



# RAILROAD COMMISSION OF TEXAS

## REQUEST FOR PROPOSALS No. 455-20-1018

### DEBT COLLECTION SERVICES

**Sole Point of Contact:**

Cliff Calley, CTPM, CTCM

Phone: (512) 463-6736

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**Solicitation Issued**

September 23, 2020

**Proposals Due *NO LATER THAN***

3:00PM (CT) October 8, 2020

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### ATTACHMENTS TO THIS SOLICITATION:

Attachment Cover Page

Attachment 1: Statement of Work

Attachment 2: Respondent's Statements and Covenants

Attachment 3: Respondent's Qualifications Statement

Attachment 4: HUB Subcontract Plan (HSP) form

Attachment 5: HUB Subcontract Plan (HSP)

Attachment 6: Sample RRC Contract

## DEFINITIONS AND ACRONYMS

For purposes of this RFP and the Contract, the following definitions and acronyms apply:

**Addendum:** A modification to this RFP, issued by the RRC and posted to the Texas Comptroller of Public Accounts ESBD website ([www.txsmartbuy.com/esbd](http://www.txsmartbuy.com/esbd)) prior to Proposal due date.

**American Petroleum Institute (“API”):** The U.S. national trade association representing all facets of the natural gas and oil industry. API maintains more than 700 standards and recommended practices for the oil and gas industry; many of the standards and recommended practices are incorporated into state and federal regulations.

**Days:** The word “days” shall mean calendar days unless otherwise specifically noted. Business days shall mean Monday through Friday except holidays officially listed on the [State of Texas Holiday Schedule](#) or days on which RRC headquarters office is otherwise closed for business.

**Changed Conditions:** Subsurface or latent physical conditions differing materially from those indicated in the Contract, or unknown, unusual physical conditions which could not reasonably be anticipated when considering and analyzing all information provided within the Solicitation and Contract documents and information readily accessible to Respondent and available upon Respondent’s request prior to Respondent’s submission of a Proposal.

**Contract:** The written agreement, if any, executed by the authorized representative of RRC and the Vendor, that formalizes the terms, provisions, covenants, and obligations, including but not limited to those contained in this RFP, of the respective parties to the agreement.

**Effective Contract Term:** The Original Term plus any applicable Extension Term.

**Extension Term:** An extension granted by the RRC for a one-year period following the initial Original one-year Contract Term.

**FY:** Fiscal Year; RRC’s FY begins September 1 of one year and concludes August 31 of the following year.

**HUB:** Historically Underutilized Business(es) as defined within Texas Government Code Chapter 2161.

**Notice to Proceed (“NTP”):** The formal written authorization issued from RRC to Vendor, which indicates work under the Contract is authorized to commence in accordance with the terms and conditions of the Contract and on, but not sooner than, the date specified within the Notice to Proceed.

**OAG:** The Office of the Attorney General of Texas

**Original Term:** The original one-year contract term.

**Proposal:** A response submitted to RRC as a result of this RFP solicitation.

**Respondent:** An individual or entity who submits a response to this RFP.

**RFP:** Request for Proposals; this solicitation document and all exhibits, attachments, and appendices hereto and/or that are incorporated by reference as though fully set forth within, and any addenda that may be issued following issuance date of the original RFP document set.

**RRC:** The Railroad Commission of Texas, the Texas state agency responsible for issuance of this RFP.

**RRC Authorized Representative:** The individual authorized to make decisions on behalf of RRC.

**RRC Statewide Rules:** The official rules of RRC and that are found in the Texas Administrative Code (“TAC”), Title 16, Part 1, Chapters 1 through 20. The TAC and RRC Statewide Rules can be found on the Office of the Secretary of State website at <http://texreg.sos.state.tx.us/...RRC Statewide Rules>.

**Solicitation and Contract Documents:** Those documents identified as a component of the RFP, including all exhibits, attachments, and appendices thereto and/or that are incorporated by reference as though fully set forth within, and any addenda that may be issued following issuance date of the original RFP document set, and those documents identified as a component of the Contract agreement between RRC and the Respondent awarded a contract arising from the RFP.

**SOW:** Statement of Work; a document that defines project-specific activities, deliverables, and timelines of work to be delivered under a contract. Scope of Work; a section within a Statement of Work that provides detailed specifications of the goods and/or services to be provided under the agreement.

