

OLD DOMINION UNIVERSITY  
REQUEST FOR PROPOSALS  
SEALED - RFP # 21-ODU-07-JNH

Title: Digital Learning Management System Replacement

Issue Date: November 20, 2020

Due Date and Time: March 23, 2021 NLT 2:00 P.M. Local Time (Time Stamped 2:01 P.M. or Later **Will Not Be Accepted**)

Issuing Agency: Old Dominion University  
Procurement Services, Suite 111  
4401 Powhatan Avenue  
Norfolk, Virginia 23529-0308

Period of Contract: From date of award for four (4) consecutive years, with three (3) additional twelve (12) months renewal options years

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**THIS DOCUMENT CONSTITUTES A REQUEST FOR SEALED PROPOSALS FROM QUALIFIED INDIVIDUALS AND/OR ORGANIZATIONS TO PROVIDE A FULLY COMPREHENSIVE AND SCALABLE DIGITAL LEARNING MANAGEMENT SYSTEM FOR OLD DOMINION UNIVERSITY.**

**ACKNOWLEDGE RECEIPT OF ADDENDUM: #1 \_\_\_ #2 \_\_\_ #3 \_\_\_ #4 \_\_\_ #5 \_\_\_ (Please Initial)**

In compliance with this Request for Proposal ("RFP") and to all the conditions imposed herein, the signatory agrees to faithfully execute any resulting contract, and offers to furnish the goods/services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation. An 'Agent' authorized to bind the company to same shall sign the following section.

Name and Address of Firm:

\_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ By: \_\_\_\_\_  
Signature

\_\_\_\_\_ Name: \_\_\_\_\_  
Typed or Printed (Name and Title)

\_\_\_\_\_ Phone #: \_\_\_\_\_

FEI/FIN #: \_\_\_\_\_ Fax #: \_\_\_\_\_

E-mail address: \_\_\_\_\_

Are you or your company registered with eVA? \_\_\_\_\_ Yes \_\_\_\_\_ No eVA ID#: \_\_\_\_\_

Is your firm registered with the Commonwealth's State Corporation Commission (SEC)? If yes, please indicate identification number: \_\_\_\_\_

Are you or your firm certified through the Commonwealth's Department of Small Business and Supplier Diversity? \_\_\_\_\_ Yes \_\_\_\_\_ No

If yes, please indicate the following:

SWaM Designation: \_\_\_\_\_

Certification #: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

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I. **INSTRUCTIONS TO OFFERORS:**

A. General:

1. The University reserves the right to accept or reject any and all proposals in whole or in part, and waive any informality that may occur during the competitive negotiation process. Further, the University reserves the right to enter into any contract deemed to be in the best interest of the University.
  - a. Sealed proposals will be received by and in the office of issuing agency specified on page 1 of this RFP until **March 23, 2021 NLT 2:00 PM local time**. Proposals time-stamped 2:01 P.M. or later will not be considered, and will be returned to the Contractor unopened. The University is not responsible for late delivery by U. S. Postal mail or other couriers.
  - b. Should the University experience an 'unofficial' closing on and/or during the date and time specified herein for the receipt of sealed proposals, the closing date shall automatically extend to the next day the University is officially opened for business, with the receiving time remaining the same.
  - c. It shall be the Offeror's responsibility to confirm any 'unofficial' closing(s).
2. All inquiries and questions regarding this solicitation must be directed to **Janis Hall, Procurement IT Solutions Manager**, Department of Procurement Services via email at [jnhall@odu.edu](mailto:jnhall@odu.edu), and are due NLT 2:00 P.M. (EST) **December 15, 2020**. A response via an addendum shall be issued for any such requests deemed to have any bearing on service delivery or cost.
3. **IDENTIFICATION OF PROPOSAL ENVELOPE:** The signed proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: _____	<u>March 23, 2021</u>	<u>2:00 P.M.</u>
Name of Offeror	Due Date	Time
_____	<u>21-ODU-07-JNH</u>	
Street or Box Number	RFP No.	
_____	<u>Digital Learning Management System Replacement</u>	
City, State, Zip Code	RFP Title	

Name of Contract/Purchase Officer or Buyer **Janis Hall**

The envelope should be addressed as directed on Page 1 of the solicitation.

Proposals may be hand delivered to the designated location in the office issuing the solicitation. No other correspondence or other proposals should be placed in the envelope.

4. The University may make such reasonable investigations as deemed proper and necessary to determine the ability of the Offeror to perform the services/furnish the goods and the Offeror shall furnish to the University all such information and data for this purpose as may be requested. The University reserves the right to inspect Offeror's physical facilities prior to award to satisfy questions regarding the Offeror's capabilities. The University further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such Offeror fails to satisfy the University that such Offeror is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.
5. **Announcement of Award:** Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the University will publicly post such notice on the eVA VBO website for a minimum of 10 days.
6. **Proposal Binding Period:** Any response to this solicitation shall be valid for (120) days. At the end of the (90) days the proposal may be withdrawn at the written request of the Offeror. If the proposal is not withdrawn at that time it remains in effect until an award is made or the solicitation is canceled.
7. **Offeror Certification:** By submitting their proposals, Offeror's certify to the University that:
  - a. Their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official

responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged. (the VPPA §2.2-4367 through §2.2-4377.)

- b. They will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians with Disabilities Act, and the Americans with Disabilities Act.
  - c. If awarded the contract as a 'faith-based' organization, they shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipients religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (the Rules §36.E.)
  - d. They do not and will not during the performance of any resulting contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.
  - e. They are not currently debarred by the Commonwealth of Virginia from submitting proposals on contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.
  - f. They agree to faithfully enter into any resulting contract and further conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.
8. Offeror Obligation: Offeror shall carefully examine the terms and conditions set forth in this Request for Proposal and any subsequent addenda. Failure to do so shall not relieve a Offeror of an obligation to furnish the goods and/or services specified in this Request for Proposal and its addenda.
9. Discrimination by University Prohibited:
- a. The University shall not discriminate against any Offeror during this solicitation or award of any resulting contract because of race, religion, color, sex, national origin, age, disability, any other basis prohibited by state law relating to discrimination in employment. (the Rules §9.A.)
  - b. The University shall not discriminate against any Offeror during this solicitation or award of any resulting contract because the Offeror employs ex-offenders unless the University has made a written determination that employing ex-offenders on the specific contract is not in its best interest. (the Rules §9.D.)
  - c. The University shall not (i) discriminate against a faith-based organization on the basis of the organization's religious character or (ii) impose conditions that (a) restrict the religious character of the faith-based organization, except as provided in subsection F of the Rules §36 , or (b) impair, diminish, or discourage the exercise of religious freedom by the recipients of such goods, services, or disbursements. (the Rules §36.C.)
10. eVA Website Portal: The eVA Internet electronic procurement solution, website portal [www.eVA.virginia.gov](http://www.eVA.virginia.gov), streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for Contractors to conduct business with state agencies and public bodies. All Contractors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet eprocurement solution either through the eVA Basic Contractor Registration Service or eVA Premium Contractor Registration Service. If selected for award by the University, selected Offeror must register in eVA and agree to pay the Contractor Transaction Fees specified on the eVA website. Failure to register will result in cancellation of contract.
11. Ownership Of All Data and Trade Secrets or Proprietary Information:
- a. Materials and documentation originated and prepared for the University pursuant to this RFP shall belong exclusively to the university and be subject to public inspection in accordance with the Virginia Freedom of Information Act, Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 of the Code of Virginia.

- b. Trade secrets or proprietary information submitted by an Offeror shall not be subject to public disclosure under the Freedom of Information Act; however, the Offeror must invoke the protections of §23-38.90 of the Code of Virginia, specifically the '*Rules Governing Procurement of Goods, Services, Insurance, and Construction by a Public Institution of Higher Education of the Commonwealth of Virginia (the "Rules")*', subsection F. of §34, in writing either before or at the time the data or other material is submitted.
  - c. The written notice must specifically identify the data or materials to be protected and state the reasons why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that constitute trade secret or proprietary information.
  - d. The classification of an entire proposal document, line item prices and/or total proposal prices as proprietary or trade secrets is not acceptable and will result in rejection of the proposal.
12. Scope: Specifications used herein are to be considered a quality indicator and acceptance will be based on Offeror's compliance with the intent of the specifications. Deviations and/or exceptions taken to the specifications herein may be considered if they are deemed to meet the intent of the solicitation.
13. Tax Exempt: Sales to the Commonwealth of Virginia are exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request. Deliveries against this contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

B. Specific

1. Demonstrations: By submitting a proposal, the Offeror certifies that the specified software or equipment is in productive use and capable of demonstration in the proposed configuration. The University reserves the right to require Offerors to demonstrate the functionality of proposed software or equipment to its satisfaction prior to making an award decision. Such demonstration is intended to show that a Offeror's products will perform in a completely satisfactory manner and that they will meet or exceed the performance specifications contained in the solicitation. Failure by a Offeror to promptly comply with a request for demonstration could result in their proposal being rejected.
2. References: Offerors shall complete and submit with response the requested account and reference information specified herein in Attachment A. Offeror shall provide a minimum of five (5) references, however, additional references may be included as a separate attachment incorporated into the response.

If at any time during the past ten (10) years the Offeror and/or any of the Offerors' currently named principals has conducted business and/or held a contract agreement of any type with Old Dominion University, either under the Offeror's current legal name or a previous legal name including any sole proprietorship, corporation, partnership, limited liability corporation, or joint venture, etc., then Offeror shall include as a named reference, Old Dominion University.

If Old Dominion University is named as a reference in an Offeror's response, then Offer's past performance for any and all Old Dominion University contracts held and/or completed during the specified ten (10) year period may be used to determine a Offeror's responsibility and subsequent award of this contract.

II. PURPOSE

The purpose of this Request for Proposal (RFP) is to solicit proposals to establish a contract through competitive negotiations for Old Dominion University.

### III. **BACKGROUND**

#### A. **Campus and Community:**

Old Dominion University (ODU) is a state-assisted institution in Norfolk, Virginia, part of the metropolitan and historic Hampton Roads area with a population of 1.6 million people. Located about 200 miles south of Washington D.C., ODU is within minutes of the largest East Coast seaport, the oceanfront in Virginia Beach and the world's largest naval base. A recent study by the Virginia Business Higher Education Council specified that ODU contributes approximately \$2.1 billion a year to the Commonwealth and regional economy, and is committed to attracting top talent, nurturing investment and business start-ups, generating high-paying jobs, and improving the quality of life for Hampton Roads and all of Virginia.

A comprehensive, metropolitan, public research doctoral institution in the city of Norfolk in the Hampton Roads region of coastal Virginia, ODU is also classified as a Carnegie Doctoral "Higher Research Activity" university and holds status as both a sea grant and space grant institution. Situated on 251 acres near downtown Norfolk, ODU's main campus stretches from the Elizabeth River to the Lafayette River.

Historically, the university began in 1930 as the Norfolk Division of the College of William and Mary, achieved independent status in 1962, and achieved university status and official title as Old Dominion University in 1969. The university is accredited by the Southern Association of Colleges and Schools. Currently, university enrollment is nearly 25,000 students. Undergraduate students make up approximately 20,000 and graduate students approximately 5,000; international students account for almost 1500 enrollments.

#### B. **Current Program:**

Old Dominion University has been a Blackboard customer and used Blackboard Learn as the designated Learning Management System since 1998. ODU is currently operating in the Blackboard SaaS environment with the Ultra Experience implemented for the institution but still using the Classic experience within courses. Blackboard currently hosts approximately 50,000 active courses and organizations, 40,000 active users with around 25,000 unique monthly logins to access course material. ODU maintains a strong mobile user base with about 3,000 users accessing Blackboard mobile tools daily.

In addition to a number of internally developed and integrated tools such as grades transfer and Attendance Management, ODU manages integrations with a wide variety of external vendors including McGraw Hill, Pearson, Cengage, Top Hat, Kaltura, Tutor.com and many others. These tools are used to improve the student educational experience and assist with faculty efforts throughout the academic year.

In addition to the Blackboard Learning Management System, the Center for Learning and Teach (CLT) maintains a separate internally developed Personal Learning Environment (PLE) which hosts Face to Face and Online delivered courses. This system has minimal integration with Blackboard, but there is the desire for significantly better integration to the university Learning Management system tools such as the Grade Center and Assessment components through standardized API or LTI integrations.

Old Dominion University is seeking a Digital Learning Environment to succeed its current Learning Management System. A Digital Learning Environment in this context is considered to be the digital "hub" for a confederation of services and tools that support teaching and learning, versus simply an administration tool for managing course content. The Digital Learning Environment should be on a cloud hosted platform, provided for redundant availability to meet a 99.7% uptime annually, provide for Business Continuity and Disaster Recovery within 24 hours of notification with a 12 hours restore point objective in the event of catastrophic failure.

The purpose of this RFP is to provide interested parties with information to enable them to prepare and submit proposals for a comprehensive Digital Learning Environment, including assistance with implementation and integration with other existing systems and software. ODU intends to use the results of this RFP to award a contract for these products and services.

