



COMMONWEALTH OF VIRGINIA
STANDARD CONTRACT

Contract No. UCPJMU5767

This contract entered into this 14th day of May 2020, by STATSports North America. hereinafter called the "Contractor" and Commonwealth of Virginia, James Madison University called the "Purchasing Agency".

WITNESSETH that the Contractor and the Purchasing Agency, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: The Contractor shall provide the services to the Purchasing Agency as set forth in the Contract Documents.

PERIOD OF PERFORMANCE: From: May 18, 2020 through May 17, 2021 with 4 one-year renewal options.

The contract documents shall consist of:

- (1) This signed form;
(2) The following portions of the Request for Proposal JGM-1073 Athletic Wearable Technology dated January 28, 2020:
(a) The Statement of Needs,
(b) The General Terms and Conditions,
(c) The Special Terms and Conditions together with any negotiated modifications of those Special Conditions;
(d) Addendum No. One dated January 30, 2020
Addendum No. Two dated February 14, 2020
Addendum No. Three dated February 18, 2020
(3) The Contractor's Proposal dated February 18, 2020 and the following negotiated modification to the Proposal, all of which documents are incorporated herein.
(a) Negotiations Summary, dated March 26, 2020.
(b) Commonwealth of Virginia Agency Contract Form Addendum To Contractors Form, dated February 18, 2020, which shall govern in event of conflict
(c) Information Technology Services Addendum, dated February 18, 2020

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR:
By: [Signature]
(Paul McKernan)
(Printed Name)

PURCHASING AGENCY:
By: [Signature]
(Garrett Morris)
(Printed Name)

Title: DIRECTOR

Title: Buyer Senior

**03/26/2020**

1. Contractor's pricing for James Madison University is as follows:

Package	Fee
<p><b>15 Elite Pro Series Unit Pack</b></p> <p>1 x 16-way docking station 1 x Apex Live Streaming Beacon 1 x iPad 1 x Smartwatch Vests (Match Pack Size) 1 x Apex Software Licenses</p>	<p>\$1,375 per month</p>
<p><b>20 Elite Pro Series Unit Pack</b></p> <p>1 x 16-way docking station 1 x Apex Live Streaming Beacon 1 x iPad 1 x Smartwatch Vests (Match Pack Size) 1 x Apex Software Licenses</p>	<p>\$1,667 per month</p>
<p><b>50 Pro Series Unit Pack</b></p> <p>3 x 16-way docking station 3 x Apex Live Streaming Beacon 3 x iPad 3 x Smartwatch Vests (Match Pack Size) 3 x Apex Software Licenses</p>	<p>\$3,750 per month</p>

- a. All vest purchases will incur an additional import duty charge of (32%) / \$6.40 per vest.
- b. All training, including travel, via web or on premises, shall be included without additional cost to the University.
- c. Contractor shall provide support at no additional cost. Support shall be inclusive of the following:

**03/26/2020**

- i. Primary and secondary account manager and sports scientist for all queries.
    - ii. 24/7 support within reason
    - iii. Twice a year 2-day visit for an onsite check in
    - iv. 48-hour hot swap. Any malfunctioning unit shall be replaced within 48 hours of the account manager being notified.
  - d. For the term of the agreement between STATSPORT and James Madison University, the University will receive all updates and upgrades to system and software at no additional cost.
  - e. Importing and or transferring data into the STATSPORT Cloud System either automated or manual imports done by Contractor shall be included without additional costs to the University.
2. Payments shall be made in accordance with the Code of Virginia, §2.2-4347 through 2.2-4354 Prompt Payment.
  3. The University will issue a purchase order based on the quote provided in accordance with terms outlined in this contract. No additional agreements, order forms, or signatures will be required from Contractor.
  4. The Contractor has disclosed all potential fees. Additional charges will not be accepted
  5. University shall own all its data related to this contract. Contractor shall not share student athlete's data under any circumstance.
  6. The Contractor has disclosed all potential fees. Additional charges will not be accepted

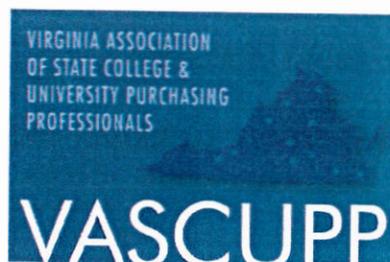


# Request for Proposal

**RFP# JGM-1073**

**Athletic Wearable Technology**

**January 28, 2020**



***REQUEST FOR PROPOSAL***

RFP# JGM-1073

Issue Date: January 8, 2020  
Title: Athletic Wearable Technology  
Issuing Agency: Commonwealth of Virginia  
James Madison University  
Procurement Services MSC 5720  
752 Ott Street, Wine Price Building  
First Floor, Suite 1023  
Harrisonburg, VA 22807

Period of Contract: From Date of Award Through One Year (Renewable)

Sealed Proposals Will Be Received Until 2:00 PM on February 18, 2020 for Furnishing The Services Described Herein.

SEALED PROPOSALS MAY BE MAILED, EXPRESS MAILED, OR HAND DELIVERED DIRECTLY TO THE ISSUING AGENCY SHOWN ABOVE.

All Inquiries For Information And Clarification Should Be Directed To: Garrett Morris, Buyer Senior, Procurement Services, [morrisjg@jmu.edu](mailto:morrisjg@jmu.edu); 540-568-4501; (Fax) 540-568-7935 not later than five business days before the proposal closing date.

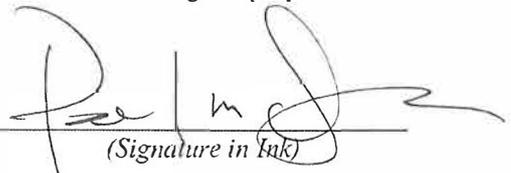
**NOTE: THE SIGNED PROPOSAL AND ALL ATTACHMENTS SHALL BE RETURNED.**

In compliance with this Request for Proposal and to all the conditions imposed herein, the undersigned offers and agrees to furnish the goods/services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation.

Name and Address of Firm:

STATSPORTS North America  
332 S Michigan Ave. 9<sup>th</sup> Floor  
Chicago, IL 60604

By:

  
(Signature in Ink)

Name:

PAUL MCAFEE  
(Please Print)

Date:

18<sup>th</sup> February 2020

Title:

PRESIDENT STATSPORTS - NORTH AMERICA

Web Address:

www.statports.com

Phone:

+1 312 528 7796

Email:

P.MCAFEE@STATSPORTS.COM

Fax #:

ACKNOWLEDGE RECEIPT OF ADDENDUM: #1 PM #2 PM #3 \_\_\_\_\_ #4 \_\_\_\_\_ #5 \_\_\_\_\_ (please initial)

SMALL, WOMAN OR MINORITY OWNED BUSINESS:

YES: NO: IF YES => SMALL: WOMAN: MINORITY IF MINORITY: AA: HA: AsA: NW: Micro

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against an offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

# ***REQUEST FOR PROPOSAL***

*RFP # CMJ-1062*

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## **I. PURPOSE**

The purpose of this Request for Proposal (RFP) is to solicit sealed proposals from qualified sources to enter into a contract to provide an Athletics Recruitment Management System for James Madison University (JMU), an agency of the Commonwealth of Virginia. Initial contract shall be for one (1) year with an option to renew for four (4) additional one-year periods.

## **II. BACKGROUND**

James Madison University (JMU) is a comprehensive public institution in Harrisonburg, Virginia with an enrollment of approximately 22,000 students and 4,000 faculty and staff. Further information about the University may be found at the following website: <http://www.jmu.edu>. The University sponsors an 18-sport intercollegiate athletics program that competes at The Division I level of the National Collegiate Athletic Association. JMU is also affiliated with the Colonial Athletic Association, of which it was a charter member in 1985, and with the Eastern College Athletic Conference.

JMU has men's athletic programs in baseball, basketball, football, golf, soccer, and tennis. All JMU Football and Men's Basketball contests are streamed in HD over the free MadiZONE platform, while baseball and soccer have numerous game streams.

The JMU Athletics Department's vision is to be the NCAA model for the student-athlete experience, distinguished by our academic achievement, integrity, personal development and nationally-competitive programs, and our sports embody that both on and off the field. JMU's football program has been a consistent force over the last two decades, having made the FCS playoffs nine times since 2004, including two national championships in 2004 & 2017. The programs all have a strong history of CAA and NCAA Championship showings, with Basketball (2013) and Soccer (2014, 2018) having won the conference title within the last five years.

For women, the University offers programs in basketball, cross country, field hockey, golf, lacrosse, soccer, softball, swimming and diving, tennis, track and field (indoor and outdoor), and volleyball. All women's basketball games and many of these other sporting events are also streamed in HD over free MadiZONE platform.

JMU's women athletics tradition is among the oldest in the nation, dating nearly back to the institution's founding in 1908. Strong intercollegiate programs for women have been in place at the University since the early 1920s, and JMU was among the first of the nation's institutions to provide well-rounded overall intercollegiate offerings for females. JMU's Women's Lacrosse program has been one of the most prominent programs in the country, having been Nationally Ranked each of the last 26 years, including a Top 10 ranking in 16 of the last 19 years. The Women's Basketball team is one of three programs in the nation to have over 1000 wins as a school, and is also consistently seen inside the Top 25 of most polls. The championship culture doesn't stop with the men, as the women's programs have had just as much success over the last five years as Basketball (2014, 2015, 2016), Cross Country (2011, 2017), Golf (2013), Lacrosse (2013, 2017, 2018), Soccer (2013, 2015), Softball (2014, 2016, 2017), Swimming & Diving (2012, 2018), Volleyball (2016, 2017) and Track & Field (2012) have all won a CAA Conference Championship. National Championships have also been attained in Field Hockey (1994) and Lacrosse (2018).

## **III. SMALL, WOMAN-OWNED AND MINORITY PARTICIPATION**

It is the policy of the Commonwealth of Virginia to contribute to the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities, and to encourage their participation in State procurement activities. The Commonwealth encourages contractors to provide for the participation of small businesses and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and other contractual opportunities. Attachment B contains information on reporting spend data with subcontractors.

#### **IV. STATEMENT OF NEEDS**

A. James Madison University is seeking a Wearable Technology Solution that will provide an accurate athlete performance data tracking and analysis software system to allow for the tracking and analysis of athlete external and internal loads resulting from training and competition. In addition, this product will need to allow for:

1. The collection, consolidation, analysis, and reporting of athlete performance data such as heart rate data, total distance, max and average speed, hi-intensity sprint distance, jumps etc and readiness data such as mood, muscle soreness, fatigue, hydration etc
2. The ability to enhance performance and wellness data tracking and reporting, athlete monitoring, appropriate athlete loading and load management strategies, and injury prevention and return to play protocols.
3. The ability to provide live monitoring.
4. Enhancing the communication and collaboration between the performance team and sport coaches.

The Offeror shall have available and be able to demonstrate the use and functions of the following components and/or features of the system which will be utilized on campus by coaches, student-athletes, and other university constituents. It is expected that any proposed system will already be fully developed, tested, used in similar NCAA Athletic programs, offered publicly for sale and available immediately for installation.

The system shall be able to provide a wearable technology solution to accurately track and analyze measurable performance data to mitigate the risk of injury and tailor training programs to optimize each individual's development. Included within this platform shall be the ability to provide individual and team dashboards with customizable alerts and custom reporting on different performance metrics; and the delivery, collection, and analysis of athlete wellness questionnaires. The system shall be capable of tracking and recording the individual and team training loads both external and internal and facilitating communication and sharing of athlete data related to performance, wellness, and readiness.

The Contractor shall have available and be able to demonstrate the use and functions of the following components and/or features the system. It is expected that any proposed software will already be fully developed, tested, offered publicly for sale and available immediately for installation. For this project, the University is not interested in a custom developed software. Describe in detail the manner in which each item is addressed by the system.

B. Product Functionality

1. Describe measurable performance data that is tracked.

STATSports Apex system can measure players distances covered, accelerations, decelerations, step balance, impacts, heart rate and a multitude of other metrics with high levels of accuracy during any outdoor training session

2. Describe ability to provide individual and team dashboards with customizable alerts and custom reporting on different performance metrics (list).

The Sonra software delivers new and improved user-friendly interactive dashboards. Data can be displayed across five different levels of analysis: Individual Session, Individual Period, Squad Session, Multiple Session, Squad Period.

Every sport scientist, analyst or coach working within the analysis platform has the flexibility to design their own individualized interface based on their preferred methods of data visualization.

Unique dashboards consist of fully customisable widgets, combination charts, metric tables and graphs. Each dashboard has the functionality to display different metrics in an entirely different layout to the next. Metric charts contain sorting functions that allows the user to organize their data in a variety of formats e.g. Max -> Min, A -> Z.

The software possesses the impressive ability to export any chart as a PDF or image to allow the user to add these to their own external reports. Charts can be conditionally formatted to display the data in a traffic light (red, amber, green) format providing a comprehensive indication as to where a player's physical outputs lie relative to their daily thresholds.

Metric Dashboard metrics are displayed in the following formats:

- Gauge charts - Up to 6 metrics numerically displayed with a corresponding gauge indicating the value relative to the user defined target
- Combo Chart – Up to 5 metrics displayed on one chart using a user-defined combination column, line or area displays
- Metric Table –Metrics displayed in columns which shows the data for chosen metrics with the last row being an average of each column
- Metric Charts -Up to 30 individual metric charts that can display data as column, bar, line, area, pie and scatter graphs

Positional data can be plotted on any pitch and displayed visually in various ways through:

- Positional map
- Heat map
- Sprint map
- Time spent map

Pitch maps co-ordinates are easily obtained by selecting pitch corners on our innovative Pitch Management software feature

### **Analysis**

The Sonra software contains several options for data analysis within the software itself.

- Detailed analysis of graphs presented in the Metric Dashboard allow the user to:
  - Compare an athlete's performance in each drill in a single session.
  - Compare an athlete's performance in a session/drill(s) across multiple dates.
  - Compare the performance of multiple players in a drill(s) in a single session.
  - Compare the performance of multiple players in a session/drill(s) across multiple dates.

- The software can automatically search through data and alert the user if a player has recorded a new maximum speed or heart rate value.
- Detailed information on every single Sprint, HML Effort, High Intensity Activity and High Intensity Burst including start and end time, duration, distance covered during, and maximum speed reached can be reported.
- Acute: Chronic Ratio scores can be configured by the user and reported for multiple metrics.

### ***Drills***

- STATSports Sonra offers the ability for the user to cut as many drills as they wish through the activity graph function. This is done simply by selecting a start and end point for a drill and then selecting create drill. With the background processor creating the drill the user to continue to cut drills.
- The user will be able to view data within the created timeframe/drill.
- Additional drill cutting available through Max Intensity Period and Segment Drill functions.
- Segment Drills can divide a session into a fixed number or equal time drills.
- The Max Intensity Period (MIP) function within the Apex Sonra software uses rolling averages to identify periods of peak game intensity and worst-case scenarios. The user can customise this feature by selecting the duration of the MIP and the metric they wish to define it with. Following this, the software will identify the time period of the pre-selected length in which has the highest value for the selected metric.

The following metrics can be used to define the MIP:

- Total Distance
- HML Distance
- Metabolic Power
- Acceleration Impulse
- Dynamic Stress Load
- High Speed Running
- Explosive Distance
- Data for each session and every drill created can be exported as a CSV report or a Raw Data report, so the user can perform further analysis.

### ***Thresholds***

All relevant metrics which have cut-off thresholds as well as all zonal metrics can be customised. There is a Thresholds subtab in the Settings tab that enables users to customise the threshold for each metric available in the STATSports library (Figure 9.j).

- The threshold scale uses a colour coded method to communicate how a player has performed with regards to each metrics threshold set by the user.
- The default settings are as follows:
  - Yellow is below optimal (<80%)
  - Green is optimal (80-110%)

- Orange is over (110-125%)
- Red is excessive (>125%)
- These threshold percentages can be customised to the user's preference.
- Thresholds can be set for each player, groups, and squad on the system, for up to 16 different Session Types.
- Each Session Type can be renamed to suit the user, i.e. the default threshold template on the software is Match Day -3 could be renamed to Attacking Session for example (Figure 9.k). Each of the Session Type can be colour coordinated, in which that colour will appear on the calendar when that session has taken place.

### *Scientific Calculator*

The scientific calculator is an exclusive feature to STATSports Sonra. No other performance monitoring platform currently possesses this functionality to create bespoke custom metrics using anything from a simple combination of two basic metrics to a more scientific approach using powerful algorithms. The possibilities for new metrics are endless. The benefit of custom metrics relies on the users experience and is limited only by their own knowledge and application of mathematical functions. Newly created custom metrics are then automatically stored in the metric database so that users can easily add and display their desired data in any metric table or chart throughout the software.

3. Describe the system's ability to flag or provide warnings to users.

Please revert to **THRESHOLDS** above

4. Describe how system tracks and records the athlete and or team training loads

- a. Internally

Firstly, a 10 Hz multi-GNSS augmented unit.

- This can communicate with multiple satellite systems [e.g., global positioning system (GPS), GLONASS, Galileo, and BeiDou] simultaneously, and thus providing a more accurate positional information.
- Previous research has shown that the number of satellites connected to a tracking device plays a key role in GNSS accuracy. Augmentation further improves the accuracy and reliability of GNSS information by correcting signal measurement errors and providing information about its accuracy, integrity, and availability.
- SBAS uses GNSS measurements taken by accurately located reference stations deployed across an entire continent. All measured GNSS errors are transferred to a central computing centre, where differential corrections and integrity messages are calculated. These calculations are then broadcast over the covered area using geostationary satellites that serve as an augmentation to the original GNSS message.

The second model is the Apex 18 Hz unit

- This works off a single constellation; sampling frequency has also been reported to be closely associated with data accuracy.
- Time and position are obtained by our UBLOX GPS chip, which can operate in either an augmented, double constellation 10Hz configuration or a single constellation 18Hz configuration. Along with the GPS chip we use a Taoglas antenna, which optimises the sensitivity of the GPS signal reception. Once time and position are known, distance travelled as well as velocity and a plethora of other metrics can be calculated.

The on-board processor allows for the calculation of multiple metrics on board the Apex device itself, which ensures accurate and reliable live data. All data is recorded on a high capacity 8GB SD card – allowing multiple seasons worth of data to be stored on a single unit at any one time. Data processing during the downloading phase results in the calculation of hundreds of metrics for session analysis.

Crucially, because metrics are calculated on-board the unit, no data is ever missing from live sessions on the Apex system. Other brands of GPS unit without similar on-board processing rely on laptop processors to calculate their raw data in real time. However, if this raw data does not reach the laptop due to a signal interruption or a player going 'out of range' of an antenna on such systems the data is lost causing large discrepancies between their live v download.

### ***Kinematics***

All the below sensors have now moved to being digital which allows us more control i.e. ramp the accelerometer up and down from 100-952 hz.