**Vendor:** The individual or entity qualified to provide the goods and/or services sought by RRC pursuant to this RFP and who is ultimately selected to carry out the requirements stipulated in this RFP and any resulting contract.

## PART I: NOTICE TO RESPONDENTS

### 1. INTRODUCTION AND BACKGROUND

Pursuant to the Texas Natural Resources Code, and the RRC rules, the RRC collects a variety of fees, reimbursements and administrative penalties from regulated entities (including individuals, businesses, and governmental entities) to fund programs administered by the RRC and to enforce federal and state environmental laws. The Office of General Counsel Legal Enforcement Section processes these debts and attempts to collect past due fees, penalties and reimbursements, through internal attempts such as Commission orders, which are referred to the OAG if the amount owed exceeds \$5,000.00, and utilization of the Comptroller's Warrant Hold program. However, these internal attempts to collect account receivables are a separate function from the collection activities of a debt collection agency.

Texas Government Code § 2107.001, defines the term "obligation" to include a debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant. An ongoing assessment of fees and penalties collected by the RRC reflects that a number of these obligations are delinquent or will be delinquent during the fiscal year billing cycle. The OAG assists in collecting delinquent obligations owed to the RRC that meet the OAG's threshold criteria for referral and suit tolerance amount of \$5,000.00, and its assessment of the delinquent obligation's collectability. However, the RRC requires outside assistance to collect delinquent accounts that do not meet the current criteria for referral to the OAG. Any delinquent obligations that do not meet the OAG's acceptance criteria for referral may be referred to the Vendor at any time during the period of the Contract. The OAG referral acceptance criteria is subject to change during the term of the Contract.

Under this Contract, payments from debtors are to be made directly to the RRC. The RRC shall compute the Vendor's compensation, which will be a percentage of the amounts collected by the RRC as a result of the Vendor's performance under the Contract.

All contracts utilizing debt collection services are subject to review by the OAG prior to award.

#### 1.1 ANNOTATIONS.

**1.1.1 PERFORMANCE PERIOD.** Any Contract resulting from this RFP shall include an Original Term of one (1) year from date of the Contract effective date ("Original Term"). At RRC's sole discretion, a Contract may be extended for an Extension Term of up to three (3) additional one-year performance periods. Extension Terms to any Contract shall be accomplished through written amendment to the original Contract, fully executed prior to expiration of the Contract, and shall incorporate all terms and conditions of the original Contract as may be amended by mutual agreement between the RRC and Vendor.

**1.1.2 MINIMUM QUALIFICATIONS.** To be eligible for consideration of contract award, Respondent must meet all minimum qualification requirements as outlined in the Solicitation and Contract Documents, including requirements stated within any part of this RFP and the Statement of Work. A Proposal must clearly demonstrate Respondent meets the following minimum qualifications:

- 1.1.2.1** Respondent possesses the equipment, staff, and all other components necessary to perform the debt collection services detailed within this solicitation.
- 1.1.2.2** Respondent shall demonstrate evidence of Respondent's performance of successful projects similar in size and scope to this Contract (as judged by RRC) and as described in the **RFQ ATTACHMENT 1** *Statement of Work*.
- 1.1.2.3** Respondent is financially solvent and adequately capitalized, as judged by the RRC.

**1.1.3 COSTS OF RESPONSE PREPARATION.** All costs associated with preparation and submission of a Response, including costs associated with submission of all required documents and all copies of all documents and all costs including travel and related activities associated with optional oral presentations, if required, are to be borne solely by the Respondent. Responses that do not meet all requirements or contain all required documentation specified in this RFP shall be rejected as non-responsive.

**1.1.4 PROTEST PROCEDURES.** Any actual or prospective Respondent who is aggrieved in connection with this Solicitation, evaluation, or award of any contract resulting from this Solicitation may formally protest as provided in RRC's rules set forth in 16 Texas Administrative Code §20.1 (see, [16TAC§20.1](#)).

## PART II: INSTRUCTIONS TO RESPONDENT

### 2. GENERAL PROPOSAL INSTRUCTIONS

**2.1.1 STRICT ADHERENCE TO SUBMISSION DEADLINE.** Proposals must be received by the Contract Management Section, Railroad Commission of Texas, Austin, Texas **NO LATER THAN** the date and time specified within this RFP, or as revised by Addenda, if any, to this RFP. **RESPONSES RECEIVED AFTER THE DEADLINE DATE AND TIME WILL NOT BE CONSIDERED.** Respondents are advised RRC headquarters is currently closed to the public until further notice. Please see section 2.2 *Proposal Delivery* below).