#### B. **Good Faith Small, Women, and Minority (SWaM) Owned Business Participation Efforts:**

1. Old Dominion University is committed to the preservation and strengthening of small businesses, small businesses owned by women and minorities and to encouraging their participation in State procurement activities. Subsequently, the University is committed to achieving its FY2015 aspirational target of forty-seven and one-half percent (47.5%) with firms certified by the Commonwealth's Department of Small Business and Supplier Diversity ("DSBSD") for combined prime contractor and subcontractor spend. The University requests assistance from all potential prime contractor's in reaching this goal by specifically meeting or exceeding expenditure targets equal to:
  - a) 8% for MBE spend;
  - b) 6.5% for WBE spend; and
  - c) 33% for SBE spend.
2. It is the University's goal to achieve these targets through Offeror's willingness to provide for participation of small businesses, and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, or other contractual opportunities. Submission of a report of past efforts to utilize the goods and services of such businesses, and plans for involvement on this contract are required. By submitting a response, /Offeror certifies that all information provided in response to this solicitation is true and accurate. Failure to provide the information required by this solicitation may ultimately result in the response being deemed non-responsive, and ultimately rejected.
3. Plans submitted that include involvement and participation of certified DSBSD SWAM firms will be evaluated based on commitment to meeting the University's targets specified in above paragraph 1., and as applicable, will be awarded associated points as calculated and described herein.
4. The University also encourages Offeror's to provide for participation of small businesses, and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, or other contractual opportunities. Submission of a report of past efforts to utilize the goods and services of such businesses, and plans for involvement on any resulting contract are required. By submitting a response, Offeror certifies that all information provided in response to this solicitation is true and accurate. Failure to provide the information required by this solicitation may ultimately result in response being deemed non-responsive, and ultimately rejected.
5. While it is the University's intent to enter into an exclusive agreement with one Offeror, whenever possible, all potential Offerors are encouraged to subcontract any applicable services by partnering with qualified vendors that have also been certified as small, small woman-owned, small minority-owned, businesses through the Commonwealth of Virginia's DSBSD.
6. In order for Offerors to be given consideration for award of a contract, each Offeror shall provide with their response (and/or no later than ten (10) business days after request, but prior to award, such statement(s)) setting forth:
  - a) The good faith SWaM owned business participation efforts which the Offeror has undertaken in the past; and
  - b) The good faith SWaM owned businesses participation efforts which the Offeror intends to undertake in connection with the performance of this contract; including name of firm, contact name and phone number, total dollar amount to be subcontracted, category type (small, women, or minority owned), type of product/services.
7. If, in the statement submitted in the response to above sections 6.a and 6.b, the Offeror indicates that it has not undertaken any good faith SWaM business participation efforts in the past and/or does not intend to undertake any such efforts in connection with the performance of any resulting contract, the Offeror must **also** submit a statement setting forth the reason why it has not undertaken such efforts in the past and/or does not intend to undertake them in connection with the performance of this contract.
8. Any Offeror that can qualify for certification through DSBSD must do so prior to the award of any contract. The qualification information shall be evidenced by that information specified in the Offeror's completed and submitted W-9 form.
9. Regardless of whether or not the Offeror is able to qualify for DSBSD certification, selected Offeror shall also agree to provide reports to the University's Department of Procurement Services, identifying the subcontractors used during the performance of any subsequent contract, as follows:

**A. Goods and Services – Quarterly Reports:**

**i. DSBSD Certified subcontractors:**

- (a) Firm name;
- (b) DSBSD certification number;
- (c) DSBSD Designation (Small, Woman, Minority);
- (d) Value of subcontractor's contract;
- (e) Amount paid current quarter;

**ii. Non-DSBSD Certified subcontractors – Contracts >\$200,000:**

- (a) Firm name;
- (b) DSBSD certification number;
- (c) DSBSD Designation (Small, Woman, Minority);
- (d) Value of subcontractor's contract;
- (e) Amount paid current quarter;

**B. Construction:**

**i. DSBSD Certified subcontractors:**

- (a) Firm name;
- (b) DSBSD certification number;
- (c) DSBSD Designation (Small, Woman, Minority);
- (d) Value of subcontractor's contract;
- (e) Amount paid current quarter;

**Note:** Contractor(s) may be deemed in "breach of contract" for failure to provide the required subcontractor data and reports as specified above, and the contract and/or purchase order may be cancelled. Additionally, the University may withhold payment(s) for any and all services provided and invoiced during the period, and those same services will remain unpaid until such data and reports are provided.

- C. **Authorized Contract Participation:** In accordance with the *University's Rules Governing Procurement of Goods, Services, Insurance and Construction ("Rules Document")*, specifically §6, Cooperative Procurement, it is the intent of this solicitation to allow any public body, public or private health or educational University's, or **Old Dominion University's** affiliated agencies and/or corporations, access and use of any subsequent contract(s), as authorized by the Contractor(s).

Participation in this cooperative procurement is strictly voluntary. If authorized by the Contractor(s), any resultant contract(s) may be extended to the entities as indicated above to purchase at contract prices in accordance with contract terms and conditions. The Contractor(s) shall notify **Old Dominion University** in writing of any entities accessing the contract. No modification of this contract or execution of a separate contract is required to participate. The Contractor(s) will provide semi-annual usage reports for all entities accessing the contract(s). Participating entities shall place their own orders directly with the Contractor(s), and shall fully and independently administer their use of the contract(s), including contractual disputes, invoicing and payments, without direct administration from **Old Dominion University**. **Old Dominion University** shall not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by the Contractor(s) to extend participation and use of the contract(s). It is understood and agreed that **Old Dominion University** is not responsible for the acts or omissions of any entity, and will not be considered in default of the contract(s) no matter the circumstances.

Use of this contract does not preclude any participating entity from using other contracts or competitive processes as the need may be.

**IV. SCOPE OF WORK:**

**A. General**

The scope of this RFP includes the full replacement of the University's existing Learning Management System (Blackboard). This includes the establishment of a new cloud hosted environment suitable for supporting our implementation, branding, configuration, integration with external data sources and vendors as required to replace the existing configuration. Once a system configuration has been established, there shall be technical assistance and automation tools provided to Information Technology Services (ITS), Center for Learning and Teaching (CLT) and faculty to migrate all existing course content and student information from the current system to the proposed



system. For the initial one (1) year there shall be regular (2 per month) online training sessions offered for administrative personnel and faculty on system / application usage.

**B. ANTICIPATED SCHEDULE**

Any changes to the Proposal Due Date shall be posted as an Addendum.

<b>DATE</b>	<b>EVENT</b>
November 20, 2020	Date RFP issued
December 15, 2020	Questions Due
December 21, 2020	RFP Addendum released
March 23, 2021	Proposal Due Date
April 1 20, 2021	Short listed firms make "sandbox" available to usability testers
April 26, 2021	Short listed firms Begin Presentations
June 1, 2021	Notification of Award
October 1, 2021	Contract start date / Begin system builds

**C. SPECIFIC**

Any potential Offeror shall have the necessary experience, qualified personnel and market presence for the proposed solution. The offeror must control supporting technical and financial resources to ensure the proposed solution is successfully designed, developed, implemented and tested for problem free and scalable delivery, and is capable of continued post 'go-live' maintenance and support to provide program development and enhancement for platform solution extensibility. At a minimum, any potential Offeror must:

1. Provision a Digital Learning Environment for use with the offered licensed solution.
  - a. Provision at a minimum three (3) cloud-based environments that include licensing and use of the proposed solution that are accessible to the University. This shall consist of a Development/Staging, Test, and Production environments.
    1. Production environment shall minimally include:
      - a. supporting an average of 45,000 active users each academic semester.
      - b. ability to provision user accounts manually or through automated integration with external systems (see IV.C.2.1)
      - c. storage for course material and content for up to 12 TB of data on a continuous manner with options for expansion as data needs change. This storage requirement does not include storage requirements for any associated database that would be required to manage the Digital Learning environment. (i.e. database and content storage should be considered separately)
      - d. supporting an average of 35,000 daily logins which may be spread over both web and mobile traffic with peak logins over 45,000 per day.
      - e. adequate system resources to provide scalability to ensure system availability during peak need periods (beginning of semesters, mid-terms & final exam time periods). If performance anywhere in the architecture operates above 60% of capacity for a 24-hour duration, additional resources shall be automatically applied to the environment to improve performance.
      - f. Service Level Agreement (SLA) with an uptime 99.7%.
      - g. Integration with University authentication systems through a minimum of SAML 2.0.
      - h. availability to University personnel through SAML or local authentication.
      - i. supporting individual user accounts for all users with user and group-based roles to provision a defined access to the system. The proposed system shall allow for the creation of new and modification of existing roles to meet the University need.
      - j. the environment shall be backed up and provide *at a minimum* for Business Continuity with a 24-hour Real Time Objective (RTO) and a 12-hour Recovery Point Objective (RPO).
    2. Test Environment will be used to test all new product features, existing integration upgrades, new integrations and tools prior to being implemented in production. Test environment at a minimum shall include:
      - a. the same capabilities and requirements of the Production system except for item IV.C.1.d). The test environment shall be configured to support approximately 500-1000 monthly logins by active users.
      - b. the ability to be cloned from the Production environment at least once per year to ensure consistent data and integration testing.

- c. the ability to be accessible through the same authentication methods as the production environment (SAML) with a different IdP.
  - 3. Non-Production Development environment will be used for module / tool development and integration. Non-Production Development environment shall at a minimum include:
    - a. The same capabilities and requirements of Production except for IV.C.1.a., f, and j..
    - b. the same product level/version as the production and test environments and upgradeable in a similar fashion.
    - c. shall not be unavailable for more than 96 hours (IV.C.1.j)).
- 2. Provide technical knowledge and support for the implementation of required integrations necessary to ensure an academic semester can be undertaken.
  - a. *Integration with University Student Information System (SIS)* shall include at a minimum:
    - 1. Updates between the SIS and Digital Learning System shall not be spaced more than 60 minutes apart. Triggered or immediate updates are the preferred solution. ODU currently uses Banner Student as our SIS. Integrations with this system must include the following components:
      - a. Faculty, Staff and Student information to provision access to the proposed solution with associated individual roles within the Digital Learning system.
      - b. Course Lists to provision all courses that will be accessed and used within the Digital Learning System for each academic semester.
      - c. Enrollment information that will manage assignment of individuals in enrolled courses and along with their designated role within each course.
    - 2. SIS Grade Integration; push grade information from the Digital Learning System to the SIS system in both a manual and automated fashion.
  - b. *SAML integration with University*. This includes the establishment of the Digital Learning system as a Service Provider (sP) and integration with the University SAML Identity Provider (IdP) for access and data integration. At a minimum should include:
    - 1. technical assistance with the configuration of the sP provider along with mapping of any desired SAML attributes to Digital Learning system attributes.
  - c. *Documented LTI 1.3 and LTI Advantage standards compatibility for Integration with external Third-Party applications*. Provide technical guidance and assistance to ensure the full compatibility with the current specifications as outlined by the IMS Consortium for the integration of a large variety of applications which can include, but is not limited to, the following applications used by the University:
    - 1. *Kaltura Video Management system* – Kaltura is the primary video management system for ODU and is integral to course delivery with Distance Learning and Classroom Central through Zoom and WebEx. Videos captured during a class session must automatically be delivered into the course folder and be accessible to the owner (course faculty of record)
    - 2. *Pearson* – externally connected cloud system providing training modules, assessments and course material through the MyLab, Reveal and Mastering Computers areas which are used copiously by faculty in many areas.
    - 3. *Turning Technologies* – externally connected cloud system used to deploy in class clicker system used by many faculty for in class participation and attendance.
    - 4. *Labster.com* – external lab experience online used by many faculty in Biology and Math.
    - 5. *TopHat* – externally connected cloud system used by many courses in the Science areas for assessing class participation, quizzing tools and attendance participation.
    - 6. *Smarter Proctoring* – externally connected cloud system used by many courses across the University and online for active proctoring of exams and assessments.
    - 7. *Zoom* – externally connected cloud system providing the primary web conferencing tool for the entire university. Used by faculty, staff and students for business, staff and academic gatherings online. All recordings taken are automatically transferred to the Kaltura Video Management system to the meeting owners media library where it can be shared with others. Integration with Zoom must allow for the scheduling, initiating, handling and recording of meetings from the Digital Learning System.
    - 8. *Infosec Learning* – externally connected cloud system providing directly integrated training / assessment items.
    - 9. *VoiceThread* – externally connected cloud system providing annotated voice / audio assignment and assessment information for faculty.
    - 10. *Piazza* - externally connected cloud system providing course content and training modules.
    - 11. *RedShelf* - externally connected cloud system providing a digital e-book library and reader.
    - 12. *McGraw Hill* - externally connected cloud system providing course content and training modules.

13. *Respondus* - externally connected cloud system providing assessment management and test proctoring.
  - d. *Integrations including, but not limited to:*
    1. Respondus App – providing assessment management.
    2. Respondus Lockdown Browser – Securing the assessment environment and restricting access to external resources while taking an assessment.
    3. Gravic/Remark – Importing Opscan grades.
  - e. *Data Analytics at minimum shall include:*
    1. Access to Digital Learning environment data through documented standards.
    2. Compatibility access through Caliper standard.
  - f. *Access to available API and SDK tools for the integration of external third party and internally developed tools and applications.* Provide technical knowledge and assistance for the modification and realignment of existing applications and tools to operate with the proposed solution. These applications and tools can include, but is not limited to, the following:
    1. *ODU Attendance Management* – Locally developed application integrated with other ODU system that collects and automatically provisions attendance data in the current LMS.
  - g. *Mobile Applications including, but not limited to:*
    1. Community System – provides course like tools for non-credit student organizations and training needs.
3. Provide technical and personnel assistance for the disposition, conversion or migration of existing course material and data content from the current LMS to the proposed Digital Learning system. This assistance shall minimally include the following services:
    - a. Develop and document a defined process for reviewing past course content and material and define a process for how material will be retained or migrated for future access. The University typically provisions up to 3 years of course material in the LMS to faculty and students use.
    - b. If the current LMS differs from the offered Digital Learning system, provide a proposed methodology and assistance for how material and content will be recreated so that it is available to faculty for use.
    - c. Develop and document a plan for Technical training for staff from ITS, CLT and the Center for Faculty Development on the processes necessary to:
      1. export, migrate, convert or copy existing course material into new courses
      2. best practices for the best pedagogical use of the Digital Learning System for the development of new course material
    - d. Develop and document a plan for faculty training to assist faculty with:
      1. updating current course material and content to the offered system.
      2. best practices for the best pedagogical use of the Digital Learning System for the development of new course material
  4. Provide technical and user support assistance to the University through user technical support and 3<sup>rd</sup> tier problem resolution at a minimum shall include:
    - a. 24/7 on user call support. 24-hour trouble support line should integrate with the University ITS help desk to ensure problems are not lost or delayed in resolution.
    - b. direct access to the University LMS technical and Admin personnel for 3<sup>rd</sup> tier problem resolution technicians or ticketing system to escalate significant or severe problems that are unresolved.
    - c. quarterly updates on the system status, performance and use of the production and test systems to allow for management overview or insight.