- Acc = 3D  $\pm 16g$  @952Hz
- Gyro = 3D 500/ $\pm 2000$  dps @ 952Hz
- Mag = 3D  $\pm 16$  gauss @10Hz
- Additional High Impact accelerometer 3D  $\pm 200g$  @3.2KHz

#### b. Externally

##### 1. *iPad Live (pitch view)*

The on-board processor allows for the calculation of multiple metrics on board the Apex device itself, which ensures accurate and reliable live data. All data is recorded on a high capacity 8GB SD card – allowing multiple seasons worth of data to be stored on a single unit at any one time. Data processing during the downloading phase results in the calculation of hundreds of metrics for session analysis.

Johnston et al (2019) reported that irrespective of movement speed, the live data reported during a rugby training session by the Apex devices showed near-perfect levels of agreement with post session downloaded data. The live data displayed by the Apex system remains as the only GPS technology for use in sport which has been validated for both low and high-speed movements. This is a direct result of the technology utilised to calculate and transmit live data using Apex system differing significantly from many of our competitors in multiple ways.

### Live Data Calculation and Transmission

1. Apex units have built-in processors which allow for the calculation of live metrics from raw data on-board the units itself.
2. All calculation takes place on-board the device with the resultant metrics transmitted live over our UWB network. Should an Apex go out of UWB range for any period, then metric data is not lost. Apex continues to calculate metrics while out of range and when the Apex returns back into range, the receiver will gather the updated metric values.
3. Metrics calculated on board a single Apex unit can also be sent to our Smartwatch app via Bluetooth.
4. Calculated metrics from up to 50 Apex units are transmitted wirelessly to our portable beacon via Ultra-Wideband Technology (UWB).
5. Data is then transmitted from the beacon to our multi-functional iPad app via unique and secure STATSports Wi-Fi network from the beacon's built in Wi-Fi router.
6. Immediately post session, PDF and CSV reports can be generated and exported instantly from the Apex iPad app. Because of the live data accuracy, these reports can be viewed with absolute confidence by coaching staff, medical staff and players within minutes of the end of the session.

Ultra-Wide Band technology (UWB) is a communication technology perfectly suited for both training centres and stadium environments as it is capable of transmitting large amounts of digital data over a wide frequency spectrum using low-powered radio signals. Connection can also be wired from beacon to a laptop if required.

The efficiency of producing PDF reports post session can keep each athlete educated with regards to their physical performance. There is an available option to toggle thresholds on and off, which also incorporates the colour coded system. This not only communicates when a target has been met, but what percentage they are from achieving or have exceeded their target for the given metric.

Further iPad live functionality:

- A single STATSports beacon, placed pitch-side on a tripod has the capability to provide live data for up to 50 players and can be re-located freely throughout a session.
- Multiple iPads can connect to the live system at one time so that more than one person can receive live feedback during a session.
- The capability of creating up to 100 drills Live.
- Data can be viewed for the entire session or for a created drill.
- Drills can be created during the session, or prior to the session starting which makes drill cutting seamless for the user with just one click to begin and one click to finish a drill.
- Drills can be synchronised to the software on the laptop so they can be viewed post download which makes the post session analysis and the reporting processes more efficient.

### 2. *Smartwatch (pitch view)*

The Apex Smartwatch app is perfectly designed for live monitoring of 1 to 1 conditioning or rehabilitation sessions. The hands-free, Bluetooth connective device allows the user full involvement in the session delivery, with 20 metrics such as HMLD, High Speed Running, and Heart Rate available at a glance.

Due to the highly accurate On-Board Metric Processing of the Apex device, metrics are received with perfect precision when in Bluetooth range, ensuring decisions on training exposure can be made with confidence. Additionally, On-Board Metric Processing allows for data obtained when out of range to be received when the device has returned to Bluetooth connectivity, meaning no session data can be lost. The Smartwatch app features a simple and intuitive interface, delivering widget-based graphs or tabular displays to visualise data to the user's preference. Key performance information has never been more easily accessible, with reliable data informing practitioners during the most critical sessions.

### 3. *Desktop (office view)*

AirPlay lets you stream video and mirror your display from iPad to Apple TV. In this case for an office view, this would mirror the iPad which is gathering real time data outside from the training session

### 5. Describe the sharing of Athletes data.

STATSports have a bespoke cloud-based system that allows STATSports clients to securely and efficiently share a player's physical data from one laptop to the next. It is widely used in instances where a player has transferred from one STATSports client to another and the new club has requested the historical data for their new signing. This platform is also extremely beneficial for players who play with a multitude of sports. This open sharing of data between parties provides the coaching and medical staff with a more objective and holistic approach to monitoring the workload a player had previously been exposed to as they transition between environments.

### 6. Describe the system's ability to have multiple users (sports medicine, coaches, athletes).

The Sonra software can have multiple user accounts created for different users of the software. This is achieved by each user having a unique username and password which they enter at the login page. The administrator will have the ability to create and set up new users and assign the appropriate user role. The administrator will also have a full visual of all users and their differentiated rights.

This is beneficial as there may be multiple teams, or multiple users from the one team using the programme and this enables users to customise their own account.

Tiered levels of access:

- Federation Admin User - This user has the most privileges: They can create clubs and assign a user as a Club Admin User.
- Club Admin User - Each club will have at least 1 Admin user with the privileges to manage all club specific data. This user assigns Standard Users & Light users within their organisation.
- Standard User - This user is typically the daily user, uploading, creating drills and analysing the player data. They have full edit privileges on the data, i.e. creating drills, modifying player profiles. This user will typically have the desktop client running on their own machine as well.
- Light User - This user is a read-only user.

7. Describe any communication options provided in the system (i.e. phone/text/email) including log and regulation warning functionality provided.

With STATSports dedicated account managers, the University will be subject to 24 hour support and communication via phone/text/email/Team Viewer remote log in.

The account managers will be responsible for logging of interaction notes ensuring full transparency.

8. Describe the ability to export data, create reports, and send reports. Specify the types of reports included. Specify all file formats available for data export and reports. Describe any limitations on type of information that can be shared.

STATSports Sonra offers a range of options for users to export their data to external data management systems or spreadsheets. Among these the most widely used options that sport scientists and analysts working with teams will employ on a daily basis are PDF and CSV files.

**PDF Report** - PDF reports allow for comparison between players/positions/training weeks/games for metrics that the user believes to be most relevant to them. The ability to create multiple different templates within this feature allows the user to create tailor-made reports based on the recipient e.g. The metrics and visual aids included in a report given to a member of the coaching staff may differ greatly to a report given to a member of the medical staff or even that designed for a player. The user will also have the ability to select the graph type (Bar, Line, Area etc.) depending on the metric and sort how the values are displayed in these graphs (e.g. Max-Min, A-Z).

**CSV Export** – Customisable excel exports that display the users preferred metrics. Ability to mass produce individual excel files for multiple players across multiple sessions at the click of a button. Provides the end user with complete flexibility to construct bespoke systems to store, analyse and report data in external software platforms. STATSports Sonra software provides the functionality for the user to export over 200+ metrics for further analysis.

**STATSports Exchange** – Bespoke cloud-based system that allows STATSports clients to securely and efficiently share a player's physical data from one laptop to the next. It is widely used in instances where

a player has transferred from one STATSports client to another and the new club has requested the historical data for their new signing. This platform is also extremely beneficial for players who play with their club and an International team. This open sharing of data between parties provides the coaching and medical staff with a more objective and holistic approach to monitoring the workload a player had previously been exposed to as they transition between environments.

**Raw Data Export** - the Sonra software allows for full accessibility to raw data for every player across every session providing millions of data points that can be exported in a matter of seconds directly to a CSV file or third party AMS via an API for further analysis. Practitioners may wish to export raw data from their GPS devices and process this data independently, as benefits of doing so include removing unwanted algorithms, adding additional algorithms, including new metrics, or for retrospective analysis of peak intensities of matches using rolling periods.

**API** - The STATSports API is an API designed to allow third party access to the data that is collected by the Apex hardware. The selected data can be uploaded in one click and is stored in the STATSports Cloud system. The STATSports API (Application Programming Interface) is an API based on the REST (Representational State Transfer) architectural style that allows third parties access the data collected by our APEX system and pull it into their own data management system.

API integrations have grown increasingly popular among elite sports teams and are provided to give third party applications closer integration with player data. An API is simply a way for external developers to interact with the website or application. Coaches, especially those that use wearables or monitoring tools, demand an API from the device companies to extract information and aggregate it to a central AMS product. STATSports acknowledge that exporting files and uploading them is time-consuming and have acted to provide their clients with bespoke APIs for a number of AMS companies.

The process is as follows;

- Access is given to the third-party vendor only for the data that they have permission to access through the use of unique access and secret keys.
- API users can request all the metrics that are generated for each session for both entire session totals and drills as well as session details.
- Data from the API is returned in JSON format making is extremely easy to be deserialized by third parties regardless of the programming language they choose to implement their system with.
- As a result, both summarised and raw data can be imported into all major athlete monitoring systems (AMS).
- Application of the STATSports API is not limited to AMS use, and has been previously used for data television, online and in stadium broadcast graphics for example.

**XML Export** – Improved ability to export all event metrics such as Collisions, Sprints, Accelerations, Decelerations etc. as well as user-created drills to an XML file that can be imported directly into any third-party performance analysis platforms including seamless integration with world-leaders in this field, Hudl.

9. Describe how the system is accessed. Describe the system's mobile application and the functionality that exists with the mobile application and the mobile platforms supported. Describe how the mobile application is deployed (Google, Apple, etc.)

- All data will be stored locally on the user's computer on a MySQL database with an option to upload this data to the API and is functional across both Mac and Windows operating systems.

- Data is stored according to session date and can be selected through the calendar. Additional techniques can be applied to manage data such as session type labelling and colour coding to differentiate between the focus of each session on the calendar.
- The user may also manage multiple squads, groups and individuals from a large organisation which our different access options.

With regards to mobile application, STATSports SONRA is accessible via Apple iPad with iOS: 11.0+

10. Describe Offeror's experience in providing the proposed goods/software/resources to higher education institutions.

STATSports have assisted multiple large organisations such as the Irish Rugby Football Union, English FA and US Soccer to develop standardised data management protocols and processes for users to follow to ensure consistency and would be keen to support JMU in doing the same.

With regards to higher education institutions in the United States, STATSports currently work in partnership with the likes of the University of Oklahoma Sooners, Virginia Tech University, West Virginia University, and many more. We would be happy to put JMU in contract with any of our current clients, as a method of reference of working with STATSports.

Through our partnership with US Soccer, we are the sole provider of Athlete Wearable Technology to the entire federation, including all NWSL teams. On her experience with STATSports, Dawn Scott, High Performance Coach for World Cup Champions US Soccer said:

*"STATSports provide to our National teams, Youth National Teams, NWSL and also the development academies. For the Women's national team we have access to the data every stage of the year because we have the data from the NWSL. This allows the players to be developed optimally without being pushed to fatigue.*

*For the players it's just a more streamlined way of maximising output and availability to play and minimising risk of injury.*

*STATSports allows us to fine tune the metrics for players and coaches. Metrics that we focus on at USSF are high speed running, number of max sprints, the ability to repeat those sprints with minimal recovery so they are over prepared going into a game."*

11. Customer Support

- a. Specify customer support hours and any limitations on support outside of normal office hours.

At STATSports HQ, there is a team of over 30 Account Managers that solely assist and support all our clients worldwide. Each member of our Account Management team is a qualified sports scientist who possess an extensive knowledge of data capture, management and analysis using the STATSports Apex system in addition to the utilization and implementation of Apex in elite sport environments.

As a STATSports client, we will assign JMU with two dedicated account managers who along with supporting staff will provide service and support to all sports scientists and coaching staff related to teams covered under this proposal. This is an arrangement we have run very successfully with our existing clients. Our support is available 24/7 with no limitations outside of office hours.

- b. Provide any applicable service agreements
- a) STATSports will provide support services to The University in connection with the Equipment throughout the Term of this Agreement, which shall include:
    - i. a telephone and email helpline to provide first line technical support;
    - ii. remote diagnosis and where possible correction of faults to the Software; and
    - iii. where necessary, up to 8 hours in each month of second line on-site technical support.
  - b) STATSports shall use all reasonable endeavours to remedy any defects in the Equipment within the Initial Term, provided that:
    - i. The University notifies STATSports within 5 business days of the defect occurring;
    - ii. STATSports is permitted to examine the alleged defect;
    - iii. STATSports confirms the defect within 5 business days of examining the alleged defect, acting reasonably at all times;
    - iv. the defect did not materialise as a result of misuse, neglect, alteration, mishandling or unauthorised modifications by any person to the Equipment (other than STATSports' personnel);
    - v. the defect did not arise out of any failure by The University to comply with STATSports' installation instructions if The University (or any third party on its behalf) installs the Software (and/or any upgrades there to); and
    - vi. such defect has not been caused by The University's configuration of the Laptop for use on The University's network or the installation of any software by The University other than that installed on the Laptop upon its delivery to The University;
    - vii. the defect did not arise out of any information, design or assistance supplied by The University or on its behalf.
  - c) If The University has selected the "48 hour Hot Swap" in the Order, during the Initial Term, STATSports will replace any Hardware which is faulty within 48 hours of STATSports' confirming the fault.
  - d) The warranties set out above do not apply to the compression vest tops for which STATSports excludes all warranties to the furthest extent permitted by law.
  - e) STATSports does not warrant that the use of the Software will always be uninterrupted or error-free.
12. Describe how the product(s) are FERPA (Family Educational Rights and Privacy Act) compliant.

STATSports have been awarded ISO 27001 Certification and ICO Registration Certificate, which are included in ISMS Pack sent as part of STATSports Proposal.

13. Describe how the product(s) are HIPAA (Health Insurance Portability and Accountability Act) compliant.

STATSports is not HIPAA certified. We do not handle information on health status nor does our product provide or assist with medical diagnosis, therefore it is not classified as a Medical App, and as such HIPAA does not apply.

14. Describe available warranties.

All Apex hardware devices will have a full warranty throughout the duration of the service contract. STATSports currently have over 10,000 Apex units in the field with a fail rate of less than 1.5%. Due to this, we do not expect to have to provide much product support but in the case of there being an incident or a problem, STATSports will offer a 48-hour Hot Swap. This ensures that there is little disruption to our clients' data collection with equipment being shipped immediately from our HQ to JMU in the event of any issues arising.

15. Describe the process for replacement of defective broken, or damaged equipment.  
Include ability to provide replacement equipment.

STATSports shall use all reasonable endeavors to remedy any defects in the Equipment within the Initial Term, provided that:

- (i) The University notifies STATSports within 5 business days of the defect occurring;
  - (ii) STATSports is permitted to examine the alleged defect;
  - (iii) STATSports confirms the defect within 5 business days of examining the alleged defect, acting reasonably at all times;
  - (iv) the defect did not materialise as a result of misuse, neglect, alteration, mishandling or unauthorised modifications by any person to the Equipment (other than STATSports' personnel);
  - (v) the defect did not arise out of any failure by The University to comply with STATSports' installation instructions if The University (or any third party on its behalf) installs the Software (and/or any upgrades thereto); and
  - (vi) such defect has not been caused by The University's configuration of the Laptop for use on The University's network or the installation of any software by The University other than that installed on the Laptop upon its delivery to The University;
  - (vii) the defect did not arise out of any information, design or assistance supplied by The University or on its behalf.
- (c) If The University has selected the "48 hour Hot Swap" in the Order, during the Initial Term, STATSports will replace any Hardware which is faulty within 48 hours of STATSports' confirming the fault.
- (d) STATSports does not warrant that the use of the Software will always be uninterrupted or error-free.

16. Describe other services and or products available that may be included in the final contract and **provide any associated cost in Section X. Pricing Schedule.**

STATSports SONRA is seen as a complete package, with the following functionality at one price as seen in Pricing Section X.

- Multi-user Sonra software
- 200+ Metrics
- Master Drill Editor
- Integrated Video Manager
- RTT application
- Video Sync
- STATSports Exchange
- Scientific Metric Calculator
- iPad live application
- Smartwatch live application

### C. Technical

1. Describe how product addresses accessibility to ensure the application is accessible to people with disabilities. Describe testing for adherence to accessibility guidelines and standards. Provide documentation of the testing performed and results of that testing including the Web Accessibility and Template Guide (WATG located at <http://www.vadsa.org/watg>).

There are no features currently implemented for accessibility. This is something we have in our development backlog and depending on the commercial viability, will determine when it goes into the development phase

2. Describe compatibility among various operating systems (i.e. Windows and Macintosh). Describe any aspects of your application that do not support Macintosh systems. Describe any changes to default browser or client security settings.

Desktop software is Windows only in the current iteration but a fully Mac compatible version is in development, so in the future there would be no areas that do not support Mac systems. We make no changes to the default browser or client security settings.

3. Describe your relationship with the vendor(s) of any third-party tools (e.g. SMS vendors, reporting tools, application server, etc.) included in this proposal including licensing, costs (**provide in Section X. Pricing Schedule**), support for the product(s), and version (e.g. full or modified).

Coaches, especially those that use wearables or monitoring tools, demand an API from the device companies to extract information and aggregate it to a central AMS product. STATSports acknowledge that exporting files and uploading them is time-consuming and have acted to provide their clients with bespoke APIs for a number of AMS companies.

The STATSports API is an API designed to allow third party access to the data that is collected by the Apex hardware. The selected data can be uploaded in one click and is stored in the STATSports Cloud system.

The STATSports API (Application Programming Interface) is an API based on the REST (Representational State Transfer) architectural style that allows third parties access the data collected by our APEX system and pull it into their own data management system.

API integrations have grown increasingly popular among elite sports teams and are provided to give third party applications closer integration with player data. An API is simply a way for external developers to interact with the website or application.

The process is as follows;

- Access is given to the third-party vendor only for the data that they have permission to access through the use of unique access and secret keys.
- API users can request all the metrics that are generated for each session for both entire session totals and drills as well as session details.
- Data from the API is returned in JSON format making it extremely easy to be deserialized by third parties regardless of the programming language they choose to implement their system with.

- As a result, both summarised and raw data can be imported into all major athlete monitoring systems (AMS).
  - Application of the STATSports API is not limited to AMS use, and has been previously used for data television, online and in stadium broadcast graphics for example.
4. Describe the process for determining enhancements that will be made to the product(s)/software.
  5. Describe the process for determining enhancements that will be made to the application.

As answer to both question 4 and 5: Product enhancements are led by our Research & Development team, with innovations being determined by latest industry insights, client feedback, focus groups with industry experts, trends in sport science research and literature, and new developments in the various applicable technologies.

STATSports utilise separate environments for UAT and Production. This allows the full solution to be tested in isolation and replicated on production when all tests pass.

6. Describe the length of time Offeror has been actively engaged in providing the proposed resources to higher education institutions.

STATSports was founded in 2008 by Sean O'Connor and Alan Clarke and changed the way sport is analysed, coached, measured and viewed, by combining cutting-edge technology and sport science. With over 100 staff based in Ireland, Chicago, Sydney and Beijing, STATSports have become a truly international company.

STATSports have worked with universities since their foundation, and following the creation of STATSports North America, have been working with higher education in the US since 2015.

7. Describe the maintenance philosophy including frequency of updates, approach to completing updates, and model for obtaining the updates. **Provide any associated costs in Section X. Pricing Schedule.**

STATSports are versatile and open to making changes that enhance the user's experience of using our software. We are consistently improving our product and have planned a further two-year plan of future developments.