**2.1.2 SCHEDULE OF EVENTS.** **TABLE 1** of this RFP represents a list of critical dates applicable to this RFP. At the sole discretion of RRC, **TABLE 1** may be revised through written addendum posted to the Texas Comptroller's ESBD website no later than the Proposal due date and time. Award Date is estimated only; at the RRC's sole discretion, the award may occur at any time after due date of Proposal and completion of evaluation of Proposals received.

**TABLE 1: Schedule of Events**

Event	Date
Issuance of RFP	September 23, 2020
Deadline for Submission of Written Inquiries (no later than 3:00PM CT)	September 29, 2020
Response to Written Inquiries, if any (Addendum posted to ESBD)	October 1, 2020
Proposal Due Date (no later than 3:00PM CT)	October 8, 2020
Award Date (estimated only)	Upon Execution

**2.2 PROPOSAL DELIVERY. ANY PROPOSAL SUBMITTED BY FACSIMILE, MAIL, OR ANY OTHER POSTAL CURIER, WILL BE REJECTED.** Proposals shall be submitted to RRC in Adobe Acrobat Reader PDF digital format, by email delivery, with a subject line referencing the appropriate RRC Solicitations Number, to the email address provided in below. **RRC's Austin office is currently not open to the public, for purposes of hand delivery. Any Response submitted by hand delivery method, postal courier, or facsimile will be rejected.**

**Email Submission:**  
[Cliff.Calley@rrc.texas.gov](mailto:Cliff.Calley@rrc.texas.gov)  
RFP No. 455-20-1018  
Railroad Commission of Texas  
Contract Management Section  
Cliff Calley, Contract Manager

### 2.3 PROHIBITED COMMUNICATIONS; SOLE POINT OF CONTACT

**2.3.1** Upon issuance of this RFP, RRC, its representative(s), and partners (if any) will not answer questions or otherwise discuss the contents of this RFP with any potential Respondent or their representatives(s), except for the written inquiries submitted in accordance with section 2.4 below. Attempts to ask questions by phone or in person will not be allowed or recognized as valid. **FAILURE TO ADHERE TO THIS RESTRICTION MAY DISQUALIFY RESPONDENT AND RESPONDENT'S PROPOSAL.**

**Respondents shall rely only on written statements issued through or by RRC's Contract Management Section. This restriction does not preclude discussions between affected parties for the purposes of conducting business not related in any way to this RFP.**

**2.3.2** For information, including technical information, related to this **RFP No. 455-20-1018**, Debt Collection Services, and administration of any resulting Contract, RRC's sole Point of Contact shall be Cliff Calley, Contract Manager, whose contact information is:

Mailing Address	Email
Railroad Commission of Texas Contract Management Section Cliff Calley, Contract Manager PO Box 12967 Austin, TX 78711-2967	<a href="mailto:Cliff.Calley@rrc.texas.gov">Cliff.Calley@rrc.texas.gov</a>
Phone	
	512-463-6737

#### **2.4 Inquiries and Addenda**

**2.4.1** Respondent is solely responsible for thoroughly understanding the RFP and all attachments, exhibits, forms, and addenda, if any, issued. Should any Respondent find any ambiguity, conflict, discrepancy, exclusionary specification, omission, or other error in the RFP, or should Respondent be in doubt as to the exact meaning of information within the RFP, Respondent should immediately notify in writing via email or email with editable attachment (i.e., MS Word® document) RRC's sole point of contact for this solicitation (see RFP section 2.3.) RRC shall not be responsible for oral instructions or for misinterpretation of the Solicitation and Contract Documents.

**2.4.2** Respondents submitting inquiries must reference the relevant RFP page and section and should submit all questions by the inquiry deadline stated within **TABLE 1** of this RFP. RRC reserves the right to amend answers prior to the Proposal submission deadline, and RRC reserves the right to respond to questions received after deadline for submission of written questions. When issuing response to questions submitted, RRC shall issue Addenda posted to the Texas Comptroller's ESBD website.