**V. REPORTING AND DELIVERY REQUIREMENTS:**

**UTILIZATION OF SMALL BUSINESSES AND BUSINESSES OWNED BY WOMEN AND MINORITIES:**

- A. Any subsequent contract(s) that include a final SWAM Plan must provide for expenditure percentages for each proposed SWAM subcategory, as mutually negotiated and agreed to.
- B. Periodic Progress Reports/Invoices: For those contract(s) that include a final SWAM Plan, the Contractor shall provide on a quarterly basis to the appropriate University contact, a report on involvement of small businesses and businesses owned by women and minorities. This report will specify (i) the proposed total spend percentage and proposed total spend in dollars during the contract term for each proposed SWAM subcategory, (ii) the proposed total spend percentage and proposed total spend in dollars during the contract term with each identified and specified business, (iii) the actual spend percentage and actual spend in dollars to date and/or current period with each

identified and specified business. This information shall be provided separately for small businesses, women-owned businesses and minority businesses.

- C. Final Actual Involvement Report: The Contractor(s) shall submit to the appropriate University contact, within 60 days of contract completion, a report on the actual dollars spent with small businesses and businesses owned by women and minorities during the performance of the contract. At a minimum, this report shall include for each firm contracted with and for each such business class (i.e., small, women-owned) a comparison of the total actual dollars spent on this contract with the planned involvement of the firm and business class as specified in the proposal, and the actual percent of the total estimated contract value.
- D. If at any time during the contract term, as evidenced by review of required quarterly and report submittals, the awarded Contractor fails to meet proposed SWAM expenditure percentages, the University may deem same in 'breach of contract', and take appropriate action as necessary, which may include:
  - 1. An agreed to period to allow Contractor 'time to cure';
  - 2. Cancellation of remaining term(s) of contract; or
  - 3. The withholding of funds due to Contractor equal to the difference between proposed expenditure amount versus actual expenditure amount for any and all SWAM subcategories.
- E. In the event Contractor provides satisfactory resolution to any SWAM subcategory spend deficiency, the University will release to Contractor the associated funds withheld.
- F. The University's right to withhold any funds due the Contractor pursuant to this section, shall not relieve the Contractor of their contractual obligations.

#### VI. GENERAL TERMS AND CONDITIONS

The following 'general' terms and conditions shall govern this solicitation, associated Offeror response(s), and as applicable, may be incorporated into any resulting contract.

- A. ADVERTISING: Offeror agrees that that no indication of such sales or services to the University will be used in product literature or advertising during the contract term of any contract award for supplies, equipment, or services resulting from this proposal.
- B. APPLICABLE LAWS AND COURTS: This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the Contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 23-38.90). The Contractor shall comply with all applicable federal, state and local laws, rules and regulations and policies of the University.
- C. APPLICABLE LEGISLATION AND MANUAL: This solicitation and any resulting contract is subject to the provisions of the Commonwealth of Virginia, specifically § 23-38.90 of the Code of Virginia and its associated Rules Governing the Procurement of Goods, Services, Insurance and Construction ("the Rules") and the Purchasing Manual for Universities of Higher Education and their Contractors and any revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of the manual is accessible on the Internet at [www.odu.edu/procurement](http://www.odu.edu/procurement) under "Information for Contractors".
- D. ASSIGNMENT OF CONTRACT: Any resulting contract shall not be assignable in whole or in part without the written consent of the University.
- E. AVAILABILITY OF FUNDS: The University shall be bound hereunder only to the extent of the funds available or which may hereafter become available during each subsequent fiscal year and/or contract term, as applicable, and any requirement by Contractor for any total or partial compensation or payment by the University of unpaid fees, whether current or future, for lost profit and/or as liquidated damages in the event of early termination of the then current term if for other than breach by the University is prohibitive.
- F. AUDIT: Offeror agrees that they shall retain all books, records, and other documents relative to any resulting contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The University, its authorized agents, and/or state auditors shall have full access to and the right to examine any of said materials during said period.

G. **CHANGES TO THE CONTRACT:** During the term of any resulting contract, including any and all applicable extensions and/or renewals, changes may be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the scope of the contract. An increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. The University may request and issue change orders within the general scope of the contract at any time by written notice to the Contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The Contractor shall comply with the notice upon receipt. The Contractor shall be compensated for any additional costs incurred as the result of such order and shall give the University a credit for any savings. Said compensation shall be determined by one of the following methods:
  - a. By mutual agreement between the parties in writing; or
  - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the Contractor accounts for the number of units of work performed, subject to the University's right to audit the Contractor's records and/or to determine the correct number of units independently; or
  - c. By ordering the Contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The Contractor shall present the University with all vouchers and records of expenses incurred and savings realized. The University shall have the right to audit the records of the Contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the University within thirty (30) days from the date of receipt of the written order from the University. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Purchasing Manual for Universities of Higher Education and their Contractors*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the Contractor from promptly complying with the changes ordered by the University or with the performance of the contract generally.

H. **DEFAULT:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the University, after due oral or written notice, may procure them from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the University may have.

I. **DISCOUNTS**

1. **Prompt Payment Discounts:** The University will pay within 30 days after acceptance. A prompt payment discount offered for prompt payment of ( 20 ) calendar days or longer will be calculated in determining net low proposal.
2. **Special Educational Or Promotional Discounts:** The Contractor shall extend any special educational or promotional sale prices or discounts immediately to the University during the term of the contract. Such notice shall also advise the duration of the specific sale or discount price.

J. **DRUG-FREE WORKPLACE:** (*the Rules §11.*)

During the performance of any resulting contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or Contractor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

K. EMPLOYMENT DISCRIMINATION: *(the Rules §10.)*

During the performance of any resulting contract, the Contractor agrees to:

1. Not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor, and to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of the above nondiscrimination clause.
2. State in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that such Contractor is an equal opportunity employer.
3. Certify all notices, advertisements and solicitations shall be placed in accordance with federal law, rule or regulation deemed sufficient for the purpose of meeting these requirements.
4. Include the provisions of foregoing paragraphs 1., 2., and 3. in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or Contractor.

L. EXCLUSIVITY: The University reserves the right to procure goods or services covered under any resulting contract from a third party when, in the University's sole discretion, it is deemed to be in the University's best interest.

M. GUARANTEE OF WORK:

1. Except as otherwise specified, all work shall be guaranteed by the Contractor against defects resulting from the use of inferior materials, equipment, or workmanship for one (1) year from the date of final acceptance of the entire project by the owner in writing. Equipment and facilities, which have seasonal limitations on their operation, shall be guaranteed for one (1) full year from the date of seasonally appropriate tests and acceptance, in writing, by the owner.
2. If, within the guarantee period, defects are noticed by the owner which require repairs or changes in connection with the guaranteed work, those repairs or changes being in the opinion of the owner rendered necessary as the result of the use of materials, equipment or workmanship, which are defective, or inferior or not in accordance with the terms of the contract, then the Contractor shall, promptly upon receipt of notice from the owner, such notice being given not more than two weeks after the guarantee period expires, and without expense to the owner:
  - a. Place in satisfactory condition in every particular all of such guaranteed work and correct all defects therein;
  - b. Make good all damage to the structure, site, equipment, or contents thereof, which is the result of the use of materials, equipment, or workmanship which are inferior, defective, or not in accordance with the terms of the contracts; and
  - c. Make good any work, materials, equipment, contents of structures, and/or disturbance of the site in fulfilling any such guarantee.
3. In any case, where in fulfilling the requirements of the contract or any guarantee embraced in or required thereby, the Contractor disturbs any work guaranteed under contract, he shall restore such work to a condition satisfactory to the owner and guarantee such restored work to the same extent as it was guaranteed under such other contract.
4. If the Contractor, after notice, fails to proceed promptly to comply with the terms of the guarantee, the University may have the defects corrected and the Contractor and his surety shall be liable for all expense incurred.
5. All special guarantees applicable to definite parts of the work that may be stipulated in the specifications or other papers forming a part of the contract shall be subject to the term of this section during the first year of the life of such special guarantee.
6. Nothing contained in this section shall be construed to establish a period of limitation with respect to any other obligation which the Contractor might have under the contract documents. This paragraph relates only to the specific obligation of the Contractor contained in this section to correct the work and does not limit the time within which his obligation to comply with the contract documents may be sought to be enforced, nor of the time within which proceedings may be commenced to establish the Contractor's liability with respect to his other obligations under this contract.
7. In the event the work of the Contractor is to be modified by another Contractor, either before or after the final inspection, the first Contractor shall remain responsible in all respects under the guarantee of work and under any other warranties provided in the contract or by law. However, the Contractor shall not be responsible for any defects in material or workmanship introduced by the Contractor modifying its work. Both the first Contractor and the Contractor making the modifications shall each be responsible solely for the work done by each. The Contractor modifying the earlier work shall be responsible for any damage to or defect introduced into the work which he is modifying. If any Contractor shall claim that another Contractor has introduced defects of materials and/or workmanship into the work of the first, it shall be the burden of the Contractor making the claim to clearly demonstrate

the nature and extent of such introduced defects and the responsibility of the other Contractor. Any Contractor modifying the work of another shall have the same burden if he asserts defects to have been caused by the Contractor whose work he is modifying.

N. INDEMNIFICATION:

Contractor agrees to indemnify, defend and hold harmless the University, its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor/any services of any kind or nature furnished by the Contractor, provided that such liability is not attributable to the sole negligence of the University or to failure of the University to use the materials, goods, or equipment in the manner already and permanently described by the Contractor on the materials, goods or equipment delivered.

O. PAYMENT PROVISIONS:

1. By the University:

a. Prompt Payment: (the Rules §42.)

1. The University shall promptly pay for the completely delivered goods or services by the required payment date.
2. Payment shall be deemed to have been made when offset proceedings have been instituted, as authorized under the Virginia Debt Collection Act (§ 2.2-4800 et seq.) of the Code of Virginia.
  - a. Separate payment dates may be specified for contracts under which goods or services are provided in a series of partial deliveries or executions to the extent that such contract provides for separate payment for such partial delivery or execution.

2. Defect Or Impropriety In The Invoice Or Goods And/Or Services Received: (the Rules §43.)

In instances where there is a defect or impropriety in an invoice or in the goods or services received, the University shall notify the Contractor of the defect or impropriety, if the defect or impropriety would prevent payment by the payment date. The notice shall be sent within 15 days after receipt of the invoice or the goods or services.

3. Date Of Postmark Deemed To Be Date Payment Is Made: (the Rules §44.)

In those cases where payment is made by mail, the date of postmark shall be deemed to be the date payment is made for purposes of these Rules.

4. Interest Penalty: Exceptions: (the Rules §44.)

- a. Interest shall accrue, at the rate determined pursuant to subsection ii., on all amounts owed by the University to a Contractor that remain unpaid after seven days following the payment date. However, nothing in this section shall affect any contract providing for a different rate of interest, or for the payment of interest in a different manner.
- b. The rate of interest charged the University pursuant to subsection i. shall be the base rate on corporate loans (prime rate) at large United States money center commercial banks as reported daily in the publication entitled The Wall Street Journal. Whenever a split prime rate is published, the lower of the two rates shall be used. However, in no event shall the rate of interest charged exceed the rate of interest established pursuant to § 58.1-1812 of the Code of Virginia.
- c. Notwithstanding subsection i., no interest penalty shall be charged when payment is delayed because of disagreement between the University and a Contractor regarding the quantity, quality or time of delivery of goods or services or the accuracy of any invoice received for the goods or services. The exception from the interest penalty provided by this subsection shall apply only to that portion of a delayed payment that is actually the subject of the disagreement and shall apply only for the duration of the disagreement.
- d. This section shall not apply to retainae on construction contracts that provides for progress payments, during the period of time prior to the date the final payment is due. Nothing contained herein shall prevent a Contractor from receiving interest on such funds under an approved escrow agreement.
- e. Notwithstanding subsection i., no interest penalty shall be paid to any debtor on any payment, or portion thereof, withheld pursuant to the Comptroller's Debt Setoff Program, as authorized by the Virginia Debt Collection Act (§ 2.2-4800 et seq.) of the Code of Virginia, commencing with the date the payment is withheld. If, as a result of an error, a payment or portion thereof is withheld, and it is determined that at the time of setoff no debt was owed to the Commonwealth, then interest shall accrue at the rate determined pursuant to subsection 2. on amounts withheld that remains unpaid after seven days following the payment date.

5. To Contractor:  
Under any resulting contract, Contractor is hereby obligated:
- a. To submit all invoices for goods/services ordered, delivered and accepted directly to:  
Old Dominion University  
Finance Office  
Rollins Hall, Room 202  
Norfolk, Virginia 23529; or  
[invoice@odu.edu](mailto:invoice@odu.edu)
  - b. All invoices shall include:
    1. Vendor Name, 'Remit To' Address, FEIN, or Social Security Number (Individual Contractor);
    2. Invoice Number, Invoice Date, Payment Terms and Discounts, and Payment Due Date;
    3. Purchase Order Number;
    4. University Contact;
    5. Description of provided goods/services;
    6. Quantity Delivered per line item;
    7. Unit and Extended Cost per line item; and
    8. Total Amount Due
  - c. Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
  - d. All goods or services provided shall be billed by the Contractor at the agreed to contract price.
  - e. **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the University shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve the University of its prompt payment obligations with respect to those charges which are not in dispute.
  - f. When applicable, Contractor shall deliver to the University, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWAM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or University, or other appropriate penalties may be assessed in lieu of withholding such payment.
6. To Subcontractors: (the Rules §45.)  
Under any resulting contract, Contractor shall be obligated:
- i. To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the University for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
  - ii. To notify the University and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.
  - iii. To pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the University, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the University.