The system was design using a microservices architecture which means that each core functionality is separated out into its own service. This allows changes to the system to be made rapidly as client needs evolve. STATSports can scale its system up without any downtime for the end user. The system can be scaled accordingly for each client's needs. All interactions with the system are monitored and logged by our cloud partner.

STATSports will provide all hardware and software upgrades to JMU throughout the duration of the contract. STATSports agree that all costs of delivery, training, installation and implementation will be covered at our expense.

8. Describe the nature of continuing research and development performed to detect and correct problems in the system design, to improve efficiency and/or to enhance the capabilities of the system proposed

STATSports always aim to be at the forefront of technological advancements. The Apex unit currently has the most up to date hardware available. The Apex unit is built in a modular fashion which allows us to replace single components in an efficient manner which allows our device to continually be the most advanced. Following the release of our STATSports Sonra Software, released in March 2019, we are consistently improving our product and have planned a further two-years of future developments, including but not limited to:

### **Smart Wearable Beacon**

The smart wearable beacon will be the newest addition to our already highly effective live system. Currently included are a single or double beacon moveable system, fixed training ground/stadium infrastructure and the watch and iPad applications which accompany these.

The wearable beacon will remove the need for carrying the movable beacons and their tripods to pitch side for live data collection. The Sports Scientist/Fitness coach will now only require a wearable beacon worn like a stopwatch and only slightly bigger to allow them to track up to 50 players live via our iPad application. STATSports know that ease of use and setup time are paramount to our end users and we always strive to make data collection as seamless and straightforward as possible and this wearable beacon will add to our impressive suite of live offerings.

### **Session Planner/Drill Library**

Listening to our clients and their needs around making the data collected useable in a practical setting day to day we have and continue to invest time in our session planner. In essence if a team labels all sessions and drills in as much detail as possible (MD, MD-1 etc and Drill Labels: Possession – 6 v 6 – 2 Floaters – 20m x 20m) we aim to run analytics on every time that drill is run to allow us use the average output in these drills to help practitioners predict outcomes of an already designed session or one built choosing from a list of drills.

For example, if there is a session today which is a MD-2, 70 minutes, 20 players and targets are set for Total Distance, HMLD, HSR in this session planner, it will auto-populate the best drills to give the desired outcome. You can then pick and choose your desired drills and see what effect they have on the targets. This capability will allow you to have discussions before sessions with the fitness/head coach on what the effect of the session will be.

### **Elite Phone App**

Over the years working with our elite clients across the world in various sports we have seen that there is a need for a specific phone application which allows individual athletes to download and view their data when they are away from the team setting in scenarios such as rehab, off-season or international duty. With this ability, players can now follow prescribed training loads and see exactly what their outputs are. Another aspect of this is allowing the players to transfer the data back to the team/organisation's software for detailed analysis. With this development your players will be tracked at all times.

### **Scope Within Software**

The session planner can be used to identify target outcomes prior to a session. These target outcomes can be synced to the iPad as thresholds for specific days.

Sessions can be planned within the Calendar function in the software. Drills can be added and expected physical output totals can be calculated based off the drills included.

Continued software improvement, Smart thresholds, continued video manager improvements, watch app improvements and implementing the most updated Sports Science analytics techniques backed by research are future developments in our pipeline.

9. Describe system support for defining and creating administrative and user accounts, including how accounts are assigned permissions to perform various actions in the system. Describe the process for maintaining and deleting user accounts, including the deletion of automated reminders to users and administrators.

The Sonra software can have multiple user accounts created for different users of the software. This is achieved by each user having a unique username and password which they enter at the login page. The administrator will have the ability to create and set up new users and assign the appropriate user role. The administrator will also have a full visual of all users and their differentiated rights.

Tiered levels of access:

- Federation Admin User - This user has the most privileges: They can create clubs and assign a user as a Club Admin User.
- Club Admin User - Each club will have at least 1 Admin user with the privileges to manage all club specific data. This user assigns Standard Users & Light users within their organisation.
- Standard User - This user is typically the daily user, uploading, creating drills and analysing the player data. They have full edit privileges on the data, i.e. creating drills, modifying player profiles. This user will typically have the desktop client running on their own machine as well.
- Light User - This user is a read-only only user.

10. Describe the application security features for data and for the system.

All personal identifiable data is encrypted within all databases. Each database is setup with a secure user account with the username and password being stored and managed by Azure key Vault. All transmitted data is encrypted and transferred over HTTPS.

When a user is created, they will receive an automatic email specifying their username and a link to create their password. Once their account is verified and a password generated, they will then be able to access the system. Furthermore, on the login page of the software, each user has the ability to reset their password using a password forgotten link.

Upon sign in to the system by a user, the system will request a token from Auth0 that will be used to authenticate the user and determine their usage within the software. This token will last for 8 hours and will require the user to reauthenticate outside of this period.

On the login page of the software, each user has the ability to reset their password.

STATSports current Password Policy:

- 8 characters in length
- Lower case letters
- Upper case letters
- Special characters

11. Describe how and where any sensitive data including authentication credentials, is stored on clients, servers, and participating external devices. Is it cryptographically protected? If so, provide details on cryptographic protocols, procedures, and key protection.

The STATSports software provides a built-in tool to perform data backups.

The backup is encrypted with the club key and can only be decrypted and restored back into a computer belonging to a user signed into the club's tenant.

It is the responsibility of the end user to keep these backup files in a safe location and to define their data retention period for these backups.

The database held on the cloud for a tenant will be on the following backup schedule - full backups every week, differential backups every 12 hours, and transaction log backups every 5-10 minutes.

The backups are stored in RA-GRS storage blobs that are replicated to a paired data centre for protection against a data centre outage.

## V. PROPOSAL PREPARATION AND SUBMISSION

### A. GENERAL INSTRUCTIONS

**To ensure timely and adequate consideration of your proposal, offerors are to limit all contact, whether verbal or written, pertaining to this RFP to the James Madison University Procurement Office for the duration of this Proposal process. Failure to do so may jeopardize further consideration of Offeror's proposal.**

1. RFP Response: In order to be considered for selection, the **Offeror shall submit a complete response to this RFP**; and shall submit to the issuing Purchasing Agency:
  - a. **One (1) original and four (4) copies** of the entire proposal, INCLUDING ALL ATTACHMENTS. Any proprietary information should be clearly marked in accordance with 3.f. below.
  - b. **One (1) electronic copy in WORD format or searchable PDF (CD or flash drive)** of the entire proposal, INCLUDING ALL ATTACHMENTS. Return HECVAT Attachment with the electronic copy as a separate Excel file (per item V.B.8.). Any proprietary information should be clearly marked in accordance with 3.f. below.
  - c. Should the proposal contain **proprietary information**, provide **one (1) redacted hard copy** of the proposal and all attachments with **proprietary portions removed or blacked out**. This copy should be clearly marked "*Redacted Copy*" on the front cover. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable. JMU shall not be responsible for the Contractor's failure to exclude proprietary information from this redacted copy.

No other distribution of the proposal shall be made by the Offeror.

2. The version of the solicitation issued by JMU Procurement Services, as amended by an addenda, is the mandatory controlling version of the document. Any modification of, or additions to, the solicitation by the Offeror shall not modify the official version of the solicitation issued by JMU Procurement services unless accepted in writing by the University. Such modifications or additions to the solicitation by the Offeror may be cause for rejection of the proposal; however, JMU reserves the right to decide, on a case-by-case basis in its sole discretion, whether to reject such a proposal. If the modification or additions are not identified until after the award of the contract, the controlling version of the solicitation document shall still be the official state form issued by Procurement Services.

### 3. Proposal Preparation

- a. 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 purchasing agency requiring prompt submissions 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 purchasing agency. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
- b. Proposals shall be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
- c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal 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 the 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 elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.
- d. As used in this RFP, the terms “must”, “shall”, “should” and “may” identify the criticality of requirements. “Must” and “shall” identify requirements whose absence will have a major negative impact on the suitability of the proposed solution. Items labeled as “should” or “may” are highly desirable, although their absence will not have a large impact and would be useful, but are not necessary. Depending on the overall response to the RFP, some individual “must” and “shall” items may not be fully satisfied, but it is the intent to satisfy most, if not all, “must” and “shall” requirements. The inability of an offeror to satisfy a “must” or “shall” requirement does not automatically remove that offeror from consideration; however, it may seriously affect the overall rating of the offeror’ proposal.
- e. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.
- f. Ownership of all data, materials and documentation originated and prepared for the State pursuant to the RFP shall belong exclusively to the State and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by the offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protection of Section 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data is submitted. 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 materials 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. 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 and return of the proposal.

4. Oral Presentation: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to James Madison University. This provides an opportunity for the Offeror to clarify or elaborate on the proposal. This is a fact-finding and explanation session only and does not include negotiation. James Madison University will schedule the time and location of these presentations. Oral presentations are an option of the University and may or may not be conducted. Therefore, proposals should be complete.

#### B. SPECIFIC PROPOSAL INSTRUCTIONS

Proposals should be as thorough and detailed as possible so that James Madison University may properly evaluate your capabilities to provide the required services. Offerors are required to submit the following items as a complete proposal:

1. Return RFP cover sheet and all addenda acknowledgements, if any, signed and filled out as required.
2. Plan and methodology for providing the goods/services as described in Section IV. Statement of Needs of this Request for Proposal.
3. A written narrative statement to include, but not be limited to, the expertise, qualifications, and experience of the firm and resumes of specific personnel to be assigned to perform the work.
4. Offeror Data Sheet, included as *Attachment A* to this RFP.
5. Small Business Subcontracting Plan, included as *Attachment B* to this RFP. Offeror shall provide a Small Business Subcontracting plan which summarizes the planned utilization of Department of Small Business and Supplier Diversity (SBSD)-certified small businesses which include businesses owned by women and minorities, when they have received Department of Small Business and Supplier Diversity (SBSD) small business certification, under the contract to be awarded as a result of this solicitation. This is a requirement for all prime contracts in excess of \$100,000 unless no subcontracting opportunities exist.
6. Identify the amount of sales your company had during the last twelve months with each VASCUPP Member Institution. A list of VASCUPP Members can be found at: [www.VASCUPP.org](http://www.VASCUPP.org).
7. Proposed Cost. See Section X. Pricing Schedule of this Request for Proposal.
8. Sign and return the JMU IT Services Addendum, included as *Attachment D* to this RFP, which shall be included as part of a resulting contract and govern in the event of conflict with all Contractor's license agreements, privacy policies, forms, etc.
9. Sign and return the Commonwealth of Virginia Agency Contract Form Addendum to Contractor's Form, included as *Attachment E* to this RFP, which shall be included as part of a resulting contract and shall govern in the event of conflict with all Contractor's license agreements, forms, etc.

10. Completed Higher Education Cloud Assessment Tool (HECVAT), included as *Attachment F* to this RFP. **The HECVAT should be returned as an Excel file on a CD or flash drive (reference Section V.A.1.b.).**

## VI. EVALUATION AND AWARD CRITERIA

### A. EVALUATION CRITERIA

Proposals shall be evaluated by James Madison University using the following criteria:

	<u>Points</u>
1. Quality of products/services offered and suitability for intended purposes	25
2. Qualifications and experience of Offeror in providing the goods/services	25
3. Specific plans or methodology to be used to perform the services	20
4. Participation of Small, Women-Owned, & Minority (SWaM) Businesses	10
5. Cost	<u>20</u>
	100

- B. AWARD TO MULTIPLE OFFERORS:** Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth reserves the right to make multiple awards as a result of this solicitation. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous. Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor's proposal as negotiated.

## VII. GENERAL TERMS AND CONDITIONS

- A. **PURCHASING MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia's Purchasing Manual for Institutions of Higher Education and Their Vendors and any revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of the manual is available for review at the purchasing office. In addition, the manual may be accessed electronically at <http://www.jmu.edu/procurement> or a copy can be obtained by calling Procurement Services at (540) 568-3145.
- 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 Contractor shall comply with applicable federal, state and local laws and regulations.

- C. ANTI-DISCRIMINATION: By submitting their proposals, offerors certify to the Commonwealth that 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, the Americans With Disabilities Act and §10 of the Rules Governing Procurement, Chapter 2, Exhibit J, Attachment 1 (available for review at <http://www.jmu.edu/procurement>). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's 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. (*§6 of the Rules Governing Procurement*).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
  - a. The contractor will 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
  - c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting these requirements.
2. The contractor will include the provisions of 1. Above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

- D. ETHICS IN PUBLIC CONTRACTING: By submitting their proposals, offerors certify that 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.
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

- F. DEBARMENT STATUS: By submitting their proposals, offerors certify that 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.
- G. ANTITRUST: By entering into a contract, the contractor 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.
- H. MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS RFPs: Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.
- I. CLARIFICATION OF TERMS: If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.
- J. PAYMENT:
1. To Prime Contractor:
    - a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
    - b. 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.
    - c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
    - d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
    - 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 Commonwealth 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 an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Rules Governing Procurement, Chapter 2, Exhibit J, Attachment 1 § 53; available for review at <http://www.jmu.edu/procurement>*).

2. To Subcontractors:
    - a. A contractor awarded a contract under this solicitation is hereby obligated:
      - (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
      - (2) To notify the agency and the subcontractors, in writing, of the contractor's intention to withhold payment and the reason.
    - b. The contractor is obligated 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 Commonwealth, 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 Commonwealth.
  3. Each prime contractor who wins an award in which provision of a SWAM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, 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 institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
  4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.
- K. PRECEDENCE OF TERMS: Paragraphs A through J of these General Terms and Conditions and the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors, shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- L. QUALIFICATIONS OF OFFERORS: The Commonwealth 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 Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the

right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy the Commonwealth 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.

- M. TESTING AND INSPECTION: The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.
- O. CHANGES TO THE CONTRACT: Changes can 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 Purchasing Agency may order changes 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 Purchasing Agency 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 Purchasing Agency'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 Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency 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 Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. 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 Institutions of Higher Education and their Vendors. 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 Purchasing Agency or with the performance of the contract generally.

- P. DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, 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 Commonwealth may have.
- Q. 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 § 25 of the Rules Governing Procurement – Chapter 2, Exhibit J, Attachment 1, and 65.2-800 et. Seq. of the Code of Virginia (available for review at <http://www.jmu.edu/procurement>) The offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage 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 requirement 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 and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
  4. Automobile Liability: \$1,000,000 combined single limit. *(Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)*
- R. ANNOUNCEMENT OF AWARD: Upon the award or the announcement of the decision to award a contract over \$100,000, as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA web site ([www.eva.virginia.gov](http://www.eva.virginia.gov)) for a minimum of 10 days.
- S. DRUG-FREE WORKPLACE: During the performance of this 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 vendor.

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.

T. NONDISCRIMINATION OF CONTRACTORS: An offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

U. eVA BUSINESS TO GOVERNMENT VENDOR REGISTRATION, CONTRACTS, AND ORDERS: 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 vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet eprocurement solution by completing the free eVA Vendor Registration. All offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the proposal being rejected. Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

1. For orders issued July 1, 2014 and after, the Vendor Transaction Fee is:
  - a. Department of Small Business and Supplier Diversity (SBSD) certified Small Businesses: 1% capped at \$500 per order.
  - b. Businesses that are not Department of Small Business and Supplier Diversity (SBSD) certified Small Businesses: 1% capped at \$1,500 per order.
2. For orders issued prior to July 1, 2014 the vendor transaction fees can be found at [www.eVA.virginia.gov](http://www.eVA.virginia.gov).
3. The specified vendor transaction fee will be invoiced by the Commonwealth of Virginia Department of General Services approximately 60 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

- V. AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that the Commonwealth of Virginia shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
- W. PRICING CURRENCY: Unless stated otherwise in the solicitation, offerors shall state offered prices in U.S. dollars.
- X. E-VERIFY REQUIREMENT OF ANY CONTRACTOR: Any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with James Madison University to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to any awarded contract.

**VIII. SPECIAL TERMS AND CONDITIONS**

- A. AUDIT: The Contractor hereby agrees to retain all books, records, systems, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The Commonwealth of Virginia, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.
- B. CANCELLATION OF CONTRACT: James Madison University reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- C. IDENTIFICATION OF PROPOSAL ENVELOPE: The signed proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: \_\_\_\_\_

Name of Offeror	Due Date	Time
Street or Box No.	RFP #	
City, State, Zip Code	RFP Title	
Name of Purchasing Officer: _____		

The envelope should be addressed as directed on the title page of the solicitation.

The Offeror takes the risk that if the envelope is not marked as described above, it may be inadvertently opened and the information compromised, which may cause the proposal to be disqualified. 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.

- D. LATE PROPOSALS: To be considered for selection, proposals must be received by the issuing office by the designated date and hour. The official time used in the receipt of proposals is that time on the automatic time stamp machine in the issuing office. Proposals received in the

issuing office after the date and hour designated are automatically non responsive and will not be considered. The University is not responsible for delays in the delivery of mail by the U.S. Postal Service, private couriers, or the intra university mail system. It is the sole responsibility of the Offeror to ensure that its proposal reaches the issuing office by the designated date and hour.

- E. UNDERSTANDING OF REQUIREMENTS: It is the responsibility of each offeror to inquire about and clarify any requirements of this solicitation that is not understood. The University will not be bound by oral explanations as to the meaning of specifications or language contained in this solicitation. Therefore, all inquiries deemed to be substantive in nature must be in writing and submitted to the responsible buyer in the Procurement Services Office. Offerors must ensure that written inquiries reach the buyer at least five (5) days prior to the time set for receipt of offerors proposals. A copy of all queries and the respective response will be provided in the form of an addendum to all offerors who have indicated an interest in responding to this solicitation. Your signature on your Offer certifies that you fully understand all facets of this solicitation. These questions may be sent by Fax to 540/568-7935.
- F. RENEWAL OF CONTRACT: This contract may be renewed by the Commonwealth for a period of nine (4) successive one year periods under the terms and conditions of the original contract except as stated in 1. and 2. below. Price increases may be negotiated only at the time of renewal. Written notice of the Commonwealth's intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.
1. If the Commonwealth elects to exercise the option to renew the contract for an additional one-year period, the contract price(s) for the additional one year shall not exceed the contract price(s) of the original contract increased/decreased by no more than the percentage increase/decrease of the other services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
  2. If during any subsequent renewal periods, the Commonwealth 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 increased/decreased by more than the percentage increase/decrease of the other services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
- G. SUBMISSION OF INVOICES: All invoices shall be submitted within sixty days of contract term expiration for the initial contract period as well as for each subsequent contract renewal period. Any invoices submitted after the sixty day period will not be processed for payment.
- H. OPERATING VEHICLES ON JAMES MADISON UNIVERSITY CAMPUS: Operating vehicles on sidewalks, plazas, and areas heavily used by pedestrians is prohibited. In the unlikely event a driver should find it necessary to drive on James Madison University sidewalks, plazas, and areas heavily used by pedestrians, the driver must yield to pedestrians. For a complete list of parking regulations, please go to [www.jmu.edu/parking](http://www.jmu.edu/parking); or to acquire a service representative parking permit, contact Parking Services at 540.568.3300. The safety of our students, faculty and staff is of paramount importance to us. Accordingly, violators may be charged.
- I. COOPERATIVE PURCHASING / USE OF AGREEMENT BY THIRD PARTIES: It is the intent of this solicitation and resulting contract(s) to allow for cooperative procurement. Accordingly, any public body, (to include government/state agencies, political subdivisions,

etc.), cooperative purchasing organizations, public or private health or educational institutions or any University related foundation and affiliated corporations may access any resulting contract if authorized by the Contractor.

