the term of the Contract. For any "claims-made" coverage, such as insurance for any professional liability or directors and officers coverage, each policy must have a retroactive date prior to the date of project or Contract commencement which must be stated on the certificate of insurance and must be maintained by the Contractor until completion of the project and for at least three years thereafter either through policies in force or through "tail coverage."
7. Additional insured status will be written as noted for commercial general liability, automobile liability and excess liability or as noted on the P.2 of this form using ISO additional insured endorsements for ongoing and completed operations. For purposes of this additional insured requirement, "equivalent coverage" means coverage for liability caused by Contractor's actions and omissions in connection with the Contract, including coverage for the negligence or fault of Contractor and/or SMU or other parties indemnified under the Contract as to third-party bodily injury or death, of an employee or agent of the Contractor or of Subcontractors, including products-completed operations.
8. If any of Contractor's employees will at any time be working under the direction or control of SMU, then SMU must be named as alternate employer on the Workers' Compensation/Employer's Liability insurance and a copy of such endorsement will be attached to Contractor's certificate of insurance.
9. Contractor agrees to allow SMU to review all applicable insurance policies upon request.
10. Contractor is responsible for maintaining its own insurance coverage on its personal property.
Contractor and its insurer will provide at least 30 days' prior written notice to SMU of cancellation, changes in coverage which no longer satisfy these requirements, or nonrenewal of any policy.

The Certificate of Insurance must be completed using the following Description and Certificate Holder language, and will be acceptable to SMU:

1. **DESCRIPTION:** SMU must be included as additional insured unless noted otherwise on the attached form and must include the following language:

Southern Methodist University, its trustees, officers, employees, students, volunteers and agents are included as additional insureds (as the interest of each insured may appear) as to all insurance coverage required.

2. **CERTIFICATE HOLDER:** listed as follows and address to send Certificate of Insurance to:

Southern Methodist University
Office of Risk Management
P.O. Box 750231
Dallas, Texas 75275-0231 [by courier: 3050 Dyer Ct., Dallas, TX 75205]
riskmanagement@smu.edu

3. **CONTACT FOR QUESTIONS:** Associate Director, Risk Operations
Your prompt attention in this matter is greatly appreciated. If you have any questions, **please contact (214) 768-2486 or riskmanagement@smu.edu; Fax: (214) 768-4138**

**SOUTHERN METHODIST UNIVERSITY
Standard Minimum Limits of Liability and Certificate of Insurance Requirements**

The following Standard Limits are the minimum requirements for all Contractors. There are specific requirements that supersede the Standard Minimum Limits for Contractors providing high-risk services or for other high-risk projects and events. Please consult with the Office of Risk Management.

All Coverages and Minimum Limits of Liability listed below are required.

Line of Coverage	Description of Coverage and minimum Limits of Liability	SMU Included as Additional Insured Required
General Liability CG 00 01	Premises Liability \$1,000,000 per occurrence Personal Injury \$1,000,000 Products Liability \$1,000,000 Medical Payments \$10,000 Sexual Molestation/Assault \$50,000 General Aggregate \$2,000,000	Yes
Automobile Liability CG 00 01 CA 00 05, ..12, ..20	Combined Single Limit \$1,000,000 (any auto)	Yes
Workers' Compensation	Injury/Illness Statutorily required limits Employer's Liability \$1,000,000	N/A

EXHIBIT C

**PRIMARY LOCATION OF BUSINESS TO RECEIVE
NOTICES, INVOICES AND PAYMENTS;
DESIGNATED PERSONS TO RECEIVE NOTICES
AND AUTHORIZED TO SIGN**

PRIMARY LOCATION OF BUSINESS TO RECEIVE NOTICES:

Any notice required or permitted to be delivered must be in writing and may be given by certified or registered mail, facsimile, hand delivery or by overnight courier and shall be deemed to be received (a) if given by certified or registered mail, three days after deposited in the United States mail, postage prepaid, certified mail, return receipt requested; or, (b) if given by facsimile or hand delivery, when such notice is received by the party to whom it is addressed or, if given by an overnight courier or delivery service when deposited with such courier.

The following are the designated Primary Locations of Business to Receive Notices:

For Consultant:

For SMU:

SELECT ONE:

Dawn Rogers
Senior Associate Athletic Director/Internal Affairs
Southern Methodist University
P.O. Box 750315
Dallas, TX 75275-0315
Telephone: (214) 768-4963
dawnr@smu.edu

With a copy to:

Vice President for Legal Affairs and Government Relations
Southern Methodist University
P.O. Box 750132
Dallas, TX 75275-0132
Fax: (214) 768-1281

PRIMARY LOCATION OF BUSINESS TO RECEIVE INVOICES AND PAYMENTS:

Invoices shall be sent to SMU electronically to invoices@smu.edu and include the primary SMU contacts name on the invoice.

Payments shall be sent to Consultant by United States mail, postage prepaid, to the following location:

DESIGNATED PERSONS TO RECEIVE NOTICES AND COMMUNICATIONS:

The parties hereby designate and appoint the following persons, whose addresses are designated above, as their representatives respectively, to receive all notices and communications and, to the extent of their obligations, to act for them in all respects:

For Consultant: _____

SMU's Representatives: Dawn Rogers, Senior Associate Athletic Director/Internal Affairs and Paul J. Ward, General Counsel

(See "Designated Persons Authorized to Sign", below, for authority to bind the University to expend funds)

Consultant shall not take direction from persons in academic, administrative or operating units of SMU not specifically named herein. It is agreed, if Consultant takes direction from persons not named herein and proceeds to perform additional services, modifies established programming or changes the scope of basic services, SMU shall not reimburse Consultant for any such expenses, shall not extend the schedule of performance of Services, and shall not compensate Consultant for any services or expenses to bring the Services into compliance with the Contract.

DESIGNATED PERSONS AUTHORIZED TO SIGN:

Unless specifically stated otherwise in the Contract, the following are the designated persons authorized to sign written authorizations or agreements, including, but not limited to, Change Orders required by the Contract:

For Consultant: _____

For SMU: Dr. R. Gerald Turner, President;
Ms. Chris Regis, Vice President for Business and Finance
Shannon Brown, Director of Purchasing.

Should it become necessary to change the Primary Location of Business to Receive Notices and Payments or the Designated Persons to Receive Notices and Authorized to Sign, any party may do so by giving written notice to the other representatives as provided in the above within seven (7) days of such change.