P. SEVERABILITY: The provisions of any resulting contract shall be deemed to be severable, and should any or more of such provisions be declared or adjudged to be invalid or unenforceable, the remaining provisions shall be unaffected thereby and shall remain in full force and effect.

Q. TERMINATION WITH CAUSE:

1. In the event that the Contractor shall for any reason or through any cause be in default of the terms of the contract, the University may give the Contractor written notice of such default by certified mail/return receipt requested.
2. Prior to termination of the contract, the University shall give the Contractor ten (10) calendar day's written notice, during which the Contractor may rectify the cause of the termination. If rectified to the satisfaction of the University within said ten (10) days, the University may rescind the notice of termination. If Contractor does not, the termination for cause shall become effective at the end of the ten-day (10) notice period.
3. In the alternative, the University may postpone the effective date of the termination notice, at its sole discretion, if it should receive reassurances from the Contractor that the causes of termination will be remedied in a time and manner which the University finds acceptable. If at any time more than ten (10) days after the notice of termination, the University determines that Contractor has not or is not likely to rectify the causes of termination in an acceptable manner or within the time allowed, then the University may immediately terminate the contract for cause by giving written notice to the Contractor.
4. Notice of terminations, whether initial or given after a period of postponement, may be served upon the Contractor by mail or any other means at their last known places of business in Virginia or elsewhere, by delivery to any officer or management/supervisory employee of either wherever they may be found, or, if no such officer, employee or place of business is known or can be found by reasonable inquiry within three (3) days, by posting the notice at the job site. Failure to accept or pick up registered or certified mail addressed to the last known address shall be deemed to be delivery.
5. In the event of violations of law, safety or health standards and regulations, the contract may be immediately cancelled and terminated by the University and provisions herein with respect to opportunity to cure default shall not be applicable.

R. TERMINATION BY UNIVERSITY FOR CONVENIENCE: The University may terminate any resulting contract at any time for convenience, in whole or in part, upon giving the Contractor notice of such termination.

S. TESTING AND INSPECTION: The University reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

T. WAIVER: No failure of the University to exercise any right or power given to it by law or by any resulting contract, or to insist upon strict compliance by Contractor with any of the provisions of any resulting contract, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of the University's right to demand strict compliance with the terms of any resulting contract.

VII. SPECIAL TERMS AND CONDITIONS:

The following 'special' terms and conditions shall apply to any solicitation response, and as applicable shall be incorporated into any resulting contract.

B. CONTRACT AND RENEWAL TERM:

1. The initial term of any resulting contract shall be for four (4) years commencing upon execution;
2. Any resulting contract may be renewed by the University for three (3) successive one-year periods under the terms and conditions of the original contract except as stated in 2.a. and 2.b. below. Cost considerations may be negotiated only at the time of renewal. Written notice of the University's intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.
  - a. If the University elects to exercise the option to renew the contract for an additional one-year period **after the initial term**, the contract price(s) for the additional one year shall not exceed the contract price(s) of the initial contract term by the lesser of (1) the percentage increase/decrease of the Consumer Price Index (CPI) for All Urban Wage Earner and Clerical Workers (CPI-W), All U.S. Items, for base period 1982-84=100, for the previous twelve (12) month period, or (2) not to exceed 5%.
  - b. If during any subsequent renewal periods, the University elects to exercise the option to renew the contract, the contract price(s) for the subsequent renewal period shall not exceed the contract price(s) of the previous renewal period by the lesser of (1) the percentage increase/decrease of the Consumer Price Index (CPI) for All Urban Wage Earner and Clerical Workers (CPI-W), All U.S. Items, for base period 1982-84=100, for the previous twelve (12) month period, or (2) not to exceed 5%.

C. COMPANY PERSONNEL STANDARDS:

1. Contractor shall provide trained personnel who shall be qualified to properly maintain/perform/test for services specified herein. If any of the Contractor's personnel are not satisfactory in the performance of services to be furnished hereunder in a proper manner and satisfactory to the University, the Contractor shall remove any such personnel and replace them with satisfactory personnel.
2. Contractor shall use all reasonable care, consistent with its rights to manage and control its operations, not to employ any persons or use any labor or have any equipment or permit any condition to exist which shall or may cause or be conducive to pose any liability to the general public as well as any activity to be construed as a nuisance. The University retains the right to require the Contractor to halt all work activities until such conditions are resolved.

- D. INSURANCE: By signing and submitting a proposal under this solicitation, the Offeror certifies that if awarded the contract, it will have the following insurance coverage at the time the contract is awarded. For construction contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the *Code of Virginia*. The Offeror further certifies that the Contractor and any subcontractors will maintain these insurance coverage's during the entire term of the contract and that all insurance coverage's will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR MOST CONTRACTS:

1. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
2. Employer's Liability - \$100,000.
3. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The University must be named as an additional insured and so endorsed on the policy.
4. Automobile Liability - \$1,000,000 per occurrence.
5. Professional Error & Omission - \$1,000,000
6. Crime/Fidelity - \$1,000,000
7. Data Breach - \$1,000,000

- E. LIMITATION OF LIABILITY: To the maximum extent permitted by applicable law, the Contractor will not be liable under this contract for an indirect, incidental, special or consequential damages, or damages from loss of profits, revenue, data or use of the supplies, equipment and/or services delivered under this contract. This limitation of liability will not apply, however, to liability arising from: (a) personal injury or death; (b) defect or deficiency caused by willful misconduct or negligence on the part of the Contractor; or (c) circumstances where the contract expressly provides a right to damages, indemnification or reimbursement

**VIII. ADDITIONAL SPECIAL TERMS AND CONDITIONS:**

A. DEFINITIONS:

1. "Contract" includes the contract, this addendum and any additional addendums and attachments to the contract.
2. "Equipment": The terms equipment, product, or system shall include hardware and software (when applicable) and any materials or supporting documentation. Such documentation may include but is not limited to: users' guides, operations manuals with part lists, copies of all applicable warranties, and any other pertinent information necessary for the proper operation and maintenance of the equipment being acquired.
3. "University Data" includes all Personally Identifiable Information and other information that is not intentionally made generally available by the University on public websites or publications, including but not limited to business, administrative and financial data, intellectual property, and patient, student and personnel data.
4. "Personally Identifiable Information" (PII) includes but is not limited to: personal identifiers such as name, address, phone number, date of birth, Social Security number, and student or personnel identification number; "personal information" as defined in Virginia Code section 18.2-186.6 and/or any successor laws of the Commonwealth of Virginia; personally identifiable information contained in student education records as that term is defined in the Family Educational Rights and Privacy Act, 20 USC 1232g; "medical information" as defined in Virginia Code Section 32.1-127.1:05; "protected health information" as that term is defined in the Health Insurance Portability and Accountability Act, 45 CFR Part 160.103; nonpublic personal information as that term is defined in the Gramm-Leach-Bliley Financial Modernization Act of 1999, 15 USC 6809; credit and debit

card numbers and/or access codes and other cardholder data and sensitive authentication data as those terms are defined in the Payment Card Industry Data Security Standards; other financial account numbers, access codes, driver's license numbers; and state- or federal-identification numbers such as passport, visa or state identity card numbers.

5. "Security Breach" means a security-relevant event in which the security of a system or procedure involving University Data is breached, and in which University Data is exposed to unauthorized disclosure, access, alteration, or use.
6. "Service" or "Services" means any goods or services acquired by the University from the Contractor.
7. "Software": The terms software, product, or software products shall include all related materials and documentation whether in machine readable or printed form.

**B. AUDITS:**

1. The University reserves the right in its sole discretion to perform audits of the Contractor at the University's expense to ensure compliance with the terms of this Contract. The Contractor shall reasonably cooperate in the performance of such audits. This provision applies to all contracts under which the Contractor must create, obtain, transmit, use, maintain, process, or dispose of University Data.
2. If the Contractor must under this contract create, obtain, transmit, use, maintain, process, or dispose of the subset of University Data known as Personally Identifiable Information, protected health information, or financial or business data that is restricted data such as transaction data, the Contractor will at its expense conduct or have conducted at least annually a(n):
  - a. American Institute of CPAs Service Organization Controls (SOC) Type II audit, or other security audit with audit objectives deemed sufficient by the University, which attests the Contractor's security policies, procedures and controls;
  - b. vulnerability scan, performed by a scanner approved by the University, of the Contractor's electronic systems and facilities that are used in any way to deliver electronic services under this Contract; and
  - c. formal penetration test, performed by a process and qualified personnel approved by the University, of the Contractor's electronic systems and facilities that are used in any way to deliver electronic services under this Contract.
3. Additionally, the Contractor will provide the University upon request the results of the above audits, scans and tests, and will promptly modify its security measures as needed based on those results in order to meet its obligations under this Contract. The University may require, at University expense, the Contractor to perform additional audits and tests, the results of which will be provided promptly to the University.

**C. COMPLIANCE:**

1. The Contractor will comply with all applicable laws and industry standards in performing services under this Contract. Any Contractor personnel visiting the University's facilities will comply with all applicable University policies regarding access to, use of, and conduct within such facilities. The University will provide copies of such policies to the Contractor upon request.
2. The Contractor warrants that the service it will provide to the University is fully compliant with and will enable the University to be compliant with relevant requirements of all laws, regulation, and guidance applicable to the University and/or the Contractor, including but not limited to: the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA) and Health Information Technology for Economic and Clinical Health Act (HITECH), Gramm-Leach-Bliley Financial Modernization Act (GLB), Payment Card Industry Data Security Standards (PCI-DSS), Americans with Disabilities Act (ADA), Section 508 of the Rehabilitation Act via a Voluntary Product Accessibility Template (VPAT), and Federal Export Administration Regulations, Defense Federal Acquisition Regulation, and NIST 800-171 for Controlled Unclassified Information.
3. If the Payment Card Industry Data Security Standards (PCI\_DSS) are applicable to the Vendor's service provided to the University, the Vendor will furnish proof of compliance with PCI-DSS.

**D. CONFIDENTIALITY (University):** The University agrees that neither it nor its employees, representatives, or agents shall knowingly divulge any proprietary information with respect to the operation of the software, the technology embodied therein, or any other trade secret or proprietary information related thereto, except as specifically authorized by the contractor in writing or as required by the Freedom of Information Act or similar law. It shall be the contractor's responsibility to fully comply with *the Rules §34*. All trade secrets or proprietary information must be identified in writing or other tangible form and conspicuously labeled as "proprietary" either prior to or at the time of submission to the University.

**E. CONFIDENTIALITY (Contractor):** The contractor assures that information and data obtained as to personal facts and circumstances related to patients or clients will be collected and held confidential, during and following the term of this

contract, and will not be divulged without the individual's and the agency's written consent. Any information to be disclosed, except to the agency, must be in summary, statistical, or other form which does not identify particular individuals. Contractors and their employees working on this project will be required to sign the Confidentiality statement in this solicitation.

**F. DATA PRIVACY:**

1. The Contractor will use University Data only for the purpose of fulfilling its duties under this Contract and will not share such data with or disclose it to any third party without the prior written consent of the University, except as required by this Contract or as otherwise required by law.
2. University Data will not be stored outside the United States without prior written consent from the University.
3. The Contractor will provide access to University Data only to its employees and subcontractors who need to access the data to fulfill obligations under this Contract. The Contractor will ensure that the Contractor's employees who perform work under this Contract have read, understood, and received appropriate instruction as to how to comply with the data protection provisions of this Contract.
4. If the Contractor will have access to the University's Education records as defined under the Family Educational Rights and Privacy Act (FERPA), the Contractor acknowledges that for the purposes of this Contract it will be designated as a "school official" with "legitimate educational interests" in the University Education records, as those terms have been defined under FERPA and its implementing regulations, and the Contractor agrees to abide by the limitations and requirements imposed on school officials. The Contractor will use the Education records only for the purpose of fulfilling its duties under this Contract for University's and its End User's benefit, and will not share such data with or disclose it to any third party except as provided for in this Contract, required by law, or authorized in writing by the University.

**G. DATA TRANSFER UPON TERMINATION OR EXPIRATION:**

1. The Contractor's obligations shall survive termination of this Contract until all University Data has been returned or Securely Destroyed.
2. Upon termination or expiration of this Contract, the Contractor will ensure that all University Data are securely transferred, returned or destroyed as directed by the University in its sole discretion. Transfer/migration to the University or a third party designated by the University shall occur without significant interruption in service. The Contractor shall ensure that such transfer/migration uses facilities and methods that are compatible with the relevant systems of the University or its transferee, and to the extent technologically feasible, that the University will have reasonable access to University Data during the transition.
3. In the event that the University requests destruction of its data, the Contractor agrees to Securely Destroy all data in its possession and in the possession of any subcontractors or agents to which the Contractor might have transferred University data. The Contractor agrees to provide documentation of data destruction to the University and to complete any required Commonwealth of Virginia documentation regarding the destruction of University Data.
4. The Contractor will notify the University of impending cessation of its business and any contingency plans. This includes immediate transfer of any previously escrowed assets and data and providing the University access to the Contractor's facilities to remove and destroy University-owned assets and data. The Contractor shall implement its exit plan and take all necessary actions to ensure a smooth transition of service with minimal disruption to the University. The Contractor will also provide a full inventory and configuration of servers, routers, other hardware, and software involved in service delivery along with supporting documentation, indicating which if any of these are owned by or dedicated to the University. The Contractor will work closely with its successor to ensure a successful transition to the new equipment, with minimal downtime and effect on the University, all such work to be coordinated and performed in advance of the formal, final transition date.