Participation in this cooperative procurement is strictly voluntary. If authorized by the Contractor(s), the resultant contract(s) will be extended to the entities indicated above to purchase goods and services in accordance with contract terms. As a separate contractual relationship, the participating entity will place its own orders directly with the Contractor(s) and shall fully and independently administer its use of the contract(s) to include contractual disputes, invoicing and payments without direct administration from the University. No modification of this contract or execution of a separate agreement is required to participate; however, the participating entity and the Contractor may modify the terms and conditions of this contract to accommodate specific governing laws, regulations, policies, and business goals required by the participating entity. Any such modification will apply solely between the participating entity and the Contractor.

The Contractor will notify the University in writing of any such entities accessing this contract. The Contractor will provide semi-annual usage reports for all entities accessing the contract. The 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 to extend the contract. It is understood and agreed that the University is not responsible for the acts or omissions of any entity and will not be considered in default of the contract no matter the circumstances.

Use of this contract(s) does not preclude any participating entity from using other contracts or competitive processes as needed.

J. SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:

1. It is the goal of the Commonwealth that 42% of its purchases are made from small businesses. This includes discretionary spending in prime contracts and subcontracts. All potential offerors are required to submit a Small Business Subcontracting Plan. Unless the offeror is registered as a Department of Small Business and Supplier Diversity (SBSD)-certified small business and where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to SBSBD-certified small businesses. This shall not exclude SBSBD-certified women-owned and minority-owned businesses when they have received SBSBD small business certification. No offeror or subcontractor shall be considered a Small Business, a Women-Owned Business or a Minority-Owned Business unless certified as such by the Department of Small Business and Supplier Diversity (SBSD) by the due date for receipt of proposals. If small business subcontractors are used, the prime contractor agrees to report the use of small business subcontractors by providing the purchasing office at a minimum the following information: name of small business with the SBSBD certification number or FEIN, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided. **This information shall be submitted to: JMU Office of Procurement Services, Attn: SWAM Subcontracting Compliance, MSC 5720, Harrisonburg, VA 22807.**
2. Each prime contractor who wins an award in which provision of a small business subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution with every request for payment, evidence of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the small business subcontracting plan. **This information shall be submitted to: JMU Office of Procurement Services, SWAM Subcontracting Compliance, MSC 5720,**

**Harrisonburg, VA 22807.** When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm with the Department of Small Business and Supplier Diversity (SBSD) certification number or FEIN number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product or service provided. Payment(s) may be withheld until compliance with the plan is received and confirmed by the agency or institution. The agency or institution reserves the right to pursue other appropriate remedies to include, but not be limited to, termination for default.

3. Each prime contractor who wins an award valued over \$200,000 shall deliver to the contracting agency or institution with every request for payment, information on use of subcontractors that are not Department of Small Business and Supplier Diversity (SBSD)-certified small businesses. When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm, phone number, FEIN number, total dollar amount subcontracted, and type of product or service provided. **This information shall be submitted to: JMU Office of Procurement Services, Attn: SWAM Subcontracting Compliance, MSC 5720, Harrisonburg, VA 22807.**
- K. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described above that enters into a contract with a public body shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.
- L. PUBLIC POSTING OF COOPERATIVE CONTRACTS: James Madison University maintains a web-based contracts database with a public gateway access. Any resulting cooperative contract/s to this solicitation will be posted to the publicly accessible website. Contents identified as proprietary information will not be made public.
- M. CRIMINAL BACKGROUND CHECKS OF PERSONNEL ASSIGNED BY CONTRACTOR TO PERFORM WORK ON JMU PROPERTY: The Contractor shall obtain criminal background checks on all of their contracted employees who will be assigned to perform services on James Madison University property. The results of the background checks will be directed solely to the Contractor. The Contractor bears responsibility for confirming to the University contract administrator that the background checks have been completed prior to work being performed by their employees or subcontractors. The Contractor shall only assign to work on the University campus those individuals whom it deems qualified and permissible based on the results of completed background checks. Notwithstanding any other provision herein, and to ensure the safety of students, faculty, staff and facilities, James Madison University reserves the right to approve or disapprove any contract employee that will work on JMU property. Disapproval by the University will solely apply to JMU property and should have no bearing on the Contractor's employment of an individual outside of James Madison University.
- N. INDEMNIFICATION: Contractor agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, 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 using agency or to failure of the using agency 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. ADDITIONAL GOODS AND SERVICES: The University may acquire other goods or services that the supplier provides than those specifically solicited. The University reserves the right, subject to mutual agreement, for the Contractor to provide additional goods and/or services under the same pricing, terms, and conditions and to make modifications or enhancements to the existing goods and services. Such additional goods and services may include other products, components, accessories, subsystems, or related services that are newly introduced during the term of this Agreement. Such additional goods and services will be provided to the University at favored nations pricing, terms, and conditions.
- P. ADVERTISING: In the event a contract is awarded for supplies, equipment, or services resulting from this proposal, no indication of such sales or services to James Madison University will be used in product literature or advertising without the express written consent of the University. The contractor shall not state in any of its advertising or product literature that James Madison University has purchased or uses any of its products or services, and the contractor shall not include James Madison University in any client list in advertising and promotional materials without the express written consent of the University.
- Q. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION: The contractor assures that information and data obtained as to personal facts and circumstances related to faculty, staff, students, and affiliates will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. This shall include FTI, which is a term of art and consists of federal tax returns and return information (and information derived from it) that is in contractor/agency possession or control which is covered by the confidentiality protections of the Internal Revenue Code (IRC) and subject to the IRC 6103(p)(4) safeguarding requirements including IRS oversight. FTI is categorized as sensitive but unclassified information and may contain personally identifiable information (PII). Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Contractors shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.
- R. 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 in operability. The period of in operability shall commence upon initial notification. In the event the equipment or software remains inoperable for more than two (2) consecutive calendar days, the contractor shall promptly replace the equipment or software at no charge upon request of the procuring agency. Such replacement shall be with new, unused product(s) of comparable quality, and must be installed and operational within two (2) days following the request for replacement.

- S. 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.
- T. RENEWAL OF MAINTENANCE: Maintenance of the hardware or software specified in the resultant contract may be renewed by the mutual written agreement of both parties for additional one-year periods, under the terms and conditions of the original contract except as noted herein. Price changes may be negotiated at time of renewal; however, in no case shall the maintenance costs for a succeeding one-year period exceed the prior year's contract price(s), increased or decreased by more than the percentage increase or decrease in the other services category of the CPI-W section of the US Bureau of Labor Statistics Consumer Price Index, for the latest twelve months for which statistics are available.
- U. SOURCE CODE: In the event the contractor ceases to maintain experienced staff and the resources needed to provide required software maintenance, the Commonwealth 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 Commonwealth shall have exclusive right to possess all physical embodiments of such contractor owned materials. The rights of the Commonwealth in this respect shall survive for a period of twenty 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.
- V. 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 Commonwealth 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 Commonwealth 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.
- W. THIRD PARTY ACQUISITION OF SOFTWARE: The contractor shall notify the procuring agency 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 Commonwealth's benefit and deliver thereto, the assignee's agreement to fully honor the terms of the contract.
- X. TITLE TO SOFTWARE: By submitting a bid or proposal, the bidder or 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.
- Y. 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.

Z. NONVISUAL ACCESS TO TECHNOLOGY: All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any State agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this Agreement:

- (i) effective, interactive control and use of the Technology shall be readily achievable by nonvisual means;
- (ii) 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;
- (iii) nonvisual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and
- (iv) 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.

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.

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.

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.

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*.

All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any Commonwealth agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended. If requested, the Contractor must provide a detailed explanation of how compliance with Section 508 of the Rehabilitation Act is achieved and a validation of concept demonstration. (<http://www.section508.gov/>). The requirements of this Paragraph along with the Non-Visual Access to Technology Clause 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*.

## **IX. METHOD OF PAYMENT**

The contractor will be paid on the basis of invoices submitted in accordance with the solicitation and any negotiations. James Madison University recognizes the importance of expediting the payment process for our vendors and suppliers. We are asking our vendors and suppliers to enroll

in the Wells Fargo Bank single use Commercial Card Number process or electronic deposit (ACH) to your bank account so that future payments are made electronically. Contractors signed up for the Wells Fargo Bank single use Commercial Card Number process will receive the benefit of being paid in Net 15 days. Additional information is available online at:

<http://www.jmu.edu/financeoffice/accounting-operations-disbursements/cash-investments/vendor-payment-methods.shtml>

## **X. PRICING SCHEDULE**

The offeror shall provide pricing for all products and services included in proposal indicating one-time and on-going costs. The resulting contract will be cooperative and pricing shall be inclusive for other state agencies.

Providing pricing for items requested in I.V. Statement of Needs, including but not limited to potential costs listed below:

- A. Athlete Monitor Systems to include all capabilities and solutions
- B. Charging Stations
- C. Software
- D. Support and set up
- E. Customization and Configuration Cost
- F. Ongoing Maintenance and Support
- G. Initial and Ongoing Training
- H. All Other Cost (including optional costs)

STATSports pricing is contingent on several factors, with discounted deals available depending on the number of units and length of contract. As an example of our pricing, for a 100-unit deal, STATSports would offer the following at a price of \$7,000 per month on a 36 month contract.

STATSports, unlike many of our competitors do not charge a yearly fee to utilize our software and cover all expenses to the University relating to the system, in this monthly fee.

- 100 Apex Pro Series Units
- 6 x 16-way docking station
- 6 x Apex Live Streaming Beacon
- 6 x iPad
- 6 x Smartwatch
- 150 vests
- 6 x Apex Software Licenses
- 6 x Dell Latitude High Spec Laptop
- On-site setup and training
- Unlimited remote sports science support and technical consultancy for duration of contract
- Two days onsite training and support each year for duration of contract
- Free upgrades on all major software released for duration of contract
- 48-hour Hot Swap
- Full warranty on all hardware for duration of contract

Specify any associated charge card processing fees, if applicable, to be billed to the university. Vendors shall provide their VISA registration number when indicating charge card processing fees. Any vendor requiring information on VISA registration may refer to <https://usa.visa.com/support/small-business/regulations-fees.html> and for questions

<https://usa.visa.com/dam/VCOM/global/support-legal/documents/merchant-surcharging-qa-for-web.pdf> .

## **XI. ATTACHMENTS**

Attachment A: Offeror Data Sheet

Attachment B: Small, Women, and Minority-owned Business (SWaM) Utilization Plan

Attachment C: Standard Contract Sample

Attachment D: Information Technology Services Addendum (*All Offerors are required to complete*)

Attachment E: Commonwealth of Virginia Agency Contract Form Addendum to Contractor's Form (*All Offerors are required to complete*)

Attachment F: Higher Education Cloud Assessment Tool (HECVAT) - attached as a separate Excel spreadsheet (*All Offerors are required to complete*)

ATTACHMENT A

OFFEROR DATA SHEET

TO BE COMPLETED BY OFFEROR

1. QUALIFICATIONS OF OFFEROR: Offerors must have the capability and capacity in all respects to fully satisfy the contractual requirements.
2. YEARS IN BUSINESS: Indicate the length of time you have been in business providing these types of goods and services.

Years 12 Months   

3. REFERENCES: Indicate below a listing of at least five (5) organizations, either commercial or governmental/educational, that your agency is servicing. Include the name and address of the person the purchasing agency has your permission to contact.

CLIENT	LENGTH OF SERVICE	ADDRESS	CONTACT PERSON/PHONE #
<u>J. of Oklahoma</u>	<u>5 years</u>	<u>660 Perimeter Ave, Norman OK</u>	<u>Bryan Keegans</u>
<u>Virginia Tech</u>	<u>2 years</u>	<u>Virginia Tech, Blacksburg Va</u>	<u>Kody Cooke</u>
<u>W. Kentucky</u>	<u>1 year</u>	<u>W. Kentucky, Bowling Green KY</u>	<u>Jason Ventrone</u>
<u>W. Michigan</u>	<u>2 year</u>	<u>Bill Brown Stadium, Kalamazoo, MI</u>	<u>Grant Geib</u>
<u>W. Virginia</u>	<u>1 year</u>	<u>W. Virginia Uni, Morgantown, WV</u>	<u>Nick Noble</u>

4. List full names and addresses of Offeror and any branch offices which may be responsible for administering the contract.

STATSPAS North America, 332 S Michigan Ave. 9<sup>th</sup> Floor, Chicago IL 60604  
STATSPAS Group Limited, Donalson Mill, The Quays, Newry  
Co. Down, Northern Ireland, BT35 8QS

5. 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 2.2-3100 – 3131?

YES  NO

IF YES, EXPLAIN: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

ATTACHMENT B

Small, Women and Minority-owned Businesses (SWaM) Utilization Plan

Offeror Name: STATSPORTS NORTH AMERICA Preparer Name: PAUL McAFEE

Date: 18th FEBRUARY, 2020.

Is your firm a **Small Business Enterprise** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes  No

If yes, certification number: \_\_\_\_\_ Certification date: \_\_\_\_\_

Is your firm a **Woman-owned Business Enterprise** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes  No

If yes, certification number: \_\_\_\_\_ Certification date: \_\_\_\_\_

Is your firm a **Minority-Owned Business Enterprise** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes  No

If yes, certification number: \_\_\_\_\_ Certification date: \_\_\_\_\_

Is your firm a **Micro Business** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes  No

If yes, certification number: \_\_\_\_\_ Certification date: \_\_\_\_\_

**Instructions:** *Populate the table below to show your firm's plans for utilization of small, women-owned and minority-owned business enterprises in the performance of the contract. Describe plans to utilize SWaMs businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.*

**Small Business:** "Small business " means a business, independently owned or operated by one or more persons who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years.

**Woman-Owned Business Enterprise:** A business concern which is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more women, and whose management and daily business operations are controlled by one or more of such individuals. **For purposes of the SWaM Program, all certified women-owned businesses are also a small business enterprise.**

**Minority-Owned Business Enterprise:** A business concern which is at least 51 percent owned by one or more minorities or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more minorities and whose management and daily business operations are controlled by one or more of such individuals. **For purposes of the SWaM Program, all certified minority-owned businesses are also a small business enterprise.**

**Micro Business** is a certified Small Business under the SWaM Program and has no more than twenty-five (25) employees **AND** no more than \$3 million in average annual revenue over the three-year period prior to their certification.

**All small, women, and minority owned businesses must be certified by the Commonwealth of Virginia Department of Small Business and Supplier Diversity (SBSD) to be counted in the SWaM program. Certification applications are available through SBSD at 800-223-0671 in Virginia, 804-786-6585 outside Virginia, or online at <http://www.sbsd.virginia.gov/> (Customer Service).**

***RETURN OF THIS PAGE IS REQUIRED***



ATTACHMENT C



COMMONWEALTH OF VIRGINIA  
STANDARD CONTRACT

Contract No. \_\_\_\_\_

This contract entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ hereinafter called the "Contractor" and Commonwealth of Virginia, James Madison University called the "Purchasing Agency".

WITNESSETH that the Contractor and the Purchasing Agency, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: The Contractor shall provide the services to the Purchasing Agency as set forth in the Contract Documents.

PERIOD OF PERFORMANCE: From \_\_\_\_\_ through \_\_\_\_\_

The contract documents shall consist of:

- (1) This signed form,
- (2) The following portions of the Request for Proposals dated \_\_\_\_\_:
  - (a) The Statement of Needs,
  - (b) The General Terms and Conditions,
  - (c) The Special Terms and Conditions together with any negotiated modifications of those Special Conditions;
  - (d) List each addendum that may be issued
- (3) The Contractor's Proposal dated \_\_\_\_\_ and the following negotiated modification to the Proposal, all of which documents are incorporated herein.
  - (a) Negotiations summary dated \_\_\_\_\_.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR:

PURCHASING AGENCY:

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Name)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## ATTACHMENT D

### James Madison University

#### Information Technology Services Addendum

CONTRACTOR NAME: STATSpOAS Norm America

PRODUCT/SOLUTION: STATSpOAS APEX

#### Definitions:

- **Agreement:** The "Agreement" includes the contract, this addendum and any additional addenda and attachments to the contract, including the Contractor's Form.
  - **University:** "University" or "the University" means James Madison University, its trustees, officers and employees.
  - **University Data:** "University Data" is defined as any data that the Contractor creates, obtains, accesses, transmits, maintains, uses, processes, stores or disposes of in performance of the Agreement. It includes all Personally Identifiable Information and other information that is not intentionally made generally available by the University on public websites.
  - **Personally Identifiable Information:** "Personally Identifiable Information" (PII) includes but is not limited to: Any information that directly relates to an individual and is reasonably likely to enable identification of that individual or information that is defined as PII and subject to protection by James Madison University under federal or Commonwealth of Virginia law.
  - **Security Breach:** "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.
  - **Service(s):** "Service" or "Services" means any goods or services acquired by the University from the Contractor.
1. **Rights and License in and to University Data:** The parties agree that as between them, all rights including all intellectual property rights in and to University Data shall remain the exclusive property of the University, and Contractor has a limited, nonexclusive license to use the data as provided in the Agreement solely for the purpose of performing its obligations hereunder. The Agreement does not give a party any rights, implied or otherwise, to the other's data, content, or intellectual property.
  2. **Disclosure:** All goods, products, materials, documents, reports, writings, video images, photographs, or papers of any nature including software or computer images prepared or provided to 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.
  3. **Data Privacy:**
    - a. Contractor will use University Data only for the purpose of fulfilling its duties under the Agreement 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 law.
    - b. University Data will not be stored outside the United States without prior written consent from the University.
    - c. Contractor will provide access to University Data only to its employees and subcontractors who need to access the data to fulfill obligations under the Agreement. The Contractor will ensure that the Contractor's employees, and subcontractors when applicable, who perform work under the Agreement have received appropriate

instruction as to how to comply with the data protection provisions of the Agreement and have agreed to confidentiality obligations at least as restrictive as those contained in this Addendum.

- i. If the Contractor will have access to the records protected by the Family Educational Rights and Privacy Act (FERPA), Contractor acknowledges that for the purposes of the Agreement it will be designated as a "school official" with "legitimate educational interests" in such records, as those terms have been defined under FERPA and its implementing regulations, and Contractor agrees to abide by the limitations and requirements imposed on school officials. Contractor will use such records only for the purpose of fulfilling its duties under the Agreement for University's and its End Users' benefit, and will not share such data with or disclose it to any third party except as required by law or authorized in writing by the University. Contractor acknowledges that its access to such records is limited to only those directly related to and necessary for the completion of Contractor's duties under the Agreement.
- d. The Contractor shall be responsible and liable for the acts and omissions of its subcontractors, including but not limited to third-party cloud hosting providers, and shall assure compliance with the requirements of the Agreement.

**4. Data Security:**

- a. 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 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.
- b. Contractor will store and process University Data in a secure site and will provide a SOC 2 or other security report deemed sufficient by the University from a third party reviewer along with annual updated security reports. If the Contractor is using a third-party cloud hosting company such as AWS, Rackspace, etc., the Contractor will obtain the security audit report from its hosting company and give the results to the University. The University should not have to request the report directly from the hosting company.
- c. Contractor will use industry-standards and up-to-date security tools, technologies and practices such as network firewalls, anti-virus, vulnerability scans, system logging, intrusion detection, 24x7 system monitoring, and third-party penetration testing in providing services under the Agreement.
- d. Without limiting the foregoing, Contractor warrants that all electronic University Data will be encrypted in transmission (including via web interface) and stored at AES 256 or stronger.

**5. Data Authenticity, Integrity and Availability:**

- a. Contractor will take reasonable measures, including audit trails, to protect University Data against deterioration or degradation of data quality and authenticity. Contractor 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 records as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration."
- b. Contractor will ensure backups are successfully completed at the agreed interval and that restoration capability is maintained for restoration to a point-in-time and/or to the most current backup available.
- c. Contractor 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, excluding regularly scheduled maintenance time.

**6. Employee Background Checks and Qualifications:**

- a. Contractor shall ensure that its employees have undergone appropriate background screening and possess all needed qualifications to comply with the terms of the Agreement including but not limited to all terms relating to data and intellectual property protection.
- b. If the Contractor must under this agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of University Data known as Personally Identifiable Information or financial or business data, the Contractor shall perform the following background checks on all employees who have potential to access such data in accordance with the Fair Credit Reporting Act: Social Security Number trace; seven (7) year felony and misdemeanor criminal records check of federal, state, or local records (as applicable) for job related crimes; Office of Foreign Assets Control List (OFAC) check; Bureau of Industry and Security List (BIS) check; and Office of Defense Trade Controls Debarred Persons List (DDTC).

**7. Security Breach:**

- a. Response: Immediately (within one day) upon becoming aware of a Security Breach, or of circumstances that could have resulted in unauthorized access to or disclosure or use of University Data, Contractor will notify the University, fully investigate the incident, and cooperate fully with the University's investigation of and response to the incident. Except as otherwise required by law, 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.
- b. Liability:
  - i. If Contractor must under this agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of University Data known as Personally Identifiable Information, the following provisions apply. In addition to any other remedies available to the University under law or equity, Contractor will reimburse the University in full for all costs incurred by the University in investigation and remediation of any Security Breach caused by 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.
  - ii. If Contractor will NOT under this agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of University Data known as Personally Identifiable Information, the following provisions apply. In addition to any other remedies available to the University under law or equity, Contractor will reimburse the University in full for all costs reasonably incurred by the University in investigation and remediation of any Security Breach caused by Contractor.

**8. Requests for Data, Response to Legal Orders or Demands for Data:**

- a. Except as otherwise expressly prohibited by law, Contractor will:
  - i. immediately notify the University of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking University Data;
  - ii. consult with the University regarding its response;

- iii. 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
- iv. Upon the University's request, provide the University with a copy of its response.
- b. Contractor will make itself and any employees, contractors, or agents assisting in the performance of its obligations under the Agreement, available to the University at no cost to the University based upon claimed violation of any laws relating to security and/or privacy of the data that arises out of the Agreement. This shall include any data preservation or eDiscovery required by the University.
- c. The University may request and obtain access to University Data and related logs at any time for any reason and at no extra cost.

**9. Data Transfer Upon Termination or Expiration:**

- a. Contractor's obligations to protect University Data shall survive termination of the Agreement until all University Data has been returned or securely destroyed, meaning taking actions that render data written on media unrecoverable by both ordinary and extraordinary means.
- b. Upon termination or expiration of the Agreement, Contractor will ensure that all University Data are securely transferred, returned or destroyed as directed by the University in its sole discretion within 60 days of termination of the Agreement. Transfer/migration to the University or a third party designated by the University shall occur without significant interruption in service. Contractor shall ensure that such transfer/migration uses facilities, methods, and data formats that are accessible and 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.
- c. In the event that the University requests destruction of its data, Contractor agrees to securely destroy all data in its possession and in the possession of any subcontractors or agents to which Contractor might have transferred University data. Contractor agrees to provide documentation of data destruction to the University.
- d. 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 Contractor's facilities to remove and destroy University-owned assets and data. 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, as applicable, 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. Contractor will work closely with its successor to ensure a successful transition to the new service, with minimal downtime and effect on the University, all such work to be coordinated and performed in advance of the formal, final transition date.

**10. Audits:**

- a. The University reserves the right in its sole discretion to perform audits of the Contractor to ensure compliance with the terms of the Agreement. Contractor shall reasonably cooperate in the performance of such audits. This provision applies to all agreements under which Contractor must create, obtain, transmit, use, maintain, process, or dispose of University Data.
- b. If Contractor must under the Agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of University Data known as Personally Identifiable Information or financial or business data, Contractor will at its expense conduct or have conducted at least annually a(n):

- i. American Institute of CPAs Service Organization Controls 2 (SOC 2) audit, or other independent security audit with audit objectives deemed sufficient by the University, which attests to Contractor's security policies, procedures, and controls. Contractor shall also submit such documentation for any third-party cloud hosting provider(s) they may use (e.g. AWS, Rackspace, Azure, etc.) and for all subservice providers or business partners relevant to the Agreement. Contractor shall also provide James Madison University with a designated point of contact for the SOC reports and risks related to the contract. This person shall address issues raised in the SOC reports of the Contractor and its relevant providers and partners, and respond to any follow up questions posed by the University in relation to technology systems, infrastructure, or information security concerns related to the contract.
  - ii. vulnerability scan of Contractor's electronic systems and facilities that are used in any way to deliver electronic services under the Agreement; and
  - iii. formal penetration test performed by qualified personnel of Contractor's electronic systems and facilities that are used in any way to deliver electronic services under the Agreement.
- c. Additionally, 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 the Agreement. 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.

11. **Compliance:**

- a. Contractor will comply with all applicable laws and industry standards in performing services under the Agreement. 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 Contractor upon request.
- b. To the extent applicable to the design and intended use of the service, 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 Contractor, including but not limited to: the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA), 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), Federal Export Administration Regulations, and Defense Federal Acquisitions Regulations.

12. **No End User Agreements:** Any agreements or understandings, whether electronic, click through, verbal or in writing, between Contractor and University employees or other end users under the Agreement that conflict with the terms of the Agreement, including but not limited to this Addendum, shall not be valid or binding on the University or any such end users.

IN WITNESS WHEREOF, the parties have caused this addendum to be duly executed, intending thereby to be legally bound. In the event of conflict or inconsistency between terms of the Agreement and this Addendum, the terms of this Addendum shall prevail.

JAMES MADISON UNIVERSITY

CONTRACTOR

SIGNATURE: Garrett Morris  
PRINTED NAME: Garrett Morris  
TITLE: Buyer Senior  
DATE: 5/14/2020

SIGNATURE: Paul McAfee  
PRINTED NAME: PAUL MCAFEE  
TITLE: PRESIDENT STATSPTS NA  
DATE: 18 FEBRUARY, 2020

REV. January 30, 2019

ATTACHMENT E

COMMONWEALTH OF VIRGINIA AGENCY  
CONTRACT FORM ADDENDUM TO CONTRACTOR'S FORM

AGENCY NAME: James Madison University

CONTRACTOR NAME: STATS PaaS North America

DATE: 18<sup>th</sup> February 2020

The Commonwealth and the Contractor are this day entering into a contract and, for their mutual convenience, the parties are using the standard form agreement provided by the Contractor. This addendum, duly executed by the parties, is attached to and hereby made a part of the contract. In the event that the Vendor enters into terms of use agreements or other agreements of understanding with University employees and students (whether electronic, click-through, verbal, or in writing), the terms and conditions of this Agreement shall prevail.

The Contractor represents and warrants that it is a(n) // individual proprietorship // association // partnership // corporation // governmental agency or authority authorized to do in Virginia the business provided for in this contract. (Check the appropriate box.)

Notwithstanding anything in the Contractor's form to which this Addendum is attached, the payments to be made by the Commonwealth for all goods, services and other deliverables under this contract shall not exceed Purchase Order Amounts; payments will be made only upon receipt of a proper invoice, detailing the goods/services provided and submitted to James Madison University. The total cumulative liability of the Commonwealth, its officers, employees and agents in connection with this contract or in connection with any goods, services, actions or omissions relating to the contract, shall not under any circumstance exceed payment of the above maximum purchase price plus liability for an additional amount equal to such maximum purchase price. In its performance under this contract, the Contractor acts and will act as an independent contractor, and not as an agent or employee of the Commonwealth.

The Contractor's form contract is, with the exceptions noted herein, acceptable to the Commonwealth. Nonetheless, because certain standard clauses that may appear in the Contractor's form agreement cannot be accepted by the Commonwealth, and in consideration of the convenience of using that form, and this form, without the necessity of specifically negotiating a separate contract document, the parties hereto specifically agree that, notwithstanding any provisions appearing in the attached Contractor's form contract, none of the following paragraphs **1 through 18** shall have any effect or be enforceable against the Commonwealth:

1. Requiring the Commonwealth to maintain any type of insurance either for the Commonwealth's benefit or for the contractor's benefit;
2. Renewing or extending the agreement beyond the initial term or automatically continuing the contract period from term to term;
3. Requiring or stating that the terms of the attached Contractor's form agreement shall prevail over the terms of this addendum in the event of conflict;
4. Requiring the Commonwealth to indemnify or to hold harmless the Contractor for any act or omission;
5. Imposing interest charges contrary to that specified by the Code of Virginia, §2.2-4347 through 2.2-4354, Prompt Payment;
6. Requiring the application of the law of any state other than Virginia in interpreting or enforcing the contract or requiring or permitting that any dispute under the contract be resolved in the courts of any state other than Virginia;
7. Requiring any total or partial compensation or payment for lost profit or liquidated damages by the Commonwealth if the contract is terminated before its ordinary period;

8. Requiring that the contract be "accepted" or endorsed by the home office or by any other officer subsequent to execution by an official of the Commonwealth before the contract is considered in effect;
9. Delaying the acceptance of this contract or its effective date beyond the date of execution;
10. Limiting or adding to the time period within which claims can be made or actions can be brought;
11. Limiting the liability of the Contractor for property damage or personal injury. The parties agree that this clause does not extend the Contractor's liability beyond its own acts or those of its agents/employees;
12. Permitting unilateral modification of this contract by the Contractor;
13. Binding the Commonwealth to any arbitration or to the decision of any arbitration board, commission, panel or other entity;
14. Obligating the Commonwealth to pay costs of collection or attorney's fees;
15. Granting the Contractor a security interest in property of the Commonwealth;
16. Bestowing any right or incurring any obligation that is beyond the duly granted authority of the undersigned agency representative to bestow or incur on behalf of the Commonwealth.
17. Requiring the "confidentiality" of the agreement, in whole or part, without (i) invoking the protection of Section 2.2-4342F of the Code of Virginia in writing prior to signing the agreement (ii) identifying the data or other materials to be protected, and (iii) stating the reasons why protection is necessary.
18. Requiring the Commonwealth to reimburse for travel and living expenses in excess of the agency policy located at <https://www.jmu.edu/financemanual/procedures/4215mie.shtml>

This contract may be renewed annually by the Commonwealth after the expiration of the initial term under the terms and conditions of the original contract except as noted herein. If the Commonwealth elects to exercise the option to renew the contract for an additional renewal period, the contract price(s) for the succeeding renewal period shall not exceed the contract price(s) of the previous contract term increased/decreased by no more than the percentage increase/decrease of the "Other Services" category of the CPI-W of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

This Agency contract consisting of this Agency addendum and the attached Contractor's form contract constitute the entire agreement between the parties and may not be waived or modified except by written agreement between the parties.

This contract has been reviewed by staff of the agency. Its substantive terms are appropriate to the needs of the agency and sufficient funds have been allocated for its performance by the agency. This contract is subject to appropriations by the Virginia General Assembly.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed, intending thereby to be legally bound.

AGENCY by *Garrett Morris*  
 Title Buyer Senior  
 Printed Name Garrett Morris

CONTRACTOR by *Paul McAfee*  
 Title PRESIDENT STATS PARTS NORTH AMERICA  
 Printed Name PAUL MCAFEE

## Apex Pro Series

### Hardware

- ✓ 18 Hz (10 Hz GNSS)
- ✓ 600 Hz Accelerometer
- ✓ 600 Hz Magnetometer
- ✓ 600Hz Gyroscope
- ✓ Bluetooth LE
- ✓ Independently Validated

### Software

- ✓ 200+ Metrics
- ✓ Multi-user Sonra software
- ✓ RTT application
- ✓ Video Sync
- ✓ STATSports Exchange
- ✓ Scientific Metric Calculator

### Live Streaming

- ✓ iPad live application
- ✓ Smartwatch live application

### Reports

- ✓ Raw data Export
- ✓ PDF Export
- ✓ Excel Export
- ✓ API Export
- ✓ ADI Export
- ✓ 3<sup>rd</sup> Party Data Imports



## Apex Team Series

### Hardware

- ✓ 10 Hz GNSS
- ✓ 100 Hz Accelerometer
- ✓ 100 Hz Magnetometer
- ✓ 100Hz Gyroscope
- ✓ Independently Validated

### Software

- ✓ 86 Metrics
- ✓ Apex Team Series software package



### Live Streaming

- ✓ Desktop Live-Streaming

### Reports

- ✓ Raw data Export
- ✓ PDF Export
- ✓ Excel Export



January 30, 2020

**ADDENDUM NO.: One**

**TO ALL OFFERORS:**

**REFERENCE:** Request for Proposal No: **RFP# JGM-1073**  
Dated: **January 30, 2020**  
Commodity: **Athletic Wearable Technology**  
RFP Closing On: **February 18, 2020**

Please note the clarifications and/or changes made on this proposal program:

Signify receipt of this addendum by initialing "*Addendum #1 \_\_\_\_\_*" on the signature page of your proposal.

1. See Attachment F (HECVAT) as referenced in *Section V. Proposal Preparation and Submissions letter B. Specific Instructions number 10* of the RFP.

Sincerely,

A handwritten signature in blue ink that reads "Garrett Morris".

Garrett Morris  
Buyer Senior  
Phone: (540-568-4501)

MSC 5720  
752 Ott Street, Room 1042  
Wine Price Building  
Harrisonburg, VA 22807  
Office of 540.568.3145 Phone  
PROCUREMENT SERVICES 540.568.7935 Fax



February 14, 2020

**ADDENDUM NO.: Two**

**TO ALL OFFERORS:**

**REFERENCE:** Request for Proposal No: **RFP# JGM-1073**  
Dated: **February 14, 2020**  
Commodity: **Athletic Wearable Technology**  
RFP Closing On: **February 18, 2020**

Please note the clarifications and/or changes made on this proposal program:

Signify receipt of this addendum by initialing “*Addendum #2* \_\_\_\_\_” on the signature page of your proposal.

- 1. I. PURPOSE** outlined in the RFP document shall hereby be replaced with the following-

The purpose of this Request for Proposal (RFP) is to solicit sealed proposals from qualified sources to enter into a contract to provide an Athletic Wearable Technology Solution for James Madison University (JMU), an agency of the Commonwealth of Virginia. Initial contract shall be for one (1) year with an option to renew for four (4) additional one-year periods.

Sincerely,

Garrett Morris  
Buyer Senior  
Phone: (540-568-4501)

MSC 5720  
752 Ott Street, Room 1042  
Wine Price Building  
Harrisonburg, VA 22807  
Office of 540.568.3145 Phone  
PROCUREMENT SERVICES 540.568.7935 Fax



February 18, 2020

**ADDENDUM NO.: Three**

**TO ALL OFFERORS:**

**REFERENCE:** Request for Proposal No: **RFP# JGM-1073**  
Dated: **February 18, 2020**  
Commodity: Athletic Wearable Technology  
RFP Closing On: ~~**February 18, 2020**~~  
**February 20, 2020**

Please note the clarifications and/or changes made on this proposal program:

Signify receipt of this addendum by initialing "*Addendum #3* \_\_\_\_\_" on the signature page of your proposal.

1. The closing date and time has been extended to February 20, 2020 at 2:00 p.m.

Sincerely,

A handwritten signature in blue ink that reads "Garrett Morris".

Garrett Morris  
Buyer Senior  
Phone: (540-568-4501)

MSC 5720  
752 Ott Street, Room 1042  
Wine Price Building  
Harrisonburg, VA 22807  
Office of 540.568.3145 Phone  
PROCUREMENT SERVICES 540.568.7935 Fax

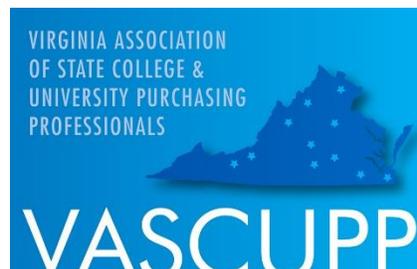


# Request for Proposal

## **RFP# JGM-1073**

**Athletic Wearable Technology**

**January 28, 2020**



***REQUEST FOR PROPOSAL***

RFP# JGM-1073

Issue Date: January 8, 2020
Title: Athletic Wearable Technology
Issuing Agency: Commonwealth of Virginia
James Madison University
Procurement Services MSC 5720
752 Ott Street, Wine Price Building
First Floor, Suite 1023
Harrisonburg, VA 22807

Period of Contract: From Date of Award Through One Year (Renewable)

Sealed Proposals Will Be Received Until 2:00 PM on February 18, 2020 for Furnishing The Services Described Herein.

SEALED PROPOSALS MAY BE MAILED, EXPRESS MAILED, OR HAND DELIVERED DIRECTLY TO THE ISSUING AGENCY SHOWN ABOVE.

All Inquiries For Information And Clarification Should Be Directed To: Garrett Morris, Buyer Senior, Procurement Services, morrisjg@jmu.edu ; 540-568-4501; (Fax) 540-568-7935 not later than five business days before the proposal closing date.

NOTE: THE SIGNED PROPOSAL AND ALL ATTACHMENTS SHALL BE RETURNED.

In compliance with this Request for Proposal and to all the conditions imposed herein, the undersigned offers and agrees to furnish the goods/services in accordance with the attached signed proposal or as mutually agreed upon by subsequent negotiation.

Name and Address of Firm:
By: (Signature in Ink)
Name: (Please Print)
Date: Title:
Web Address: Phone:
Email: Fax #:

ACKNOWLEDGE RECEIPT OF ADDENDUM: #1 #2 #3 #4 #5 (please initial)

SMALL, WOMAN OR MINORITY OWNED BUSINESS:
YES; NO; IF YES =>> SMALL; WOMAN; MINORITY IF MINORITY: AA; HA; AsA; NW; Micro

Note: This public body does not discriminate against faith-based organizations in accordance with the Code of Virginia, § 2.2-4343.1 or against an offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

# ***REQUEST FOR PROPOSAL***

***RFP # JGM-1073***

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	F. Higher Education Cloud Assessment Tool (HECVAT) - attached as a separate Excel spreadsheet ( <i>All Offerors are required to complete</i> )		

## **I. PURPOSE**

The purpose of this Request for Proposal (RFP) is to solicit sealed proposals from qualified sources to enter into a contract to provide an Athletic Wearable Technology Solution for James Madison University (JMU), an agency of the Commonwealth of Virginia. Initial contract shall be for one (1) year with an option to renew for four (4) additional one-year periods.