**H. DATA SECURITY:**

1. The Contractor will store and process University Data in accordance with commercial best practices, including appropriate administrative, physical, and technical safeguards, to secure such data from unauthorized access, disclosure, alteration, and use. Such measures will be no less protective than those used to secure the

Contractor's own data of a similar type, and in no event less than reasonable in view of the type and nature of the data involved.

2. The Contractor will use industry-standards and up-to-date security tools and technologies such as anti-virus protections and intrusion detection methods in providing services under this Contract.
3. Without limiting the foregoing, the Contractor warrants that all electronic University Data will be encrypted in transmission (including via web interface) in accordance with latest version of National Institute of Standards and Technology Special Publication 800-53.
4. If the Contractor will store Personally Identifiable Information as part of this contract, the Contractor warrants that the information will be stored in accordance with latest version of National Institute of Standards and Technology Special Publication 800-53.
5. The University may inspect the data center used to store and process University Data annually or at any time upon request.

I. **DATA AUTHENTICITY, INTEGRITY AND AVAILABILITY:**

1. The Vendor shall maintain a formal security program in accordance with industry standards that is designed to: (i) ensure the security and integrity of University Data; (ii) protect against threats or hazards to the security or integrity of University Data; and (iii) prevent unauthorized access to University Data.
2. The Vendor shall be responsible for ensuring that University Data, per the Virginia Public Records Act, "is preserved, maintained, and accessible throughout their lifecycle, including converting and migrating electronic data as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration."
3. The Vendor will ensure backups are successfully completed daily or more frequently and that restoration capability is maintained for restoration to a point-in-time and/or to the most current backup available.
4. The Vendor will maintain an uptime of 99.99% or greater, as agreed to for the contracted services via the use of appropriate redundancy, continuity of operations and disaster recovery planning and implementations.

J. **DISCLOSURE:** Unless expressly agreeing to the contrary in writing, all goods, products, materials, documents, reports, writings, video images, photographs or papers of any nature including software or computer images prepared or provided by the Contractor (or its subcontractors) for the University will not be disclosed to any other person or entity without the written permission of the University.

K. **EMPLOYEE BACKGROUND CHECKS AND QUALIFICATIONS:** The Vendor shall ensure that its employees who will have potential access to University Data have passed appropriate, industry standard, background screening and possess the qualifications and training to comply with the terms of this agreement.

L. **EXCESSIVE DOWNTIME:** Equipment or software furnished under the contract shall be capable of continuous operation. Should the equipment or software become inoperable for a period of more than 24 hours, the contractor agrees to pro-rate maintenance charges to account for each full day of inoperability. The period of in operability shall commence upon initial notification. In the event the equipment or software remains inoperable for more than 2 consecutive calendar days, the contractor shall promptly replace the equipment or software at no charge upon request of the University. Such replacement shall be with new, unused product(s) of comparable quality, and must be installed and operational within 7days following the request for replacement.

M. **LATEST SOFTWARE VERSION:** Any software product(s) provided under the contract shall be the latest version available to the general public as of the due date of this solicitation.

N. **LIMITATION OF USE:** The University's right to use computer software developed entirely at private expense may be limited by the contractor as stipulated in this contract. Notwithstanding any provision to the contrary however, the University shall have at a minimum: unlimited use of the software on the equipment for which it is purchased; use of the software on a secondary system for backup purposes should the primary system become unavailable, malfunction, or is otherwise rendered inoperable; use of the software at another University site should the system be entirely transferred to that location; the right to make a backup copy for safekeeping; the right to modify or combine the software with other programs or materials at the University's risk; and the right to reproduce any and all documentation provided such reproduction is for the sole use of the University. These rights are perpetual and irrevocable; in the event of any actual or

alleged breach by the University, the contractor's sole remedy shall be to pursue a monetary claim in accordance with *the Rules §53*.

- O. **NO END USER CONTRACTS:** This Contract is the entire contract between the University (including University employees and other End Users) and the Contractor. In the event that the Contractor enters into terms of use contracts or other contracts or understandings, whether electronic, click-through, verbal or in writing, with University employees or other End Users, such contracts shall be null, void and without effect, and the terms of this Contract shall apply.
- P. **NONVISUAL ACCESS TO TECHNOLOGY:**
1. All information technology which, pursuant to this contract, is purchased or upgraded by or for the use of the University (the "Technology") shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this contract:
    - a. effective, interactive control and use of the Technology shall be readily achievable by nonvisual means;
    - b. the Technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the technology interacts;
    - c. Nonvisual Access Technology shall be integrated into any networks used to share communications among employees, program participants or the public; and
    - d. the Technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.
  2. Compliance with the foregoing nonvisual access standards shall not be required if the head of the using agency, institution or political subdivision determines that (i) the Technology is not available with nonvisual access because the essential elements of the Technology are visual and (ii) nonvisual equivalence is not available.
  3. Installation of hardware, software or peripheral devices used for nonvisual access is not required when the Technology is being used exclusively by individuals who are not blind or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of nonvisual access software and peripheral devices.
  4. If requested, the Contractor must provide a detailed explanation of how compliance with the foregoing nonvisual access standards is achieved and a validation of concept demonstration.
  5. The requirements of this Paragraph shall be construed to achieve full compliance with the Information Technology Access Act, § 2.2-3500 through § 2.2-3504 of the *Code of Virginia*.
- Q. **OWNERSHIP OF INTELLECTUAL PROPERTY:** All copyright and patent rights to all papers, reports, forms, materials, creations, or inventions created or developed in the performance of this contract shall become the sole property of the University. On request, the contractor shall promptly provide an acknowledgment or assignment in a tangible form satisfactory to the University to evidence the University's sole ownership of specifically identified intellectual property created or developed in the performance of the contract.
- R. **PRODUCT SUBSTITUTION:** During the term of any contract resulting from this solicitation, the Contractor is not authorized to substitute any item for that product and/or software identified in the solicitation without the prior written consent of the contracting officer whose name appears on the front of this solicitation, or their designee.
- S. **QUALIFIED REPAIR PERSONNEL:** All warranty or maintenance services to be performed on the items specified in this solicitation as well as any associated hardware or software shall be performed by qualified technicians properly authorized by the manufacturer to perform such services. The University reserves the right to require proof of certification prior to award and at any time during the term of the contract.
- T. **REQUESTS FOR DATA, RESPONSE TO LEGAL ORDERS OR DEMANDS FOR DATA:**
1. Except as otherwise expressly prohibited by law, the Contractor will:
    - a. immediately notify the University of any subpoenas, warrants, or other legal orders, demands or requests received by the Contractor seeking University Data;
    - b. consult with the University regarding its response;
    - c. cooperate with the University's requests in connection with efforts by the University to intervene and quash or modify the legal order, demand or request; and

- d. upon the University's request, provide the University with a copy of its response.
2. If the University receives a subpoena, warrant, or other legal order, demand (including request pursuant to the Virginia Freedom of Information Act) or request seeking University Data maintained by the Contractor, the University will promptly provide a copy to the Contractor. The Contractor will promptly supply the University with copies of data required for the University to respond, and will cooperate with the University's reasonable requests in connection with its response.
3. The University may request and obtain access to University Data and related logs at any time for any reason.

U. **SECURITY BREACH:**

1. Response. Upon becoming aware of a Security Breach, or of circumstances that are reasonably understood to suggest a likely Security Breach, the Contractor will notify the University within 72 hours, fully investigate the incident, and cooperate fully with the University's investigation of and response to the incident. Except as otherwise required by law, the Contractor will not provide notice of the incident directly to individuals whose Personally Identifiable Information was involved, regulatory agencies, or other entities, without prior written permission from the University.
2. Liability. In addition to any other remedies available to the University under law or equity, the Contractor will pay for or reimburse the University in full for all costs incurred by the University in investigation and remediation of such Security Breach caused by the Contractor, including but not limited to providing notification to individuals whose Personally Identifiable Information was compromised and to regulatory agencies or other entities as required by law or contract; providing one year's credit monitoring to the affected individuals if the Personally Identifiable Information exposed during the breach could be used to commit financial identity theft; and the payment of legal fees, audit costs, fines, and other fees imposed by regulatory agencies or contracting partners as a result of the Security Breach. The Contractor agrees to indemnify, hold harmless and defend the University from and against any and all claims, damages, or other harm related to such Security Breach.

V. **SERVICE PERIOD (ROUTINE):** Contractor shall provide 24 hour toll-free phone support with a 1 hour return call response time. On-site maintenance services shall carry a 2 hour response time following initial notification and be available during the normal working hours of 8 A.M. to 5 P.M. Monday through Friday, excluding state holidays. All necessary repairs or corrections shall be completed within 8 hours of the initial notification.

W. **SERVICE REPORTS:** Upon completion of any maintenance call, the contractor shall provide the agency with a signed service report that includes, at a minimum: a general statement as to the problem, action taken, any materials or parts furnished or used, and the number of hours required to complete the repairs.

X. **SOFTWARE UPGRADES:** The University shall be entitled to any and all upgraded versions of the software covered in the contract that becomes available from the contractor. The maximum charge for upgrade shall not exceed the total difference between the cost of the University's current version and the price the contractor sells or licenses the upgraded software under similar circumstances.

Y. **SOURCE CODE:** In the event the contractor ceases to maintain experienced staff and the resources needed to provide required software maintenance, the University shall be entitled to have, use, and duplicate for its own use, a copy of the source code and associated documentation for the software products covered by the contract. Until such time as a complete copy of such material is provided, the University shall have exclusive right to possess all physical embodiments of such contractor owned materials. The rights of the University in this respect shall survive for a period of twenty (20) years after the expiration or termination of the contract. All lease and royalty fees necessary to support this right are included in the initial license fee as contained in the pricing schedule.

Z. **TERM OF SOFTWARE LICENSE:** Unless otherwise stated in the solicitation, the software license(s) identified in the pricing schedule shall be purchased on a perpetual basis and shall continue in perpetuity. However the University reserves the right to terminate the license at any time, although the mere expiration or termination of this contract shall not be construed as an intent to terminate the license. All acquired license(s) shall be for use at any computing facilities, on any equipment, by any number of users, and for any purposes for which it is procured. The University further reserves the right to transfer all rights under the license to another state agency to which some or all of its functions are transferred.

AA. **THIRD PARTY ACQUISITION OF SOFTWARE:** The contractor shall notify the University in writing should the intellectual property, associated business, or all of its assets be acquired by a third party. The contractor further agrees that the contract's terms and conditions, including any and all license rights and related services, shall not be affected by the acquisition. Prior to completion of the acquisition, the contractor shall obtain, for the University's benefit and deliver thereto, the assignee's contract to fully honor the terms of the contract.

BB. **TITLE TO SOFTWARE:** By submitting a proposal, the Offeror represents and warrants that it is the sole owner of the software or, if not the owner, that it has received all legally required authorizations from the owner to license the software, has the full power to grant the rights required by this solicitation, and that neither the software nor its use in accordance with the contract will violate or infringe upon any patent, copyright, trade secret, or any other property rights of another person or organization.

CC. **WARRANTY AGAINST SHUTDOWN DEVICES:** The contractor warrants that the equipment and software provided under the contract shall not contain any lock, counter, CPU reference, virus, worm, or other device capable of halting operations or erasing or altering data or programs. Contractor further warrants that neither it, nor its agents, employees, or subcontractors shall insert any shutdown device following delivery of the equipment and software.

## **IX. EVALUATION CRITERIA AND AWARD PROCESS:**

### **A. Evaluation of Proposals:**

1. With Procurement Services acting as the “lead”, the ODU Provosts Office, Center for Learning and Teaching, Center for Faculty Development and Information Technology Services will collaboratively select a group of personnel to act as the Selection Advisory Committee (SAC). The SAC, will be responsible for evaluating proposals with regard to compliance with RFP requirements, determining which Offeror’s proposal is the most advantageous and best overall solutions for the University, making a recommendation for award to the Director of Procurement Services. The SAC will use the evaluation criteria to determine which proposals offer the best means of servicing the interests of Old Dominion University.
2. Based on the evaluation of the written components of each Offerors proposal, short listed firms will be required to participate in presentations, interviews and/or site visits to support and clarify their proposals, if requested by the University (as defined by Section IX.C.). These presentations will be made to the Selection Advisory Committee (SAC) and may be open to any/all University faculty or staff interested in participating. The University will make every reasonable attempt to schedule each presentation at a time and location that is agreeable to the Offeror. Failure of an Offeror to interview or permit a site visit on the date scheduled may result in rejection of the offerors proposal.
3. Short listed firms must provide a “sandbox” environment available to a number of designated hands-on usability testers from all areas of the University for approximately 3-4 weeks. This may include faculty, staff, administrators, course designers, data analysts, individuals with disabilities, librarians, technology professionals and students. Their structured feedback will comprise the Usability score for this RFP (Section IX.C.3.a.). Access to the “sandbox” as well as any licenses, waivers, nondisclosure agreements, or other releases that Offerors may require in order for the usability testers to access the “sandbox” as described must be provided within ten (10) days of notification to Offeror, at no cost to the University. Failure to meet this requirement will result in elimination of the proposal from further consideration.
4. The successful demonstration of the offeror’s product(s) and / or services does not constitute acceptance by the University. Any products and/or services furnished by the offeror for the purposes of this demonstration must be identical in every respect to those which will be furnished as a result of an award.
5. The University uses a 1 – 5 scoring system:
  - a. 1 = Marginal
  - b. 2 = Acceptable
  - c. 3 = Meets minimum requirements
  - d. 4 = Excellent
  - e. 5 = Outstanding

### **B. Evaluation Criteria:**

1. **INITIAL PHASE:** During the initial evaluation and selection process to determine the two or more Offerors deemed to be fully qualified and best suited for presentations, “sandbox testing”, and negotiations, the following criteria and associated weights shall be used.
  - a. **Experiences and References** (5 Points)
    1. Provide a summary of the Offerors current market presence;
    2. Provide a general overview of the Offeror and a detailed description of the Offerors experience and capabilities with the provisioning of these products and services to institutions of higher education. Include when the Offeror began offering these services and an approximate number of customers that have utilized them since their inception;
    3. Provide a summary overview of resources available to provide and support this solution to include program development, enhancement, maintenance and support;



4. Identify roles and responsibilities of key personnel, provide resumes of proposed team to include qualifications and work history; Provide a description of how these individuals will work and communicate with the University implementation team;
5. Provide a detailed outline of the Offerors demonstrated ability to provide the products and services defined in the Scope of Work at a minimum of three (3) Higher Education Doctorial Colleges and Universities that are comparable to Old Dominion University in size, diversity, and breadth of offerings over the past five (5) years. These reference institutions should also include vast online learning programs and audiences and include current integrations with the Banner Student System (SIS).
6. For each organization, include name, title, email address and phone numbers for reference contacts at those institutions for contact by the University. The University will determine, at its sole discretion, which if any, references to contact to assess the quality of work performed and personnel assigned to that project. The results of any references will be provided to the SAC and used in the scoring of the proposal. Offeror must ensure accurate contact information for references. Any reference that cannot be contacted with a reasonable amount of effort shall count as a negative reference.

b. **Functional & Technical Requirements**

The Functional and Technical proposal must be divided into the sections as described below in the Functional Requirements and Technical Requirements. Every point made in each section must be addressed in the order given. The same outline numbers must be used in the response. RFP language should not be repeated within the response. Where appropriate, supporting documentation may be referenced by a page and paragraph number. However, when this is done, the proposal must contain a meaningful summary of the referenced material. Any referenced document must be included as an appendix to the proposal with referenced sections clearly marked. If there are multiple references or multiple documents, these must be listed and organized for ease of use by the SAC.

For each item in the Functional and Technical Requirements section below, the Offeror must submit a detailed narrative describing how the proposed solution addresses the required area of question. Do not substitute already existing marketing materials for a response to the specific questions asked.

1. **Overview (5 points):** Old Dominion University is seeking a Digital Learning Environment to succeed its current Learning Management System. A Digital Learning Environment in this context is considered to be the digital “hub” for a confederation of services and tools that support teaching and learning, versus simply an administration tool for managing course content.

Please provide a high-level overview of your product and a high-level description of how it would address the needs of the University system. Comprehensive information about the University, its organizations, campuses, mission, guiding principles, vision, strengths, challenges, environment and other relevant information is available at <https://www.odu.edu>.

Do not substitute generic marketing material for a response specifically geared to the University's mission, goals, environment and priorities.

2. **Tool Set (30 points):** Old Dominion University assumes that each proposed solution includes a common, industry wide, base LMS toolset (e.g. course news area, calendar, content repository, assignment submission tool, assessment tool, discussion tool and gradebook). To help evaluators fully understand the functionality of the proposed solution please provide a detailed description for each of the functional areas outlined below.
  - a. If your proposed solution differs from this assumption, describe in detail the differences, how they are implemented and how the proposed solution manages these differences. If third party tools are being included in the proposed solution, they should be fully documented, detailed, and a description of what needs they are fulfilling should be provided. Any outside costs or requirements for these tools should be also be documented in the Pricing Schedule.
  - b. Describe how the proposed solution organizes content into a flexible and logical structure that can be organized by program, course, module, unit, or asset.
  - c. Describe how the proposed solution manages learning objects into reusable content pieces that can be utilized in multiple courses.

- d. Describe how the proposed solution provides for an instructor's need to reorganize course content. This can include methods such as drag and drop of items to reconfigure a course/content.
- e. Describe how the proposed solution might deal with an online/offline mode. Can content be downloaded to mobile devices for use offline.
- f. Describe how the proposed solution tracks user/group activity/time within a course, tracks interactions with content and how that tracking can be accessed/utilized by instructors or administrators.
- g. Describe how the proposed solution manages course modifications, versioning, check-in or check-out version controls which can include a log of changes or edits.
- h. Describe how the proposed solution provisions or delivers a user dashboard which may provide activity data, progress, or upcoming assignments/assessments. Does the "dashboard" provide for promoting user activity based on performance (nudges).
- i. Describe how the proposed solution delivers and grades a variety of assessment questions types.
  - Multiple choice
  - Multiple answer
  - Fill in the blank
  - Matching
  - Advanced essay and short answer
  - Calculated formula
  - True / False
  - Hot Spots
  - Opinion scale / Likert
  - Ordering
- j. Describe how the proposed solution provides for inline editing and annotation of assignment / assessment objects for interaction with faculty/students.
- k. Describe how the proposed solution provides for objective alignment within a course and how this can be used with course rubrics.
- l. Describe how the proposed solution provides for the tracking and management of program objectives and any reporting tools that are available for gathering data about student accomplishment across levels / courses within a program.
- m. Describe how the proposed solution provides large scale reports to both faculty and administrators concerning user activity, course activity, access, grades, participation etc. Define what default reports are available and how additional reports can be customized.
- n. Describe how the proposed solution will ingest and/or output course content packages in industry standard formats such as SCORM, 508, AICC, IMS, Common Cartridge & QTI formats.
- o. Describe how the proposed solution can interact/ingest available material/course content from OER sources or Digital Libraries.
- p. Describe how the proposed solution can interact with a variety of social media platforms currently on the market such as Facebook, Twitter, WordPress, or others.
- q. Describe if the proposed solution will include a plagiarism or advanced plagiarism detection tool and if available, how this is used by students and faculty. If available, describe what sources are used and the order they are search during a plagiarism check.
- r. Describe if the proposed solution will include any type of assessment proctoring tools. If available, describe how it operates
- s. Describe how the proposed solution provides a personal learning experience for students
- t. Describe how the proposed solution provides adaptive learning functionality
- u. Describe how the proposed solution can be used to increase student engagement with various collaboration tools, gamification elements, and other functionality.
- v. Describe innovative functionality, advanced technologies that demonstrate the proposed solution is leading provider for an effective and leading learning platform.

### 3. **Technical Requirements** (30 Points)

Provide a narrative response to each of the questions in this section.

#### a. **Accessibility:**

- i. Describe how the proposed solution is attempting to comply with the US Federal Rehabilitation Act, Section 508 (36 CFR Part 1194, <http://www.section508.gov>). Please provide a Voluntary Product Accessibility Template (VPAT).

- ii. Describe how the solution is attempting to comply with Web Content Accessibility Guidelines (WCAG) to support web content accessibility.
  - iii. Describe how the proposed solution, with or without third party tools, takes measures to enforce accessibility requirements. Detail what material this enforcement reviews and the impact to faculty, students, and administrators.
- b. **Analytics:**
- i. Describe if the proposed solution is certified by the IMS Consortia Analytics standard (currently CALIPER).
  - ii. Describe if the proposed solution supports the currently defined xAPI standard.
  - iii. Describe any process available for accessing raw data from the source system outside of the normal UI.
  - iv. List the standard reports and data elements available to users to build custom reports.
  - v. Describe the manner in which user reports and associated data can be exported and list supported formats.
  - vi. Describe how the proposed solution provides data and information to the instructor on the progress and activity of users in the course from within the system and from third-party tools. Include how the proposed solution provisions or delivers a user dashboard which may provide activity data, progress, or upcoming assignments/assessments. Does the “dashboard” provide for promoting user activity based on performance (nudges).
- c. **Availability:**
- i. List historical uptime of the proposed solution and information for any incident, downtime or service degradation for the previous two years, including length of impact. Provide a description of expected availability and redundancy precautions taken within the system.
  - ii. Describe how upgrades, outages and other notices are communicated. What input does the customer have in the scheduling of upgrades? Include: notification triggers, how long for notification to occur, who is notified, means of notification, resolution time, updates on progress.
  - iii. Describe how support is provided when there is a technical/functional problem with the proposed solution. Include: support hours, who can call, who responds, response time, resolution time, software, or access requirement to resolve and any costing.
  - iv. Describe the process for maintaining the Learning environment (backups, updates, security patches etc.) and emphasize any impact on users.
  - v. Describe the disaster recovery capabilities, including testing process and frequency, recovery time from failover events, and geographic distribution of infrastructure.
- d. **Data Management:**
- i. The proposed solution should be able to provide the University with a copy of its learning environment data within 30 days of the request. The data must be in a reusable form to be determined at the time of the request. Explain how the proposed solution would address this need.
  - ii. Describe how the solution links “person” records across extent tools within the learning environment. Specifically, how does a single user’s data from multiple sources come together in a single record to feed a third-party data analysis tool.
  - iii. Does your solution provide real-time access to data? If so, please describe your recommended method for accessing and exporting your solution’s data.
  - iv. Describe how data, backups and archives can be restricted to only users authorized by the University?
  - v. Describe how the solution provides a granular, configurable (by the vendor upon request) backup/recovery solution.
  - vi. Describe how the solution supports open record requests. This functionality is in the form of data discoverability and reporting, including extracts of selected data. It is preferred that the University has access to this functionality versus requesting data from the vendor.
  - vii. Describe your content migration strategies and support.
  - viii. What languages does your solution support? Describe available customization for language localization.
- e. **Identity and Access Management:**

- i. Describe how the solution consumes identity data via SAML assertion during the user login process.
  - ii. Describe if a local user account is required, and if so, how the solution will provide an API that allows for the programmatic provisioning (creation) and deprovisioning (deletion) of user accounts and/or has a connector available for integration with a product compatible with commercial Identity Management Frameworks (e.g. Oracle Identity Manager etc.).
  - iii. Describe if a local user account is required, and if so, how the solution will provide a web services interface that can receive Service Provisioning Markup Language (SPML) messages and/or can use a Security Assertion Markup Language (SAML) assertion to synchronize attributes.
  - iv. Describe how the solution can, in real-time, access an Extensible Access Control Markup (XACML) based external security decision service or the solution can accept SAML assertions for use in making the access decision.
  - v. Describe how the solution supports SAML V2?
  - vi. Describe how the solution supports interoperability with multiple external Identity Providers and Discovery Services and dynamically publishes and consumes federation metadata (including cryptographic keys) in order to obtain information about federation endpoints.
  - vii. Describe whether the solution natively uses eduPerson schema attributes for consumption of identity data.
  - viii. Describe how your product uses memberOf or entitlement attributes?
  - ix. Describe how the solution handles changes to a unique identifier that appear in a SAML assertion or other data feed without loss of functionality or data for that user.
  - x. Describe how the solution provides a means for the University systems to designate users as private and provides a means of restricting display of these user's information to only those people that have a legitimate business need to see their information.
  - xi. Describe how the solution supports deep linking, meaning that the user, if already logging in, can navigate directly to pages for which they are authorized without having to log in again.
  - xii. Describe how the solution provides granular security where each important function and object can be explicitly restricted to authorized users.
  - xiii. Describe if the solution has the ability to group important functions and objects into roles for assignment to users.
  - xiv. Describe if the solution includes pre-defined roles that meet the business requirements (e.g. Administrator, Supervisor, etc.)
  - xv. Describe how the solution is able to deny user permissions to a function, group of functions, objects and groups of objects at any point in the authorization tree.
- f. **Security:**
- i. Describe the solution's logical security design and configuration, including servers and other infrastructure.
  - ii. If the solution is compliant with one or more Cloud Security Alliance, FEDRAMP, FISMA or industry recognized security standards, please provide supporting documentation that so-demonstrates.
  - iii. Explain how the solution is Health Insurance Portability and Accountability Act (HIPPA) compliant when HIPPA data is stored within the Learning environment.
  - iv. Describe in detail the ways in which the solution supports compliance with the Family Educational Rights and Privacy Act (FERPA).
  - v. Describe encryption method used to store internal passwords?
  - vi. Describe if the solution provides the capability to encrypt "high risk" data while in storage.
  - vii. Describe the solutions encryption methods and/or its ability to interface with encryption software during communications between client stations. If the solution can be used to transmit and store "high risk" data, will such data be encrypted while in transit.
  - viii. How frequently is vulnerability (internal and external) testing of all components of the solution performed and by whom is it performed?
  - ix. How does the solution capture relevant security information for incident investigations (academic misconduct, violation of campus appropriate use policies, etc.)?