## **II. BACKGROUND**

James Madison University (JMU) is a comprehensive public institution in Harrisonburg, Virginia with an enrollment of approximately 22,000 students and 4,000 faculty and staff. Further information about the University may be found at the following website: <http://www.jmu.edu>. The University sponsors an 18-sport intercollegiate athletics program that competes at The Division I level of the National Collegiate Athletic Association. JMU is also affiliated with the Colonial Athletic Association, of which it was a charter member in 1985, and with the Eastern College Athletic Conference.

JMU has men's athletic programs in baseball, basketball, football, golf, soccer, and tennis. All JMU Football and Men's Basketball contests are streamed in HD over the free MadiZONE platform, while baseball and soccer have numerous game streams.

The JMU Athletics Department's vision is to be the NCAA model for the student-athlete experience, distinguished by our academic achievement, integrity, personal development and nationally-competitive programs, and our sports embody that both on and off the field. JMU's football program has been a consistent force over the last two decades, having made the FCS playoffs nine times since 2004, including two national championships in 2004 & 2017. The programs all have a strong history of CAA and NCAA Championship showings, with Basketball (2013) and Soccer (2014, 2018) having won the conference title within the last five years.

For women, the University offers programs in basketball, cross country, field hockey, golf, lacrosse, soccer, softball, swimming and diving, tennis, track and field (indoor and outdoor), and volleyball. All women's basketball games and many of these other sporting events are also streamed in HD over free MadiZONE platform.

JMU's women athletics tradition is among the oldest in the nation, dating nearly back to the institution's founding in 1908. Strong intercollegiate programs for women have been in place at the University since the early 1920s, and JMU was among the first of the nation's institutions to provide well-rounded overall intercollegiate offerings for females. JMU's Women's Lacrosse program has been one of the most prominent programs in the country, having been Nationally Ranked each of the last 26 years, including a Top 10 ranking in 16 of the last 19 years. The Women's Basketball team is one of three programs in the nation to have over 1000 wins as a school, and is also consistently seen inside the Top 25 of most polls. The championship culture doesn't stop with the men, as the women's programs have had just as much success over the last five years as Basketball (2014, 2015, 2016), Cross Country (2011, 2017), Golf (2013), Lacrosse (2013, 2017, 2018), Soccer (2013, 2015), Softball (2014, 2016, 2017), Swimming & Diving (2012, 2018), Volleyball (2016, 2017) and Track & Field (2012) have all won a CAA Conference Championship. National Championships have also been attained in Field Hockey (1994) and Lacrosse (2018).

## **III. SMALL, WOMAN-OWNED AND MINORITY PARTICIPATION**

It is the policy of the Commonwealth of Virginia to contribute to the establishment, preservation, and strengthening of small businesses and businesses owned by women and minorities, and to encourage their participation in State procurement activities. The Commonwealth encourages contractors to provide for the participation of small businesses and businesses owned by women and minorities through partnerships, joint ventures, subcontracts, and other contractual opportunities. Attachment B contains information on reporting spend data with subcontractors.

#### **IV. STATEMENT OF NEEDS**

- A. James Madison University is seeking a Wearable Technology Solution that will provide an accurate athlete performance data tracking and analysis software system to allow for the tracking and analysis of athlete external and internal loads resulting from training and competition. In addition, this product will need to allow for:
1. The collection, consolidation, analysis, and reporting of athlete performance data such as heart rate data, total distance, max and average speed, hi-intensity sprint distance, jumps etc and readiness data such as mood, muscle soreness, fatigue, hydration etc
  2. The ability to enhance performance and wellness data tracking and reporting, athlete monitoring, appropriate athlete loading and load management strategies, and injury prevention and return to play protocols.
  3. The ability to provide live monitoring.
  4. Enhancing the communication and collaboration between the performance team and sport coaches.

The Offeror shall have available and be able to demonstrate the use and functions of the following components and/or features of the system which will be utilized on campus by coaches, student-athletes, and other university constituents. It is expected that any proposed system will already be fully developed, tested, used in similar NCAA Athletic programs, offered publicly for sale and available immediately for installation.

The system shall be able to provide a wearable technology solution to accurately track and analyze measurable performance data to mitigate the risk of injury and tailor training programs to optimize each individual's development. Included within this platform shall be the ability to provide individual and team dashboards with customizable alerts and custom reporting on different performance metrics; and the delivery, collection, and analysis of athlete wellness questionnaires. The system shall be capable of tracking and recording the individual and team training loads both external and internal and facilitating communication and sharing of athlete data related to performance, wellness, and readiness.

The Contractor shall have available and be able to demonstrate the use and functions of the following components and/or features the system. It is expected that any proposed software will already be fully developed, tested, offered publicly for sale and available immediately for installation. For this project, the University is not interested in a custom developed software. Describe in detail the manner in which each item is addressed by the system.

- B. Product Functionality
1. Describe measurable performance data that is tracked.

2. Describe ability to provide individual and team dashboards with customizable alerts and custom reporting on different performance metrics (list).
3. Describe the system's ability to flag or provide warnings to users.
4. Describe how system tracks and records the athlete and or team training loads
  - a. Internally
  - b. Externally
5. Describe the sharing of Athletes data.
6. Describe the system's ability to have multiple users (sports medicine, coaches, athletes).
7. Describe any communication options provided in the system (i.e. phone/text/email) including log and regulation warning functionality provided.
8. Describe the ability to export data, create reports, and send reports. Specify the types of reports included. Specify all file formats available for data export and reports. Describe any limitations on type of information that can be shared.
9. Describe how the system is accessed. Describe the system's mobile application and the functionality that exists with the mobile application and the mobile platforms supported. Describe how the mobile application is deployed (Google, Apple, etc.)
10. Describe Offeror's experience in providing the proposed goods/software/resources to higher education institutions.
11. Customer Support
  - a. Specify customer support hours and any limitations on support outside of normal office hours.
  - b. Provide any applicable service agreements
12. Describe how the product(s) are FERPA (Family Educational Rights and Privacy Act) compliant.
13. Describe how the product(s) are HIPAA (Health Insurance Portability and Accountability Act) compliant.
14. Describe available warranties.
15. Describe the process for replacement of defective broken, or damaged equipment. Include ability to provide replacement equipment.
16. Describe other services and or products available that may be included in the final contract and **provide any associated cost in Section X. Pricing Schedule.**

C. Technical

1. Describe how product addresses accessibility to ensure the application is accessible to people with disabilities. Describe testing for adherence to accessibility guidelines and standards. Provide documentation of the testing performed and results of that testing including the Web Accessibility and Template Guide (WATG located at <http://www.vadsa.org/watg>).
2. Describe compatibility among various operating systems (i.e. Windows and Macintosh). Describe any aspects of your application that do not support Macintosh systems. Describe any changes to default browser or client security settings.
3. Describe your relationship with the vendor(s) of any third-party tools (e.g. SMS vendors, reporting tools, application server, etc.) included in this proposal including licensing, costs (**provide in Section X. Pricing Schedule**), support for the product(s), and version (e.g. full or modified).
4. Describe the process for determining enhancements that will be made to the product(s)/software.
5. Describe the process for determining enhancements that will be made to the application.
6. Describe the length of time Offeror has been actively engaged in providing the proposed resources to higher education institutions.
7. Describe the maintenance philosophy including frequency of updates, approach to completing updates, and model for obtaining the updates. **Provide any associated costs in Section X. Pricing Schedule.**
8. Describe the nature of continuing research and development performed to detect and correct problems in the system design, to improve efficiency and/or to enhance the capabilities of the system proposed
9. Describe system support for defining and creating administrative and user accounts, including how accounts are assigned permissions to perform various actions in the system. Describe the process for maintaining and deleting user accounts, including the deletion of automated reminders to users and administrators.
10. Describe the application security features for data and for the system.
11. Describe how and where any sensitive data including authentication credentials, is stored on clients, servers, and participating external devices. Is it cryptographically protected? If so, provide details on cryptographic protocols, procedures, and key protection.

## V. PROPOSAL PREPARATION AND SUBMISSION

A. GENERAL INSTRUCTIONS

**To ensure timely and adequate consideration of your proposal, offerors are to limit all contact, whether verbal or written, pertaining to this RFP to the James Madison**

**University Procurement Office for the duration of this Proposal process. Failure to do so may jeopardize further consideration of Offeror's proposal.**

1. RFP Response: In order to be considered for selection, the **Offeror shall submit a complete response to this RFP**; and shall submit to the issuing Purchasing Agency:
  - a. **One (1) original and four (4) copies** of the entire proposal, INCLUDING ALL ATTACHMENTS. Any proprietary information should be clearly marked in accordance with 3.f. below.
  - b. **One (1) electronic copy in WORD format or searchable PDF** (*CD or flash drive*) of the entire proposal, INCLUDING ALL ATTACHMENTS. Return HECVAT Attachment with the electronic copy as a separate Excel file (per item V.B.8.). Any proprietary information should be clearly marked in accordance with 3.f. below.
  - c. Should the proposal contain **proprietary information**, provide **one (1) redacted hard copy** of the proposal and all attachments with **proprietary portions removed or blacked out**. This copy should be clearly marked "*Redacted Copy*" on the front cover. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary or trade secrets is not acceptable. JMU shall not be responsible for the Contractor's failure to exclude proprietary information from this redacted copy.

No other distribution of the proposal shall be made by the Offeror.

2. The version of the solicitation issued by JMU Procurement Services, as amended by an addenda, is the mandatory controlling version of the document. Any modification of, or additions to, the solicitation by the Offeror shall not modify the official version of the solicitation issued by JMU Procurement services unless accepted in writing by the University. Such modifications or additions to the solicitation by the Offeror may be cause for rejection of the proposal; however, JMU reserves the right to decide, on a case-by-case basis in its sole discretion, whether to reject such a proposal. If the modification or additions are not identified until after the award of the contract, the controlling version of the solicitation document shall still be the official state form issued by Procurement Services.
3. Proposal Preparation
  - a. 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 purchasing agency requiring prompt submissions 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 purchasing agency. Mandatory requirements are those required by law or regulation or are such that they cannot be waived and are not subject to negotiation.
  - b. Proposals shall be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of the RFP. Emphasis should be placed on completeness and clarity of content.
  - c. Proposals should be organized in the order in which the requirements are presented in the RFP. All pages of the proposal 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 the 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 elimination from consideration if the evaluators are unable to find where the RFP requirements are specifically addressed.

- d. As used in this RFP, the terms “must”, “shall”, “should” and “may” identify the criticality of requirements. “Must” and “shall” identify requirements whose absence will have a major negative impact on the suitability of the proposed solution. Items labeled as “should” or “may” are highly desirable, although their absence will not have a large impact and would be useful, but are not necessary. Depending on the overall response to the RFP, some individual “must” and “shall” items may not be fully satisfied, but it is the intent to satisfy most, if not all, “must” and “shall” requirements. The inability of an offeror to satisfy a “must” or “shall” requirement does not automatically remove that offeror from consideration; however, it may seriously affect the overall rating of the offeror’ proposal.
  - e. Each copy of the proposal should be bound or contained in a single volume where practical. All documentation submitted with the proposal should be contained in that single volume.
  - f. Ownership of all data, materials and documentation originated and prepared for the State pursuant to the RFP shall belong exclusively to the State and be subject to public inspection in accordance with the Virginia Freedom of Information Act. Trade secrets or proprietary information submitted by the offeror shall not be subject to public disclosure under the Virginia Freedom of Information Act; however, the offeror must invoke the protection of Section 2.2-4342F of the Code of Virginia, in writing, either before or at the time the data is submitted. 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 materials 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. 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 and return of the proposal.
4. Oral Presentation: Offerors who submit a proposal in response to this RFP may be required to give an oral presentation of their proposal to James Madison University. This provides an opportunity for the Offeror to clarify or elaborate on the proposal. This is a fact-finding and explanation session only and does not include negotiation. James Madison University will schedule the time and location of these presentations. Oral presentations are an option of the University and may or may not be conducted. Therefore, proposals should be complete.

## B. SPECIFIC PROPOSAL INSTRUCTIONS

Proposals should be as thorough and detailed as possible so that James Madison University may properly evaluate your capabilities to provide the required services. Offerors are required to submit the following items as a complete proposal:

1. Return RFP cover sheet and all addenda acknowledgements, if any, signed and filled out as required.
2. Plan and methodology for providing the goods/services as described in Section IV. Statement of Needs of this Request for Proposal.
3. A written narrative statement to include, but not be limited to, the expertise, qualifications, and experience of the firm and resumes of specific personnel to be assigned to perform the work.
4. Offeror Data Sheet, included as *Attachment A* to this RFP.
5. Small Business Subcontracting Plan, included as *Attachment B* to this RFP. Offeror shall provide a Small Business Subcontracting plan which summarizes the planned utilization of Department of Small Business and Supplier Diversity (SBSD)-certified small businesses which include businesses owned by women and minorities, when they have received Department of Small Business and Supplier Diversity (SBSD) small business certification, under the contract to be awarded as a result of this solicitation. This is a requirement for all prime contracts in excess of \$100,000 unless no subcontracting opportunities exist.
6. Identify the amount of sales your company had during the last twelve months with each VASCUPP Member Institution. A list of VASCUPP Members can be found at: [www.VASCUPP.org](http://www.VASCUPP.org).
7. Proposed Cost. See Section X. Pricing Schedule of this Request for Proposal.
8. Sign and return the JMU IT Services Addendum, included as *Attachment D* to this RFP, which shall be included as part of a resulting contract and govern in the event of conflict with all Contractor's license agreements, privacy policies, forms, etc.
9. Sign and return the Commonwealth of Virginia Agency Contract Form Addendum to Contractor's Form, included as *Attachment E* to this RFP, which shall be included as part of a resulting contract and shall govern in the event of conflict with all Contractor's license agreements, forms, etc.
10. Completed Higher Education Cloud Assessment Tool (HECVAT), included as *Attachment F* to this RFP. **The HECVAT should be returned as an Excel file on a CD or flash drive (reference Section V.A.1.b.).**

## VI. EVALUATION AND AWARD CRITERIA

### A. EVALUATION CRITERIA

Proposals shall be evaluated by James Madison University using the following criteria:

	<u>Points</u>
1. Quality of products/services offered and suitability for intended purposes	25
2. Qualifications and experience of Offeror in providing the goods/services	25
3. Specific plans or methodology to be used to perform the services	20

4. Participation of Small, Women-Owned, & Minority (SWaM) Businesses	10
5. Cost	20
	100

- B. AWARD TO MULTIPLE OFFERORS:** Selection shall be made of two or more offerors deemed to be fully qualified and best suited among those submitting proposals on the basis of the evaluation factors included in the Request for Proposals, including price, if so stated in the Request for Proposals. Negotiations shall be conducted with the offerors so selected. Price shall be considered, but need not be the sole determining factor. After negotiations have been conducted with each offeror so selected, the agency shall select the offeror which, in its opinion, has made the best proposal, and shall award the contract to that offeror. The Commonwealth reserves the right to make multiple awards as a result of this solicitation. The Commonwealth may cancel this Request for Proposals or reject proposals at any time prior to an award, and is not required to furnish a statement of the reasons why a particular proposal was not deemed to be the most advantageous. Should the Commonwealth determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror. The award document will be a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the contractor’s proposal as negotiated.

## **VII. GENERAL TERMS AND CONDITIONS**

- A. **PURCHASING MANUAL:** This solicitation is subject to the provisions of the Commonwealth of Virginia’s Purchasing Manual for Institutions of Higher Education and Their Vendors and any revisions thereto, which are hereby incorporated into this contract in their entirety. A copy of the manual is available for review at the purchasing office. In addition, the manual may be accessed electronically at <http://www.jmu.edu/procurement> or a copy can be obtained by calling Procurement Services at (540) 568-3145.
- 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 Contractor shall comply with applicable federal, state and local laws and regulations.
- C. **ANTI-DISCRIMINATION:** By submitting their proposals, offerors certify to the Commonwealth that 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, the Americans With Disabilities Act and §10 of the Rules Governing Procurement, Chapter 2, Exhibit J, Attachment 1 (available for review at <http://www.jmu.edu/procurement>). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's 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. (*§6 of the Rules Governing Procurement*).

In every contract over \$10,000 the provisions in 1. and 2. below apply:

1. During the performance of this contract, the contractor agrees as follows:
    - a. The contractor will 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
    - b. The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
    - c. Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting these requirements.
  2. The contractor will include the provisions of 1. Above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- D. ETHICS IN PUBLIC CONTRACTING: By submitting their proposals, offerors certify that 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.
- E. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- F. DEBARMENT STATUS: By submitting their proposals, offerors certify that 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.
- G. ANTITRUST: By entering into a contract, the contractor 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.
- H. MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS RFPs: Failure to submit a proposal on the official state form provided for that purpose may be a cause for rejection of the proposal. Modification of or additions to the General Terms and Conditions of the solicitation may be cause for rejection of the proposal; however, the Commonwealth

reserves the right to decide, on a case by case basis, in its sole discretion, whether to reject such a proposal.

I. CLARIFICATION OF TERMS: If any prospective offeror has questions about the specifications or other solicitation documents, the prospective offeror should contact the buyer whose name appears on the face of the solicitation no later than five working days before the due date. Any revisions to the solicitation will be made only by addendum issued by the buyer.

J. PAYMENT:

1. To Prime Contractor:

- a. Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- b. 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.
- c. All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- d. The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- 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 Commonwealth 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 an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Rules Governing Procurement, Chapter 2, Exhibit J, Attachment 1 § 53; available for review at <http://www.jmu.edu/procurement>*).

2. To Subcontractors:

- a. A contractor awarded a contract under this solicitation is hereby obligated:

- (1) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
    - (2) To notify the agency and the subcontractors, in writing, of the contractor's intention to withhold payment and the reason.
  - b. The contractor is obligated 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 Commonwealth, 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 Commonwealth.
  3. Each prime contractor who wins an award in which provision of a SWAM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, 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 institution, or other appropriate penalties may be assessed in lieu of withholding such payment.
  4. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.
- K. PRECEDENCE OF TERMS: Paragraphs A through J of these General Terms and Conditions and the Commonwealth of Virginia Purchasing Manual for Institutions of Higher Education and their Vendors, shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.
- L. QUALIFICATIONS OF OFFERORS: The Commonwealth 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 Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect offeror's physical facilities prior to award to satisfy questions regarding the offeror's capabilities. The Commonwealth further reserves the right to reject any proposal if the evidence submitted by, or investigations of, such offeror fails to satisfy the Commonwealth 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.
- M. TESTING AND INSPECTION: The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.
- N. ASSIGNMENT OF CONTRACT: A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.
- O. CHANGES TO THE CONTRACT: Changes can 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 Purchasing Agency may order changes 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 Purchasing Agency 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 Purchasing Agency'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 Purchasing Agency with all vouchers and records of expenses incurred and savings realized. The Purchasing Agency 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 Purchasing Agency within thirty (30) days from the date of receipt of the written order from the Purchasing Agency. 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 Institutions of Higher Education and their Vendors. 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 Purchasing Agency or with the performance of the contract generally.
- P. DEFAULT: In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, 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 Commonwealth may have.
- Q. 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 § 25 of the Rules Governing Procurement – Chapter 2, Exhibit J, Attachment 1, and 65.2-800 et. Seq. of the Code of Virginia (available for review at <http://www.jmu.edu/procurement>) The offeror further certifies that the contractor and any subcontractors will maintain these insurance coverage during the entire term of the contract and that all insurance coverage 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 requirement 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 and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
  4. Automobile Liability: \$1,000,000 combined single limit. *(Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Contractor must assure that the required coverage is maintained by the Contractor (or third party owner of such motor vehicle.)*
- R. ANNOUNCEMENT OF AWARD: Upon the award or the announcement of the decision to award a contract over \$100,000, as a result of this solicitation, the purchasing agency will publicly post such notice on the DGS/DPS eVA web site ([www.eva.virginia.gov](http://www.eva.virginia.gov)) for a minimum of 10 days.
- S. DRUG-FREE WORKPLACE: During the performance of this 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 vendor.
- 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.
- T. NONDISCRIMINATION OF CONTRACTORS: An offeror, or contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies

for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

- U. eVA BUSINESS TO GOVERNMENT VENDOR REGISTRATION, CONTRACTS, AND ORDERS: 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 vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet eprocurement solution by completing the free eVA Vendor Registration. All offerors must register in eVA and pay the Vendor Transaction Fees specified below; failure to register will result in the proposal being rejected. Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

1. For orders issued July 1, 2014 and after, the Vendor Transaction Fee is:
  - a. Department of Small Business and Supplier Diversity (SBSD) certified Small Businesses: 1% capped at \$500 per order.
  - b. Businesses that are not Department of Small Business and Supplier Diversity (SBSD) certified Small Businesses: 1% capped at \$1,500 per order.
2. For orders issued prior to July 1, 2014 the vendor transaction fees can be found at [www.eVA.virginia.gov](http://www.eVA.virginia.gov).
3. The specified vendor transaction fee will be invoiced by the Commonwealth of Virginia Department of General Services approximately 60 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

- V. AVAILABILITY OF FUNDS: It is understood and agreed between the parties herein that the Commonwealth of Virginia shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.

- W. PRICING CURRENCY: Unless stated otherwise in the solicitation, offerors shall state offered prices in U.S. dollars.

- X. E-VERIFY REQUIREMENT OF ANY CONTRACTOR: Any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with James Madison University to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to any awarded contract.

## VIII. SPECIAL TERMS AND CONDITIONS

- A. AUDIT: The Contractor hereby agrees to retain all books, records, systems, and other documents relative to this contract for five (5) years after final payment, or until audited by the Commonwealth of Virginia, whichever is sooner. The Commonwealth of Virginia, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.
- B. CANCELLATION OF CONTRACT: James Madison University reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, upon 60 days written notice to the contractor. In the event the initial contract period is for more than 12 months, the resulting contract may be terminated by either party, without penalty, after the initial 12 months of the contract period upon 60 days written notice to the other party. Any contract cancellation notice shall not relieve the contractor of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.
- C. IDENTIFICATION OF PROPOSAL ENVELOPE: The signed proposal should be returned in a separate envelope or package, sealed and identified as follows:

From: \_\_\_\_\_

Name of Offeror	Due Date	Time
Street or Box No.	RFP #	
City, State, Zip Code	RFP Title	
Name of Purchasing Officer: _____		

The envelope should be addressed as directed on the title page of the solicitation.

The Offeror takes the risk that if the envelope is not marked as described above, it may be inadvertently opened and the information compromised, which may cause the proposal to be disqualified. 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.

- D. LATE PROPOSALS: To be considered for selection, proposals must be received by the issuing office by the designated date and hour. The official time used in the receipt of proposals is that time on the automatic time stamp machine in the issuing office. Proposals received in the issuing office after the date and hour designated are automatically non responsive and will not be considered. The University is not responsible for delays in the delivery of mail by the U.S. Postal Service, private couriers, or the intra university mail system. It is the sole responsibility of the Offeror to ensure that its proposal reaches the issuing office by the designated date and hour.
- E. UNDERSTANDING OF REQUIREMENTS: It is the responsibility of each offeror to inquire about and clarify any requirements of this solicitation that is not understood. The University will not be bound by oral explanations as to the meaning of specifications or language contained in this solicitation. Therefore, all inquiries deemed to be substantive in nature must be in writing and submitted to the responsible buyer in the Procurement Services Office. Offerors must ensure that written inquiries reach the buyer at least five (5) days prior to the time set for receipt of offerors proposals. A copy of all queries and the respective response will be provided in the form of an addendum to all offerors who have indicated an interest in responding to this solicitation. Your signature on your Offer certifies that you fully understand all facets of this solicitation. These questions may be sent by Fax to 540/568-7935.

- F. RENEWAL OF CONTRACT: This contract may be renewed by the Commonwealth for a period of nine (4) successive one year periods under the terms and conditions of the original contract except as stated in 1. and 2. below. Price increases may be negotiated only at the time of renewal. Written notice of the Commonwealth's intention to renew shall be given approximately 90 days prior to the expiration date of each contract period.
1. If the Commonwealth elects to exercise the option to renew the contract for an additional one-year period, the contract price(s) for the additional one year shall not exceed the contract price(s) of the original contract increased/decreased by no more than the percentage increase/decrease of the other services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
  2. If during any subsequent renewal periods, the Commonwealth 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 increased/decreased by more than the percentage increase/decrease of the other services category of the CPI-W section of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.
- G. SUBMISSION OF INVOICES: All invoices shall be submitted within sixty days of contract term expiration for the initial contract period as well as for each subsequent contract renewal period. Any invoices submitted after the sixty day period will not be processed for payment.
- H. OPERATING VEHICLES ON JAMES MADISON UNIVERSITY CAMPUS: Operating vehicles on sidewalks, plazas, and areas heavily used by pedestrians is prohibited. In the unlikely event a driver should find it necessary to drive on James Madison University sidewalks, plazas, and areas heavily used by pedestrians, the driver must yield to pedestrians. For a complete list of parking regulations, please go to [www.jmu.edu/parking](http://www.jmu.edu/parking); or to acquire a service representative parking permit, contact Parking Services at 540.568.3300. The safety of our students, faculty and staff is of paramount importance to us. Accordingly, violators may be charged.
- I. COOPERATIVE PURCHASING / USE OF AGREEMENT BY THIRD PARTIES: It is the intent of this solicitation and resulting contract(s) to allow for cooperative procurement. Accordingly, any public body, (to include government/state agencies, political subdivisions, etc.), cooperative purchasing organizations, public or private health or educational institutions or any University related foundation and affiliated corporations may access any resulting contract if authorized by the Contractor.

Participation in this cooperative procurement is strictly voluntary. If authorized by the Contractor(s), the resultant contract(s) will be extended to the entities indicated above to purchase goods and services in accordance with contract terms. As a separate contractual relationship, the participating entity will place its own orders directly with the Contractor(s) and shall fully and independently administer its use of the contract(s) to include contractual disputes, invoicing and payments without direct administration from the University. No modification of this contract or execution of a separate agreement is required to participate; however, the participating entity and the Contractor may modify the terms and conditions of this contract to accommodate specific governing laws, regulations, policies, and business goals required by the participating entity. Any such modification will apply solely between the participating entity and the Contractor.

The Contractor will notify the University in writing of any such entities accessing this contract. The Contractor will provide semi-annual usage reports for all entities accessing the contract. The 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 to extend the contract. It is understood and agreed that the University is not responsible for the acts or omissions of any entity and will not be considered in default of the contract no matter the circumstances.

Use of this contract(s) does not preclude any participating entity from using other contracts or competitive processes as needed.

J. SMALL BUSINESS SUBCONTRACTING AND EVIDENCE OF COMPLIANCE:

1. It is the goal of the Commonwealth that 42% of its purchases are made from small businesses. This includes discretionary spending in prime contracts and subcontracts. All potential offerors are required to submit a Small Business Subcontracting Plan. Unless the offeror is registered as a Department of Small Business and Supplier Diversity (SBSD)-certified small business and where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to SBSD-certified small businesses. This shall not exclude SBSD-certified women-owned and minority-owned businesses when they have received SBSD small business certification. No offeror or subcontractor shall be considered a Small Business, a Women-Owned Business or a Minority-Owned Business unless certified as such by the Department of Small Business and Supplier Diversity (SBSD) by the due date for receipt of proposals. If small business subcontractors are used, the prime contractor agrees to report the use of small business subcontractors by providing the purchasing office at a minimum the following information: name of small business with the SBSD certification number or FEIN, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product/service provided. **This information shall be submitted to: JMU Office of Procurement Services, Attn: SWAM Subcontracting Compliance, MSC 5720, Harrisonburg, VA 22807.**
2. Each prime contractor who wins an award in which provision of a small business subcontracting plan is a condition of the award, shall deliver to the contracting agency or institution with every request for payment, evidence of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the small business subcontracting plan. **This information shall be submitted to: JMU Office of Procurement Services, SWAM Subcontracting Compliance, MSC 5720, Harrisonburg, VA 22807.** When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm with the Department of Small Business and Supplier Diversity (SBSD) certification number or FEIN number, phone number, total dollar amount subcontracted, category type (small, women-owned, or minority-owned), and type of product or service provided. Payment(s) may be withheld until compliance with the plan is received and confirmed by the agency or institution. The agency or institution reserves the right to pursue other appropriate remedies to include, but not be limited to, termination for default.
3. Each prime contractor who wins an award valued over \$200,000 shall deliver to the contracting agency or institution with every request for payment, information on use of subcontractors that are not Department of Small Business and Supplier Diversity (SBSD)-certified small businesses. When such business has been subcontracted to these firms and upon completion of the contract, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm, phone number, FEIN number, total

dollar amount subcontracted, and type of product or service provided. **This information shall be submitted to: JMU Office of Procurement Services, Attn: SWAM Subcontracting Compliance, MSC 5720, Harrisonburg, VA 22807.**

- K. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH: A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described above that enters into a contract with a public body shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.
- L. PUBLIC POSTING OF COOPERATIVE CONTRACTS: James Madison University maintains a web-based contracts database with a public gateway access. Any resulting cooperative contract/s to this solicitation will be posted to the publicly accessible website. Contents identified as proprietary information will not be made public.
- M. CRIMINAL BACKGROUND CHECKS OF PERSONNEL ASSIGNED BY CONTRACTOR TO PERFORM WORK ON JMU PROPERTY: The Contractor shall obtain criminal background checks on all of their contracted employees who will be assigned to perform services on James Madison University property. The results of the background checks will be directed solely to the Contractor. The Contractor bears responsibility for confirming to the University contract administrator that the background checks have been completed prior to work being performed by their employees or subcontractors. The Contractor shall only assign to work on the University campus those individuals whom it deems qualified and permissible based on the results of completed background checks. Notwithstanding any other provision herein, and to ensure the safety of students, faculty, staff and facilities, James Madison University reserves the right to approve or disapprove any contract employee that will work on JMU property. Disapproval by the University will solely apply to JMU property and should have no bearing on the Contractor's employment of an individual outside of James Madison University.
- N. INDEMNIFICATION: Contractor agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, 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 using agency or to failure of the using agency 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. ADDITIONAL GOODS AND SERVICES: The University may acquire other goods or services that the supplier provides than those specifically solicited. The University reserves the right, subject to mutual agreement, for the Contractor to provide additional goods and/or services under the same pricing, terms, and conditions and to make modifications or enhancements to the existing goods and services. Such additional goods and services may include other products, components, accessories, subsystems, or related services that are newly introduced during the term of this Agreement. Such additional goods and services will be provided to the University at favored nations pricing, terms, and conditions.

- P. ADVERTISING: In the event a contract is awarded for supplies, equipment, or services resulting from this proposal, no indication of such sales or services to James Madison University will be used in product literature or advertising without the express written consent of the University. The contractor shall not state in any of its advertising or product literature that James Madison University has purchased or uses any of its products or services, and the contractor shall not include James Madison University in any client list in advertising and promotional materials without the express written consent of the University.
- Q. CONFIDENTIALITY OF PERSONALLY IDENTIFIABLE INFORMATION: The contractor assures that information and data obtained as to personal facts and circumstances related to faculty, staff, students, and affiliates will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the individual's and the agency's written consent and only in accordance with federal law or the Code of Virginia. This shall include FTI, which is a term of art and consists of federal tax returns and return information (and information derived from it) that is in contractor/agency possession or control which is covered by the confidentiality protections of the Internal Revenue Code (IRC) and subject to the IRC 6103(p)(4) safeguarding requirements including IRS oversight. FTI is categorized as sensitive but unclassified information and may contain personally identifiable information (PII). Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Contractors shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.
- R. 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 in operability. The period of in operability shall commence upon initial notification. In the event the equipment or software remains inoperable for more than two (2) consecutive calendar days, the contractor shall promptly replace the equipment or software at no charge upon request of the procuring agency. Such replacement shall be with new, unused product(s) of comparable quality, and must be installed and operational within two (2) days following the request for replacement.
- S. 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.
- T. RENEWAL OF MAINTENANCE: Maintenance of the hardware or software specified in the resultant contract may be renewed by the mutual written agreement of both parties for additional one-year periods, under the terms and conditions of the original contract except as noted herein. Price changes may be negotiated at time of renewal; however, in no case shall the maintenance costs for a succeeding one-year period exceed the prior year's contract price(s), increased or decreased by more than the percentage increase or decrease in the other services category of the CPI-W section of the US Bureau of Labor Statistics Consumer Price Index, for the latest twelve months for which statistics are available.
- U. SOURCE CODE: In the event the contractor ceases to maintain experienced staff and the resources needed to provide required software maintenance, the Commonwealth 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 Commonwealth shall have exclusive right to possess all physical embodiments of such contractor owned materials. The rights of the Commonwealth

in this respect shall survive for a period of twenty 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.

- V. 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 Commonwealth 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 Commonwealth 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.
  
- W. THIRD PARTY ACQUISITION OF SOFTWARE: The contractor shall notify the procuring agency 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 Commonwealth's benefit and deliver thereto, the assignee's agreement to fully honor the terms of the contract.
  
- X. TITLE TO SOFTWARE: By submitting a bid or proposal, the bidder or 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.
  
- Y. 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.
  
- Z. NONVISUAL ACCESS TO TECHNOLOGY: All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any State agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this Agreement:
  - (i) effective, interactive control and use of the Technology shall be readily achievable by nonvisual means;
  - (ii) 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;
  - (iii) nonvisual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and
  - (iv) 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.

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.

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.

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.

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*.

All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any Commonwealth agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with Section 508 of the Rehabilitation Act (29 U.S.C. 794d), as amended. If requested, the Contractor must provide a detailed explanation of how compliance with Section 508 of the Rehabilitation Act is achieved and a validation of concept demonstration. (<http://www.section508.gov/>). The requirements of this Paragraph along with the Non-Visual Access to Technology Clause 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*.

## **IX. METHOD OF PAYMENT**

The contractor will be paid on the basis of invoices submitted in accordance with the solicitation and any negotiations. James Madison University recognizes the importance of expediting the payment process for our vendors and suppliers. We are asking our vendors and suppliers to enroll in the Wells Fargo Bank single use Commercial Card Number process or electronic deposit (ACH) to your bank account so that future payments are made electronically. Contractors signed up for the Wells Fargo Bank single use Commercial Card Number process will receive the benefit of being paid in Net 15 days. Additional information is available online at:

<http://www.jmu.edu/financeoffice/accounting-operations-disbursements/cash-investments/vendor-payment-methods.shtml>

## **X. PRICING SCHEDULE**

The offeror shall provide pricing for all products and services included in proposal indicating one-time and on-going costs. The resulting contract will be cooperative and pricing shall be inclusive for other state agencies.

Providing pricing for items requested in I.V. Statement of Needs, including but not limited to potential costs listed below:

- A. Athlete Monitor Systems to include all capabilities and solutions
- B. Charging Stations
- C. Software

- D. Support and set up
- E. Customization and Configuration Cost
- F. Ongoing Maintenance and Support
- G. Initial and Ongoing Training
- H. All Other Cost (including optional costs)

Specify any associated charge card processing fees, if applicable, to be billed to the university. Vendors shall provide their VISA registration number when indicating charge card processing fees. Any vendor requiring information on VISA registration may refer to <https://usa.visa.com/support/small-business/regulations-fees.html> and for questions <https://usa.visa.com/dam/VCOM/global/support-legal/documents/merchant-surcharging-qa-for-web.pdf>.

## **XI. ATTACHMENTS**

Attachment A: Offeror Data Sheet

Attachment B: Small, Women, and Minority-owned Business (SWaM) Utilization Plan

Attachment C: Standard Contract Sample

Attachment D: Information Technology Services Addendum (*All Offerors are required to complete*)

Attachment E: Commonwealth of Virginia Agency Contract Form Addendum to Contractor's Form (*All Offerors are required to complete*)

Attachment F: Higher Education Cloud Assessment Tool (HECVAT) - attached as a separate Excel spreadsheet (*All Offerors are required to complete*)

ATTACHMENT A

OFFEROR DATA SHEET

TO BE COMPLETED BY OFFEROR

1. **QUALIFICATIONS OF OFFEROR:** Offerors must have the capability and capacity in all respects to fully satisfy the contractual requirements.
2. **YEARS IN BUSINESS:** Indicate the length of time you have been in business providing these types of goods and services.

Years \_\_\_\_\_ Months \_\_\_\_\_

3. **REFERENCES:** Indicate below a listing of at least five (5) organizations, either commercial or governmental/educational, that your agency is servicing. Include the name and address of the person the purchasing agency has your permission to contact.

CLIENT	LENGTH OF SERVICE	ADDRESS	CONTACT PERSON/PHONE #
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4. List full names and addresses of Offeror and any branch offices which may be responsible for administering the contract.

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5. **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 2.2-3100 – 3131?

YES  NO

IF YES, EXPLAIN: \_\_\_\_\_

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## ATTACHMENT B

Small, Women and Minority-owned Businesses (SWaM) Utilization Plan

**Offeror Name:** \_\_\_\_\_ **Preparer Name:** \_\_\_\_\_

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

Is your firm a **Small Business Enterprise** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, certification number: \_\_\_\_\_ Certification date: \_\_\_\_\_

Is your firm a **Woman-owned Business Enterprise** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, certification number: \_\_\_\_\_ Certification date: \_\_\_\_\_

Is your firm a **Minority-Owned Business Enterprise** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, certification number: \_\_\_\_\_ Certification date: \_\_\_\_\_

Is your firm a **Micro Business** certified by the Department of Small Business and Supplier Diversity (SBSD)? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, certification number: \_\_\_\_\_ Certification date: \_\_\_\_\_

**Instructions:** *Populate the table below to show your firm's plans for utilization of small, women-owned and minority-owned business enterprises in the performance of the contract. Describe plans to utilize SWAMs businesses as part of joint ventures, partnerships, subcontractors, suppliers, etc.*

**Small Business:** "Small business " means a business, independently owned or operated by one or more persons who are citizens of the United States or non-citizens who are in full compliance with United States immigration law, which, together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years.