- x. Describe what logs the solution maintains and usage (sessions, etc.) and on unauthorized attempts to access the system, systems functionality, and/or specific data.
  - xi. Discuss configurability of security log retention in your product.
  - xii. Describe how the solution restricts and monitors access to it and its associated functionality.
  - xiii. Are security logs exportable for external evaluation and investigation?
  - xiv. Describe your process for security incident monitoring, mitigation, and notification.
  - xv. How often are independent 3<sup>rd</sup> party security audits conducted? Will the audit results be shared with the University? Please provide the date of the last audit, who performed the audit and a summary of the audit results.
  - xvi. Describe how frequently user activities are audited and collected (date and time of event, user involved, action attempted, and result) How is the audit exported for analysis?
  - xvii. Describe how quickly the Offeror notifies customers about the discovery of security vulnerability and remediation plans?
  - xviii. Describe how the solution supports operating system, server, learning environment, and third-party component patches within 30 days of patch release?
  - xix. Describe the firewall methodology used by the solution. Provide a list of the firewall products that are used and how they fit into the overall architecture.
  - xx. Describe how the solution ensures that secure and private information does not remain on the user's workstation after sessions are closed (e.g. caching of data, etc.)
  - xxi. Describe how the solution ensures that user sessions that are "left logged in" are not used inappropriately.
  - xxii. Describe the auto-log-off capability of the solution after a configurable predetermined period of inactivity.
- g. **Support:**
- i. Describe the model used to engage and support the University with a successful implementation and effective management of the solution. Provide details noting the structure, roles, and communication channels (include diagrams, if available).
  - ii. Describe the types of support available for initial set-up and ongoing operations for administrative staff, including specifics about response time and reported issues.
  - iii. Describe the support channels available to users (e.g. web-based, phone, email, etc.), availability and workflow.
  - iv. Describe how service updates and/or informational releases are distributed to various University audiences (administrative, technical, users etc.).
- h. **System Components and Architecture:**
- i. Describe if there are any hardware, software or technology components required to be installed at the University.
  - ii. Describe your plans for keeping up-to-date with dependent technologies, including methods for notifying customer of updated technology requirements, and modes of distributing updates.
  - iii. Describe if the solution supports multiple client OS platforms (e.g. Windows, OS X, etc.).
  - iv. Describe the timeframe within which the vendor supports new versions of operating systems (e.g. within 30 days of Release to Manufacturing, etc.).
  - v. Describe any stand-alone desktop software required to utilize all features of the solution.
  - vi. Describe the overall architecture of the solution, including diagrams when possible.
  - vii. Describe any functionality on the product Roadmap referenced as part of this proposal.
  - viii. Describe any new functionality on the product Roadmap that is not addressed elsewhere in this proposal and estimated release time frames.
  - ix. Describe the process through which requests from the University for new functionality or changes to existing functionality will be addressed.
  - x. Describe the preferred or reference hosting platform (OS, database, middleware, etc.)
  - xi. Describe how contribution from the Open Source community are incorporated in releases.
  - xii. Describe any user community that develops and shares code that extends the capability of the solution.

i. **System Integration:**

- i. Does the solution provide any web services APIs? Account Creation/Deletion, Course Creation/Deletion, Course Management, Content Management, Student Content? Are there limits on API Resources?
- ii. Describe how the solution integrates with a Student Information System (SIS). The University currently uses Banner SIS module for this information. At a minimum, integration with the solution will include the automated daily bulk extract, transform, transmission and import of student, instructor, course, enrollment, and role data from the SIS to the Learning environment. The University prefers IMS LIS 2.0 standard for integration with our SIS. Short listed firms must be prepared to demonstrate how this integration is accomplished.
- iii. Describe the process for automatic transmission of final course grade data from the solution directly to the Banner SIS.
- iv. Currently the University uses Remark OPSCAN software to scan "bubble" forms for face to face course assessments. Describe the process for importing results from the Remark Scanning software system into the course Gradebook.
- v. Describe how the solution uses the current LTI standards to integrate with other systems. If selected as a finalist, be prepared to demonstrate how this integration is accomplished. Some examples (not a complete list) of systems that must integrate with the Learning environment are:
  - Textbook and course material publishers (Pearson, McGraw Hill, Cengage)
  - Assessments (Examssoft)
  - Test generators (Respondus, SmarterProctoring)
  - Media Management (Kaltura)
  - Audience Response Systems (Turning Technologies, Top Hat)
- vi. Describe the technologies used to extend the functionality of the proposed solution (including scripting, APIs, SDK's, or other similar technologies). Provide examples documenting these extensions.
- vii. Describe how the proposed solution ensures integrations within the Learning Environment remain compatible with new releases.
- viii. Provide examples of solution components that currently use the API framework.
- ix. Describe how the solution uses LTI Common Cartridge to import/recognize other LMS course packages.
- x. Describe the process for combining one or more courses/sections within the LMS. Courses and sections as defined in the SIS may not correspond to their definition in the Learning Environment and may need to be combined or separated. Describe or provide information about how combining or merging courses are mapped, and how mapping information is stored. Describe this process and how it affects groups (groups) within the courses/sections, grades sent back to the SIS, and other functions commonly performed within a single course.

j. **System Performance and Scalability:**

- i. Describe how system performance is monitored and the tools available natively within the product. Also describe the performance target benchmarks used for determining satisfactory performance delivery.
- ii. Describe the ability of the solution to scale during heavy system load to maintain performance levels. How many concurrent users does the solution support before performance degradation is noticed?
- iii. Describe the solution's architecture in terms of scalability. The Offeror must clearly indicate how scale of use (concurrent users/streams, bandwidth) may impact performance and how problems would be corrected/addressed. How might the performance or problem mitigation differ depending on the hosting option employed? Describe any limitation to scalability that may exist.
- iv. Describe the definition of acceptable performance for the solution, how it is measured, and how the solution infrastructure (software and hardware) can be scaled to maintain acceptable performance. Include specifics on how the server environment (web, file, database, other) can be scaled and how load may be distributed to maintain acceptable performance.

- v. Describe the recommended instance structure (single or multiple) and how it addresses security and vulnerability concerns (ex. All campus locations effected vs single campus effected).
- k. **Technical Documentation:**
- i. Describe available technical documentation including information included with new releases. Also please indicate if documentation can be customized beyond branding.
  - ii. Provide a list of the printed and electronic formats (i.e. PDF, HTML, Word, online in the Learning Environment, etc.) in which each set of documentation is available.
  - iii. Describe any limitation on the distribution of documentation.
  - iv. Describe how the Offeror ensures that the documentation provides clear, accurate, and detailed error messages. Please provide an example of product release notes or other documentation.
- l. **User Interface:**
- i. Describe how consistency of the user interface and functions are maintained across all supported desktop platforms? Describe any discrepancies and indicate solutions or temporary workarounds, as applicable.
  - ii. Describe whether end user and administrative functionality is accessible via web interfaces.
  - iii. Describe, based on each user role (e.g. student, teaching assistant, instructor etc.) the intuitive, customizable nature of user interfaces, including easy navigation design and access to common functions. Include whether user interfaces are designed to support mobile technologies.
  - iv. Describe the functionality differences between the web client, desktop client and mobile client.
  - v. Describe any required or optional browser plugins and add-ons/extensions, and why they are needed.
  - vi. Describe the type of cookies that are required, what is collected, and how they are used?
  - vii. Describe how the solution supports the most common Internet browsers and mobile devices (e.g. Android, iOS, etc.). Identify browsers supported. Specify if the product renders via a native app and/or HTML via a browser.
  - viii. Describe available customization for the University System Administration and Institutional level branding/theming.
- m. **User Management:**
- i. Describe the roles, ability to assign permissions, options for customization, and any limitations.
  - ii. Describe in detail how user accounts are provisioned.
  - iii. Describe in detail the process to set up integration and the user interfaces for management of enrollment, entitlements, and permissions.
  - iv. Describe the process for creating and deleting users (with the option to retain or delete associated content) manually or through a batch process independent of integrations.
  - v. Describe the available options for enabling and enforcing quotas, including associated monitoring and notification processes.
2. **Training and Development** (15 Points)
- Old Dominion University has support staff in the Center for Learning and Teaching, and Center for Faculty Development who provide support in the development of best practices in the use of teaching and learning technologies. These can include site administrators, instructional support staff, student support staff (libraries, disability services etc.) instructors, students, and University Administrators.
- a. Describe any training available for University system administrators in the management and maintenance of the offered system, include any additional costs involved.
  - b. Describe how Offeror will provide any personalized materials. Materials that are easily able to be customized or altered to fit the needs of University system and/or potentially different instructional or technology support units, academic programs/departments, or instructors.
  - c. Describe how the Offeror will provide the following: accessible materials that do not require authentication to access, creative commons licensing for clients, searchable materials, materials available from mobile devices, and available to multiple stakeholders, including students, available 24-7, 503b compliant; be ADA compliant and meet accessibility needs.

- d. Describe how Offeror provides timely updates to communicate, training and development materials to make the University aware of product changes and their impacts on the learning environment.
  - e. Describe any pedagogical and instructional technical “how-to” guides you provide for faculty, instructors, and support staff to increase instructional efficiencies and reduce workload, improve faculty abilities to develop and deliver differing assessments, provide perspective of and improve the student experience and personalization, including course and student-level reporting.
  - f. Describe any technical “how-to” guides you provide for mobile devices and work compatibility, accessibility and universal design, collaboration and sharing, organization and design, analytics and assessment, seamless integration of third-party materials and tools, and sharing of content across courses and publicly.
  - g. Describe the technical “how-to” guides you provide from the faculty and student perspective for all tools (e.g. Create Discussions and Grade Discussions for faculty and Participate in Discussions for students).
  - h. Describe any pedagogical training and technical support for new instructional data-drive models you supply, including competency-based learning, self-paced instruction, self-directed learning, learning analytics, adaptive learning, and personalized instruction. Include any materials or instruction addressing pedagogical and technical support for different modes of delivery, including flipped, blended and online.
  - i. Describe any technical guides and support for developers that you provide, including API development and LTI integrations.
  - j. Describe any Training and technical guides for technology management for site administrators, including system architecture, scalability, security, and development.
  - k. Describe any guides and support you provide in organization administration, including policy issues (academic, operational), data retention, user support, training, and quality assurance, etc.
3. **Cost** (10 points calculated via formula): Offeror’s must submit a pricing schedule as outline in section XII. Fees and Pricing for the specific scope of work and service delivery components to be provided.
- a. The applicable scoring for “Cost” is completely objective and will be derived using a mathematical calculation.
  - b. The lowest “Cost” shall be assigned the maximum allowable points for Cost, e.g. two proposals with grand totals equal to \$1,025 and \$1,500, \$1,025 shall be used as the numerator to calculate the associated points;
  - c. Points equal 15, therefore the \$1,025 Cost offered will receive the maximum allowable 15 points, and the \$1,500 Cost offered shall receive 10.25 points.
- Understanding that proposed base platforms/solutions may vary in configuration and functionality, it shall be the Offeror’s responsibility to propose a platform/solution that will support the functional and technical requirements specified herein. The proposed solution configuration must be disseminated by functionality/module and associated cost for same. At its sole discretion, the University may request from any of all Offerors additional functionality/modules and associated pricing for required functional and/or technical requirements that aren’t included in the Offeror’s proposed base platform/solution. If Offeror does not have the ability to provide requested functionality/module and associated cost, the University shall reserve the right to “impute a cost from a third-party provider”.***
4. **Small, Women-Owned, and Minority-Owned Business Participation Plan.** (5 points)  
 Offeror’s are encouraged to tailor their proposed SWAM Plans to meet or exceed the University’s aspirational target goals as specified herein, specifically Section III.B.1.  
 Like Cost, the evaluation of proposed SWAM Plan is completely objective, and associated points will be awarded based on a mathematical calculation, as follows:
- a. Those submitting firms that are currently certified by DSBSD as Small Business, Small Minority-Owned Business, and/or Small Women-Owned Business shall receive the maximum points allowed under the associated SWAM Plan evaluation criteria;
  - b. Those submitting firms that are not DSBSD certified, but have submitted a SWAM Plan that includes proposed expenditures and percentages with DSBSD certified subcontractors will be



awarded a percentage of the associated points allowed under the SWAM Plan evaluation criteria, calculated as follows:

1. Assigned criteria percentage/points multiplied by seventy-five percent (75%), i.e., 10 points X 75% shall equal 7.5 maximum allowable points; then
2. Calculated maximum allowable points multiplied by proposed SWAM expenditure percentage for the contract period, i.e., proposed expenditure percentage equal to 50%, calculated as 7.5 points X 50% spend equals 3.75 points awarded for SWAM Plan criteria.

Those submitting firms that are not DSBSD certified, and have submitted a SWAM Plan that does not include any proposed expenditures and percentages with DSBSD certified subcontractors will be awarded zero (0) points.

**B. SHORT-LIST PHASE: Conforming with the RFP requirements, during the short-list evaluation process to determine and select the one Firm whose proposal is most advantageous to the University, the following process and criteria shall be used:**

- a. The initial evaluation and scoring as described above shall be carried over and applied, using same criteria with adjusted points, as follows:
  1. Experience (2 points)
  2. Functional & Technical:
    - a. Overview (2 points)
    - b. Tool Set (12 points)
    - c. Technical (12 points)
  3. Training & Development (6 points)
  4. Cost (4 points calculated by formula)
  5. SWaM (2 points calculated by formula)
- b. The “carried over” scoring from INITIAL Evaluation process shall be calculated by:
  1. Using the SAC’s average score for each short-listed vendor for each of the criteria as a baseline;
  2. Using the defined average score for each criteria, same shall be calculated as a percentage of the highest total average score that could be achieved for each criteria, e.g., Initial Phase Experience equals 5 points, Firm A achieved a SAV average score of 3.0 points, therefore the “carried over” percentage of Experience for Firm A will be 60% and calculations will be conducted in the same manner for each of the remaining criteria;
  3. The calculated percentages for each of the criteria shall then be multiplied by the adjusted assigned points for the same criteria to determine a Firm’s score(s) for this Short-List Phase of the process, e.g., adjusted points for Experience is 3 points, therefore Firm A’s points will be calculated at 1.2 points (3 X .6), and calculations will be conducted in the same manner for each of the remaining criteria;
- c. Two (2) additional evaluation criteria will be added to the Short-List Phase, as follows:
  1. USABILITY (50 points)

This criteria shall be evaluated and scored during the “sandbox testing”, if so required by the University. The entire 50 points shall be based on a ‘testers’ “overall evaluation” of the proposed platform/solutions, including but not limited to User Interface and ease of use, accessibility, application navigation, content organization, functionality of tools in course and administrative tasks, assessments, providing instructor and student feedback, engagement, accessing integrated tools, student, course and institutional reporting, and any other areas deemed functionally important in a digital learning environment.
  2. Presentations (10 points)

Presentations will be evaluated and scored if so required by the University. The entire 10 points shall be based on an average of SAC members evaluation of the presentation, solution proposed, completeness of content and delivery.

**C. AWARD OF CONTRACT:**

1. After the initial evaluation to determine those short-listed Offerors most fully qualified and best suited to conduct negotiations, based on the evaluation criteria and associated weights specified in above IX.B.1., the University shall invite those short-listed Offerors to provide on-site Oral Presentations that will be open to campus participation and to engage in individual discussions and negotiations with the Selection Advisory Committee (“SAC”).
2. Repetitive discussions and negotiations are permitted. Offerors shall be encouraged to elaborate on their qualifications, performance data, staff expertise, and costs relevant to the proposed contract. Offerors may also propose alternate concepts or methodology.

3. During the presentations/negotiations phase, the selected Offeror(s) may be asked to submit in writing Revised Intermediary Pricing (RIP). At the conclusion of presentations/negotiations, the Offeror(s) may be asked to submit in writing, a **Best And Final Offer (BAFO)**. After the BAFO is submitted and if applicable, no further negotiations shall be conducted with the selected Offeror(s). The Offeror's proposal will be rescored to combine and include the information contained in the BAFO. The decision to award will be based on the final evaluations including the BAFO, when applicable.
  - a. At the conclusion of the presentations/negotiations, including when applicable any requested **BAFO**, using only the evaluation criteria specified in above IX.B.1., (not the associated weights), and adding the new criteria "Oral Presentations" and "Usability", the SAC members shall then use all information gathered from the proposal, discussions, testing, presentations, negotiations and any additional information provided by the Offeror to determine the overall "best proposal", and make recommendation to award accordingly.
  - b. The SAC members shall not rank order Offerors for evaluation criteria IX.B.5., Costs, or IX.B.6., SWAM. The associated scoring for each short-listed Offeror for these criteria shall be calculated on a one-point (1) basis as follows:
    1. **Costs:**
      - a) The final total cost for each short-listed Offeror shall be used, including any requested and submitted BAFO;
      - b) The same calculation methodology as specified in above IX.B.5. shall be used, replacing the associated 'weight' with a new weight equaling '1' point.
    2. **SWAM:**  
The same calculation methodology as specified in above IX.B.6. shall be used, replacing the associated 'weight' with a new weight equaling '1' point.
  - c. After each SAC member has provided their individual rank order for each of the specified criteria, and the Cost and SWAM calculation has been calculated as described above, all scores for each Offeror shall be totaled, and based on same, the SAC and lead Procurement officer will make a recommendation for award to the Assistant Director for Procurement Services.
4. Should the Agency determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified and suitable than the others under consideration, a contract may be negotiated and awarded to that Offeror.

## **X. PROPOSAL PREPARATION AND SUBMISSION REQUIREMENTS**

### **A. General Requirements:**

1. In order to be considered for selection, Offerors must submit a complete response to this RFP. One original and one thumb drive, to include separate files for response, pricing, and any animations. No other distribution of the proposal shall be made by the Offeror.
2. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be included.
3. Proposals shall be signed by an authorized representative of the Offeror. All information requested should be submitted. Failure to submit all information requested may result in the University requiring prompt submission of missing information and/or giving a lowered evaluation of the proposal. Proposals which are substantially incomplete, or lack key information may be rejected by the University. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
4. All proposals shall be received and time stamped in the Issuing Office no later than the Closing Date and Time shown on the cover page of this Request for Proposal. Any proposal received after the specified date and time shall not be considered and shall be returned unopened to the Offeror.
5. All information requested by this RFP on the ownership, utilization and planned involvement of small businesses, women owned businesses and minority-owned businesses must be submitted. If an Offeror fails to submit all information requested the Issuing agency may require prompt submission of missing information after the receipt of Contractor proposals.
6. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposals should be numbered. Each paragraph in the proposal should reference the paragraph number of the corresponding section of the RFP. It is also helpful to cite the paragraph number sub letter, and repeat the text of the requirement as it appears in the RFP. If a response covers more than one page, the paragraph number and sub letter should be repeated at the top of the next page. The proposal should contain a table of contents which cross

references the RFP requirements. Information which the Offeror desires to present that does not fall within any of the requirements of the RFP should be inserted at an appropriate place or be attached at the end of the proposal and designated as additional material. Proposals that are not organized in this manner risk lower scoring and/or elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

**B. Submission of Proposals:**

Offeror's are required to submit the following items as a complete proposal:

1. The return of the RFP cover sheet and all addenda acknowledgments, if any, signed and filled out as required;
2. Complete Pricing Pages, Contractor Data Sheet, Past SWAM Plan(s), Proposed SWAM Plan, and Substitute W-9 Form, included as attachments to the RFP, and other specific items or data requested in the RFP;
3. Written narrative statements to include how the Offeror plans to successfully meet the objectives and requirements defined herein, specifically those stated in Section IV. "Scope of Work";
4. Written narrative statements providing information as required in support of the various components defined in Section IX. A., "Evaluation Criteria", as follows:
  - a. Experience and References;
  - b. Functional and Technical Requirements;
  - c. Training and Development;
  - d. Costs; and
  - e. SWAM Plan

**C. Exceptions:**

Offeror's must detail under separate tab identified as "Exceptions", any issues (referenced by specific paragraph/section of the RFP document and/or Addenda) with which they disagree or wish to clarify position. Failure to identify any exceptions to the RFP document and/or any associated Addenda will be interpreted to mean that the Offeror is in full agreement with the all provisions of the RFP document and/or Addenda, including, but not limited to, (i) statement of needs/scope of work, (ii) terms and conditions, both general and specific, as applicable, (iii) submission requirements, (iv) evaluation and award criteria and process, and (v) all other requirements as specified in the RFP document and/or Addenda.

**XI. FEES AND PRICING:** Any and all proposed fees and pricing can and may be negotiated, as necessary, to meet the needs and requirements of the University. The information provided will be included in the evaluation process, but shall not be the sole determining factor for any subsequent contract award.

**A. University Provided Schedule:**

1. Offeror's shall provide pricing as requested below, and shall return this pricing information with their response. It shall be the Offeror's responsibility to determine the associated costs accordingly, and reflected pricing shall be all inclusive, and shall include all services and affected assets and human resources described herein, unless otherwise noted by Offeror. No other additional costs shall be allowed unless otherwise negotiated and approved by the University.
2. When completing the Contract Pricing Schedule, Offeror's should base their costs, calculations and projections on contracts having similar scope and requirements. If Offeror feels there is a need to provide pricing for additional deliverables or service components not specified herein, they may do so, but such pricing shall be presented separately from the University provided the Contract Pricing Schedule.
3. Offeror's may also provide alternative pricing and format, but must first provide as requested above. Any alternative pricing may be accepted and/or considered by the University, accordingly. Additionally, the University shall reserve the right to negotiate any and all pricing and/or financial considerations deemed necessary.
4. Pricing submitted that includes 'travel expenses' and/or reimbursable 'per diem' shall be administered as follows:
  - a. University will appoint a contract manager for expense approvals;
  - b. Approved travel expenses will be reimbursed by University on a 'monthly' basis, and at cost;
  - c. In order to qualify for University travel reimbursement the Contractor must obtain proper advance review and University approval prior to incurring the cost;
  - d. The allowable reimbursement for 'Daily' per diem shall be in accordance with Commonwealth of Virginia's most recently dated and published State Travel Regulations, CAPP Manual Topic No. 20335, specifically "Lodging/M&IE" guidelines.

[http://www.doa.virginia.gov/Admin\\_Services/CAPP/CAPP\\_Topics/20335-2011.pdf](http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/20335-2011.pdf)

**Proposal Evaluation:** The cost component of the proposals will be based on the grand total pricing of the following.

<b><i>Offeror must include a breakdown of the Total Cost. Breakdown must include, but not limited to, hardware fees, maintenance, support, training, implementation, 3<sup>rd</sup> party, etc.</i></b>	
<b>Description</b>	<b>Cost</b>
Total 4 Year Costs	\$
Renewal Total Cost - Renewal Year 1	\$
Renewal Total Cost - Renewal Year 2	\$
Renewal Total Cost - Renewal Year 3	\$
<b>Grand Total:</b>	<b>\$</b>

**XII. METHODS OF PAYMENT PROCESSING:**

- A. In most cases, the University shall issue eVA 'Direct Orders' for required performance and delivery against any resulting contract.
- B. The Contractor shall be paid when (i) requested work is completed, (ii) the requested work is approved and accepted by the University, and (iii) Contractor has submitted to the Office of Finance/Accounts Payable a proper invoice for the approved, accepted and completed work.
- C. The Contractor shall not receive payment for work found by the University to be unsatisfactory, or performed in violation of federal, state, or local laws, codes, ordinances, rules or regulations.
- D. Progress Payments:  
 If requested in writing by the Contractor and approved in writing by the University, progress payments may be made under the following circumstances:
  - 1. When total contract cost for all materials and services exceed \$25,000;
  - 2. When project completion time is anticipated to exceed sixty (60) days;
  - 3. Payments will only be made for:
    - a) Purchased materials and/or equipment related to the project that has been delivered on site and/or stored off-site;
    - b) Those same materials and/or equipment that has a total value of at least 10% of the project cost, not to exceed 75%; and
    - c) Materials and/or equipment that have satisfied i. and ii. above, and that have all proper invoicing and required documentation, as approved by the University's Contract Administrator or appropriate Project Manager.
    - d) Regardless of completion time frame and/or amount of expense outlay incurred by the Contractor, shall not be paid more than once every 30 days.

**Note:** *It shall be the responsibility of the selected Contractor to safeguard those materials and/or equipment that have been "prepaid" by the University, and shall also certify at the completion of the project that same was either (i) used during the performance and completion of the project, or (ii) turned over as property to the University.*

- E. Charge Cards Payments:
  - 1. In an effort to increase administrative efficiency and streamline the invoice and payment process, the University may elect to process those contracted goods/services less than \$5,000, as applicable, via use of the University's Small Purchase Charge Card ("PCARD").
  - 2. In those instances deemed to be in "its best interest", the University may elect to process transactions via its 'Gold' PCARD, not to exceed transactions up to \$50,000 per order, or monthly transactions up to \$250,000 accumulative, unless otherwise approved and/or stipulated.

**XIII. ATTACHMENTS:**

**ATTACHMENT A**

**ATTACHMENT B**

**ATTACHMENT C**

**ATTACHMENT D**

**SUBSTITUTE W-9**

**CONTRACTOR DATA SHEET**

**CONFLICT OF INTEREST STATEMENT**

**OFFEROR'S PAST SWAM HISTORY**

**OFFEROR'S PROPOSED SWAM PERFORMANCE PLAN**

**UNIVERSITY'S**



**ATTACHMENT B**

**CONFLICT OF INTEREST STATEMENT**

**RFP #21-ODU-07-JNH**

Ensure that the solicitation is thoroughly read and completed. Complete, sign and return the information requested below with your proposal. FAILURE TO FURNISH THIS DATA MAY RESULT IN DECLARING YOUR PROPOSAL NON-RESPONSIVE.

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY/STATE: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

RELATIONSHIP WITH THE COMMONWEALTH OF VIRGINIA:

IS ANY MEMBER OF THE FIRM AN EMPLOYEE OF THE COMMONWEALTH OF VIRGINIA WHO HAS A PERSONAL INTEREST IN THIS CONTRACT PURSUANT TO THE CODE OF VIRGINIA, SECTION 2.1-639.1 - 639.24?

YES  NO

IF YES, EXPLAIN:

\_\_\_\_\_  
SIGNATURE OF OFFEROR

\_\_\_\_\_  
DATE

ATTACHMENT C

List women-owned, minority-owned, or small businesses with which the Offeror has contracted or done business and dollar amounts spent with each of these businesses in the most recent 12-month period for which data is available. Offerors are encouraged to provide additional information and expand upon the following format:

**PERIOD:**    **FROM:** \_\_\_\_\_    **TO:**

Firm Name	Firm Address	Firm Phone Number	Contact Person	Type of Business *	Type of Goods or Services	Dollar Amounts	% Total Expenditures for Goods & Services

\* Indicate W - if women-owned, M - minority-owned, or S - small business.





## Request for Taxpayer Identification Number and Certification



Section 1 - Taxpayer Identification

<input type="checkbox"/> <b>Social Security Number (SSN)</b>  <input type="checkbox"/> <b>Employer Identification Number (EIN)</b>  _____	Please select the appropriate Taxpayer Identification Number (EIN or SSN) type and enter your 9 digit ID number . The EIN or SSN provided must match the name given on the "Legal Name" line to avoid backup withholding. If you do not have a Tax ID number, please reference "Specific Instructions - Section 1." If the account is in more than one name, provide the name of the individual who is recognized with the IRS as the responsible party.	
<b>Dunn &amp; Bradstreet Universal Numbering System (DUNS) (see instructions)</b>  _____	<b>Legal Name:</b>  _____	
<b>Entity Type</b> <input type="checkbox"/> Individual <input type="checkbox"/> Corporation <input type="checkbox"/> Sole Proprietorship <input type="checkbox"/> S-Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> C-Corporation <input type="checkbox"/> Trust <input type="checkbox"/> Disregarded Entity <input type="checkbox"/> Estate <input type="checkbox"/> Limited Liability Company <input type="checkbox"/> Government <input type="checkbox"/> Partnership <input type="checkbox"/> Non-Profit <input type="checkbox"/> Corporation	<b>Entity Classification</b> <input type="checkbox"/> Professional Services <input type="checkbox"/> Medical Services <input type="checkbox"/> Political Subdivision <input type="checkbox"/> Legal Services <input type="checkbox"/> Real Estate Agent <input type="checkbox"/> Joint Venture <input type="checkbox"/> VA Local Government <input type="checkbox"/> Tax Exempt Organization <input type="checkbox"/> Federal Government <input type="checkbox"/> OTH Government <input type="checkbox"/> VA State Agency <input type="checkbox"/> Other	
<b>Exemptions (see instructions)</b> Exempt payee code (if any): (from backup withholding) _____ Exemption from FATCA reporting code (if any): _____		

**Contact Information**

<b>Legal Address:</b>  City:                      State :      Zip Code:	<b>Name:</b>  <b>Email Address:</b>  <b>Business Phone:</b>	
<b>Remittance Address:</b>  City:                      State :      Zip Code:	<b>Fax Number:</b>  <b>Mobile Phone:</b>  <b>Alternate Phone:</b>	

Section 2 - Certification

Under penalties of perjury, I certify that:

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

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

<b>Printed Name:</b>		
<b>Authorized U.S. Signature:</b>		<b>Date:</b>