**Woman-Owned Business Enterprise:** A business concern which is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more women, and whose management and daily business operations are controlled by one or more of such individuals. **For purposes of the SWAM Program, all certified women-owned businesses are also a small business enterprise.**

**Minority-Owned Business Enterprise:** A business concern which is at least 51 percent owned by one or more minorities or in the case of a corporation, partnership or limited liability company or other entity, at least 51 percent of the equity ownership interest in which is owned by one or more minorities and whose management and daily business operations are controlled by one or more of such individuals. **For purposes of the SWAM Program, all certified minority-owned businesses are also a small business enterprise.**

**Micro Business** is a certified Small Business under the SWaM Program and has no more than twenty-five (25) employees **AND** no more than \$3 million in average annual revenue over the three-year period prior to their certification.

**All small, women, and minority owned businesses must be certified by the Commonwealth of Virginia Department of Small Business and Supplier Diversity (SBSD) to be counted in the SWAM program. Certification applications are available through SBSD at 800-223-0671 in Virginia, 804-786-6585 outside Virginia, or online at <http://www.sbsd.virginia.gov/> (Customer Service).**

***RETURN OF THIS PAGE IS REQUIRED***

**ATTACHMENT B (CNT'D)**  
**Small, Women and Minority-owned Businesses (SWaM) Utilization Plan**

Procurement Name and Number: \_\_\_\_\_

Date Form Completed: \_\_\_\_\_

Listing of Sub-Contractors, to include, Small, Woman Owned and Minority Owned Businesses  
for this Proposal and Subsequent Contract

Offeror / Proposer:

\_\_\_\_\_ Firm

\_\_\_\_\_ Address

\_\_\_\_\_ Contact Person/No.

Sub-Contractor's Name and Address	Contact Person & Phone Number	SBSD Certification Number	Services or Materials Provided	Total Subcontractor Contract Amount (to include change orders)	Total Dollars Paid Subcontractor to date (to be submitted with request for payment from JMU)

*(Form shall be submitted with proposal and if awarded, again with submission of each request for payment)*

***RETURN OF THIS PAGE IS REQUIRED***

ATTACHMENT C



COMMONWEALTH OF VIRGINIA  
STANDARD CONTRACT

Contract No. \_\_\_\_\_

This contract entered into this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, by \_\_\_\_\_ hereinafter called the "Contractor" and Commonwealth of Virginia, James Madison University called the "Purchasing Agency".

WITNESSETH that the Contractor and the Purchasing Agency, in consideration of the mutual covenants, promises and agreements herein contained, agree as follows:

SCOPE OF CONTRACT: The Contractor shall provide the services to the Purchasing Agency as set forth in the Contract Documents.

PERIOD OF PERFORMANCE: From \_\_\_\_\_ through \_\_\_\_\_

The contract documents shall consist of:

- (1) This signed form;
- (2) The following portions of the Request for Proposals dated \_\_\_\_\_:
  - (a) The Statement of Needs,
  - (b) The General Terms and Conditions,
  - (c) The Special Terms and Conditions together with any negotiated modifications of those Special Conditions;
  - (d) List each addendum that may be issued
- (3) The Contractor's Proposal dated \_\_\_\_\_ and the following negotiated modification to the Proposal, all of which documents are incorporated herein.
  - (a) Negotiations summary dated \_\_\_\_\_.

IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

CONTRACTOR:

PURCHASING AGENCY:

By: \_\_\_\_\_  
(Signature)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Name)

Title: \_\_\_\_\_

Title: \_\_\_\_\_

# ATTACHMENT D

## James Madison University

### Information Technology Services Addendum

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

PRODUCT/SOLUTION: \_\_\_\_\_

#### Definitions:

- **Agreement:** The “Agreement” includes the contract, this addendum and any additional addenda and attachments to the contract, including the Contractor’s Form.
- **University:** “University” or “the University” means James Madison University, its trustees, officers and employees.
- **University Data:** “University Data” is defined as any data that the Contractor creates, obtains, accesses, transmits, maintains, uses, processes, stores or disposes of in performance of the Agreement. It includes all Personally Identifiable Information and other information that is not intentionally made generally available by the University on public websites.
- **Personally Identifiable Information:** “Personally Identifiable Information” (PII) includes but is not limited to: Any information that directly relates to an individual and is reasonably likely to enable identification of that individual or information that is defined as PII and subject to protection by James Madison University under federal or Commonwealth of Virginia law.
- **Security Breach:** “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.
- **Service(s):** “Service” or “Services” means any goods or services acquired by the University from the Contractor.

1. **Rights and License in and to University Data:** The parties agree that as between them, all rights including all intellectual property rights in and to University Data shall remain the exclusive property of the University, and Contractor has a limited, nonexclusive license to use the data as provided in the Agreement solely for the purpose of performing its obligations hereunder. The Agreement does not give a party any rights, implied or otherwise, to the other’s data, content, or intellectual property.
2. **Disclosure:** All goods, products, materials, documents, reports, writings, video images, photographs, or papers of any nature including software or computer images prepared or provided to 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.
3. **Data Privacy:**
  - a. Contractor will use University Data only for the purpose of fulfilling its duties under the Agreement 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 law.
  - b. University Data will not be stored outside the United States without prior written consent from the University.
  - c. Contractor will provide access to University Data only to its employees and subcontractors who need to access the data to fulfill obligations under the Agreement. The Contractor will ensure that the Contractor’s employees, and subcontractors when applicable, who perform work under the Agreement have received appropriate

instruction as to how to comply with the data protection provisions of the Agreement and have agreed to confidentiality obligations at least as restrictive as those contained in this Addendum.

- i. If the Contractor will have access to the records protected by the Family Educational Rights and Privacy Act (FERPA), Contractor acknowledges that for the purposes of the Agreement it will be designated as a “school official” with “legitimate educational interests” in such records, as those terms have been defined under FERPA and its implementing regulations, and Contractor agrees to abide by the limitations and requirements imposed on school officials. Contractor will use such records only for the purpose of fulfilling its duties under the Agreement for University’s and its End Users’ benefit, and will not share such data with or disclose it to any third party except as required by law or authorized in writing by the University. Contractor acknowledges that its access to such records is limited to only those directly related to and necessary for the completion of Contractor’s duties under the Agreement.
- d. The Contractor shall be responsible and liable for the acts and omissions of its subcontractors, including but not limited to third-party cloud hosting providers, and shall assure compliance with the requirements of the Agreement.

**4. Data Security:**

- a. 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 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.
- b. Contractor will store and process University Data in a secure site and will provide a SOC 2 or other security report deemed sufficient by the University from a third party reviewer along with annual updated security reports. If the Contractor is using a third-party cloud hosting company such as AWS, Rackspace, etc., the Contractor will obtain the security audit report from its hosting company and give the results to the University. The University should not have to request the report directly from the hosting company.
- c. Contractor will use industry-standards and up-to-date security tools, technologies and practices such as network firewalls, anti-virus, vulnerability scans, system logging, intrusion detection, 24x7 system monitoring, and third-party penetration testing in providing services under the Agreement.
- d. Without limiting the foregoing, Contractor warrants that all electronic University Data will be encrypted in transmission (including via web interface) and stored at AES 256 or stronger.

**5. Data Authenticity, Integrity and Availability:**

- a. Contractor will take reasonable measures, including audit trails, to protect University Data against deterioration or degradation of data quality and authenticity. Contractor 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 records as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.”
- b. Contractor will ensure backups are successfully completed at the agreed interval and that restoration capability is maintained for restoration to a point-in-time and/or to the most current backup available.
- c. Contractor 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, excluding regularly scheduled maintenance time.

**6. Employee Background Checks and Qualifications:**

- a. Contractor shall ensure that its employees have undergone appropriate background screening and possess all needed qualifications to comply with the terms of the Agreement including but not limited to all terms relating to data and intellectual property protection.
- b. If the Contractor must under this agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of University Data known as Personally Identifiable Information or financial or business data, the Contractor shall perform the following background checks on all employees who have potential to access such data in accordance with the Fair Credit Reporting Act: Social Security Number trace; seven (7) year felony and misdemeanor criminal records check of federal, state, or local records (as applicable) for job related crimes; Office of Foreign Assets Control List (OFAC) check; Bureau of Industry and Security List (BIS) check; and Office of Defense Trade Controls Debarred Persons List (DDTC).

**7. Security Breach:**

- a. Response: Immediately (within one day) upon becoming aware of a Security Breach, or of circumstances that could have resulted in unauthorized access to or disclosure or use of University Data, Contractor will notify the University, fully investigate the incident, and cooperate fully with the University's investigation of and response to the incident. Except as otherwise required by law, 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.
- b. Liability:
  - i. If Contractor must under this agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of University Data known as Personally Identifiable Information, the following provisions apply. In addition to any other remedies available to the University under law or equity, Contractor will reimburse the University in full for all costs incurred by the University in investigation and remediation of any Security Breach caused by 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.
  - ii. If Contractor will NOT under this agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of University Data known as Personally Identifiable Information, the following provisions apply. In addition to any other remedies available to the University under law or equity, Contractor will reimburse the University in full for all costs reasonably incurred by the University in investigation and remediation of any Security Breach caused by Contractor.

**8. Requests for Data, Response to Legal Orders or Demands for Data:**

- a. Except as otherwise expressly prohibited by law, Contractor will:
  - i. immediately notify the University of any subpoenas, warrants, or other legal orders, demands or requests received by Contractor seeking University Data;
  - ii. consult with the University regarding its response;

- iii. 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
- iv. Upon the University's request, provide the University with a copy of its response.
- b. Contractor will make itself and any employees, contractors, or agents assisting in the performance of its obligations under the Agreement, available to the University at no cost to the University based upon claimed violation of any laws relating to security and/or privacy of the data that arises out of the Agreement. This shall include any data preservation or eDiscovery required by the University.
- c. The University may request and obtain access to University Data and related logs at any time for any reason and at no extra cost.

**9. Data Transfer Upon Termination or Expiration:**

- a. Contractor's obligations to protect University Data shall survive termination of the Agreement until all University Data has been returned or securely destroyed, meaning taking actions that render data written on media unrecoverable by both ordinary and extraordinary means.
- b. Upon termination or expiration of the Agreement, Contractor will ensure that all University Data are securely transferred, returned or destroyed as directed by the University in its sole discretion within 60 days of termination of the Agreement. Transfer/migration to the University or a third party designated by the University shall occur without significant interruption in service. Contractor shall ensure that such transfer/migration uses facilities, methods, and data formats that are accessible and 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.
- c. In the event that the University requests destruction of its data, Contractor agrees to securely destroy all data in its possession and in the possession of any subcontractors or agents to which Contractor might have transferred University data. Contractor agrees to provide documentation of data destruction to the University.
- d. 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 Contractor's facilities to remove and destroy University-owned assets and data. 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, as applicable, 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. Contractor will work closely with its successor to ensure a successful transition to the new service, with minimal downtime and effect on the University, all such work to be coordinated and performed in advance of the formal, final transition date.

**10. Audits:**

- a. The University reserves the right in its sole discretion to perform audits of the Contractor to ensure compliance with the terms of the Agreement. Contractor shall reasonably cooperate in the performance of such audits. This provision applies to all agreements under which Contractor must create, obtain, transmit, use, maintain, process, or dispose of University Data.
- b. If Contractor must under the Agreement create, obtain, transmit, use, maintain, process, or dispose of the subset of University Data known as Personally Identifiable Information or financial or business data, Contractor will at its expense conduct or have conducted at least annually a(n):

- i. American Institute of CPAs Service Organization Controls 2 (SOC 2) audit, or other independent security audit with audit objectives deemed sufficient by the University, which attests to Contractor's security policies, procedures, and controls. Contractor shall also submit such documentation for any third-party cloud hosting provider(s) they may use (e.g. AWS, Rackspace, Azure, etc.) and for all subservice providers or business partners relevant to the Agreement. Contractor shall also provide James Madison University with a designated point of contact for the SOC reports and risks related to the contract. This person shall address issues raised in the SOC reports of the Contractor and its relevant providers and partners, and respond to any follow up questions posed by the University in relation to technology systems, infrastructure, or information security concerns related to the contract.
  - ii. vulnerability scan of Contractor's electronic systems and facilities that are used in any way to deliver electronic services under the Agreement; and
  - iii. formal penetration test performed by qualified personnel of Contractor's electronic systems and facilities that are used in any way to deliver electronic services under the Agreement.
- c. Additionally, 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 the Agreement. 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.

11. **Compliance:**

- a. Contractor will comply with all applicable laws and industry standards in performing services under the Agreement. 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 Contractor upon request.
- b. To the extent applicable to the design and intended use of the service, 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 Contractor, including but not limited to: the Family Educational Rights and Privacy Act (FERPA), Health Insurance Portability and Accountability Act (HIPAA), 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), Federal Export Administration Regulations, and Defense Federal Acquisitions Regulations.

12. **No End User Agreements:** Any agreements or understandings, whether electronic, click through, verbal or in writing, between Contractor and University employees or other end users under the Agreement that conflict with the terms of the Agreement, including but not limited to this Addendum, shall not be valid or binding on the University or any such end users.

IN WITNESS WHEREOF, the parties have caused this addendum to be duly executed, intending thereby to be legally bound. In the event of conflict or inconsistency between terms of the Agreement and this Addendum, the terms of this Addendum shall prevail.

**JAMES MADISON UNIVERSITY**

**CONTRACTOR**

SIGNATURE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

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

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

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

REV. January 30, 2019

## ATTACHMENT E

### **COMMONWEALTH OF VIRGINIA AGENCY CONTRACT FORM ADDENDUM TO CONTRACTOR'S FORM**

AGENCY NAME: James Madison University

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

DATE: \_\_\_\_\_

The Commonwealth and the Contractor are this day entering into a contract and, for their mutual convenience, the parties are using the standard form agreement provided by the Contractor. This addendum, duly executed by the parties, is attached to and hereby made a part of the contract. In the event that the Vendor enters into terms of use agreements or other agreements of understanding with University employees and students (whether electronic, click-through, verbal, or in writing), the terms and conditions of this Agreement shall prevail.

The Contractor represents and warrants that it is a(n) // individual proprietorship // association // partnership // corporation // governmental agency or authority authorized to do in Virginia the business provided for in this contract. (Check the appropriate box.)

Notwithstanding anything in the Contractor's form to which this Addendum is attached, the payments to be made by the Commonwealth for all goods, services and other deliverables under this contract shall not exceed Purchase Order Amounts; payments will be made only upon receipt of a proper invoice, detailing the goods/services provided and submitted to James Madison University. The total cumulative liability of the Commonwealth, its officers, employees and agents in connection with this contract or in connection with any goods, services, actions or omissions relating to the contract, shall not under any circumstance exceed payment of the above maximum purchase price plus liability for an additional amount equal to such maximum purchase price. In its performance under this contract, the Contractor acts and will act as an independent contractor, and not as an agent or employee of the Commonwealth.

The Contractor's form contract is, with the exceptions noted herein, acceptable to the Commonwealth. Nonetheless, because certain standard clauses that may appear in the Contractor's form agreement cannot be accepted by the Commonwealth, and in consideration of the convenience of using that form, and this form, without the necessity of specifically negotiating a separate contract document, the parties hereto specifically agree that, notwithstanding any provisions appearing in the attached Contractor's form contract, none of the following paragraphs **1 through 18** shall have any effect or be enforceable against the Commonwealth:

- 1. Requiring the Commonwealth to maintain any type of insurance either for the Commonwealth's benefit or for the contractor's benefit;**
- 2. Renewing or extending the agreement beyond the initial term or automatically continuing the contract period from term to term;**
- 3. Requiring or stating that the terms of the attached Contractor's form agreement shall prevail over the terms of this addendum in the event of conflict;**
- 4. Requiring the Commonwealth to indemnify or to hold harmless the Contractor for any act or omission;**
- 5. Imposing interest charges contrary to that specified by the Code of Virginia, §2.2-4347 through 2.2-4354, Prompt Payment;**
- 6. Requiring the application of the law of any state other than Virginia in interpreting or enforcing the contract or requiring or permitting that any dispute under the contract be resolved in the courts of any state other than Virginia;**
- 7. Requiring any total or partial compensation or payment for lost profit or liquidated damages by the Commonwealth if the contract is terminated before its ordinary period;**

8. Requiring that the contract be "accepted" or endorsed by the home office or by any other officer subsequent to execution by an official of the Commonwealth before the contract is considered in effect;
9. Delaying the acceptance of this contract or its effective date beyond the date of execution;
10. Limiting or adding to the time period within which claims can be made or actions can be brought;
11. Limiting the liability of the Contractor for property damage or personal injury. The parties agree that this clause does not extend the Contractor's liability beyond its own acts or those of its agents/employees;
12. Permitting unilateral modification of this contract by the Contractor;
13. Binding the Commonwealth to any arbitration or to the decision of any arbitration board, commission, panel or other entity;
14. Obligating the Commonwealth to pay costs of collection or attorney's fees;
15. Granting the Contractor a security interest in property of the Commonwealth;
16. Bestowing any right or incurring any obligation that is beyond the duly granted authority of the undersigned agency representative to bestow or incur on behalf of the Commonwealth.
17. Requiring the "confidentiality" of the agreement, in whole or part, without (i) invoking the protection of Section 2.2-4342F of the Code of Virginia in writing prior to signing the agreement (ii) identifying the data or other materials to be protected, and (iii) stating the reasons why protection is necessary.
18. Requiring the Commonwealth to reimburse for travel and living expenses in excess of the agency policy located at <https://www.jmu.edu/financemanual/procedures/4215mie.shtml>

This contract may be renewed annually by the Commonwealth after the expiration of the initial term under the terms and conditions of the original contract except as noted herein. If the Commonwealth elects to exercise the option to renew the contract for an additional renewal period, the contract price(s) for the succeeding renewal period shall not exceed the contract price(s) of the previous contract term increased/decreased by no more than the percentage increase/decrease of the "Other Services" category of the CPI-W of the Consumer Price Index of the United States Bureau of Labor Statistics for the latest twelve months for which statistics are available.

This Agency contract consisting of this Agency addendum and the attached Contractor's form contract constitute the entire agreement between the parties and may not be waived or modified except by written agreement between the parties.

This contract has been reviewed by staff of the agency. Its substantive terms are appropriate to the needs of the agency and sufficient funds have been allocated for its performance by the agency. This contract is subject to appropriations by the Virginia General Assembly.

IN WITNESS WHEREOF, the parties have caused this contract to be duly executed, intending thereby to be legally bound.

AGENCY by \_\_\_\_\_

CONTRACTOR by \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Printed Name \_\_\_\_\_

Printed Name \_\_\_\_\_