**2.4.3** Addenda issued, if any, shall be posted by RRC to the Texas Comptroller's ESBD website (<http://www.txsmartbuy.com/sp>). It is the sole responsibility of Respondent to check the Texas Comptroller's ESBD website for any and all updates to the RFP. A Respondent's failure to check the Texas Comptroller's ESBD website for updates shall not release Respondent from the requirements of Addenda or additional information published within any Addenda.

#### **2.5 HISTORICALLY UNDERUTILIZED BUSINESSES REQUIREMENTS**

Pursuant to Texas Government Code Chapter 2161, state agencies are required to make a good faith effort to increase the contract awards for the purchase of goods or services the state agencies expect to make during a fiscal year to Historically Underutilized Businesses ("HUBs"). HUBs are strongly encouraged to respond to this RFP.

**2.5.1 HUB SUBCONTRACTING PLAN.** In accordance with Texas Government Code Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, Proposals, Offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. RRC has determined subcontracting opportunities are probable under a contract arising from this RFP, therefore:

**2.5.1.1 ALL RESPONDENTS, INCLUDING TEXAS CERTIFIED HUBS, MUST SUBMIT A COMPLETED HUB SUBCONTRACTING PLAN ("HSP") FORM (SEE RFP ATTACHMENT 4) WITH THE PROPOSAL FOR THE PROPOSAL TO BE CONSIDERED RESPONSIVE. A RESPONDENT'S FAILURE TO INCLUDE A COMPLETED HSP FORM WILL BE DEEMED A MATERIAL FAILURE TO COMPLY WITH THIS RFP'S REQUIREMENTS AND SHALL RESULT IN RRC'S REJECTION OF THE PROPOSAL AND RENDERING THE PROPOSAL INELIGIBLE FOR AWARD OF A CONTRACT ARISING FROM THIS RFP.**

- 2.5.1.2** RESPONDENTS MUST SUBMIT A COMPLETED HSP FORM ***ON THE HSP FORM INCLUDED AS RFP ATTACHMENT 4; NO ALTERNATE FORMS, INCLUDING ALTERNATE OR PRIOR VERSIONS OF HSP FORMS, WILL BE ACCEPTED.***
- 2.5.1.3** **Preliminary HSP Review.** A Respondent may submit a draft of Respondent's HSP for a preliminary review by RRC's HUB team. Respondents wishing to take advantage of the preliminary HSP review must submit the HSP no later than the deadline for submission of HSP for preliminary review stated within **TABLE 1** of this RFP. Respondents are strongly encouraged to utilize this opportunity for a preliminary review of the HSP. The preliminary review is not an official review of the HSP for determination of responsiveness or contract award but is a preliminary review for compliance with HSP form instructions and required Good Faith Effort.
- 2.5.2 GOOD FAITH EFFORT REQUIRED.** In accordance with 34 Texas Administrative Code §20.285(d), any person submitting a bid, Proposal, Offer, or other applicable expression of interest in obtaining a contract with the state shall submit a completed HUB subcontracting plan demonstrating evidence of a good faith effort in developing that plan. Good faith efforts shall be in full conformance with all directions for demonstration and submission specified in the HSP form (see **RFP ATTACHMENT 4**).
- 2.5.3 PROBABLE HUB SUBCONTRACTING OPPORTUNITIES.** RRC has identified potential areas of subcontracting opportunities which are listed within **TABLE 2** of this RFP. Full commodity and services descriptions may be found on the Texas Comptroller's website at: <https://comptroller.texas.gov/purchasing/nigp/>. The list is for information purposes only and is not intended as an exhaustive list of subcontracting opportunities related to this RFP. It is the sole responsibility of a Respondent to determine what, if any, subcontracting opportunities are most applicable to the Respondent's business in performance of work under a Contract arising from this RFP. Respondent is not required to include within an HSP form any or all the commodities or services listed in **TABLE 2** of this RFP. Respondents should review the HSP form (see **RFP Attachment 4**) for instructions that require identification of specific commodities or services intended for subcontracting.

**TABLE 2: POTENTIAL HUB SUBCONTRACTING NIGP CODES**

NIGP Class	NIGP Item	Description (Commodities and Services)
946	33	Collection Services, Financial Debt

**2.5.4 HUB SUBCONTRACTING PLAN (HSP) PRIME VENDOR PROGRESS ASSESSMENT REPORT.** Pursuant to 34 Texas Administrative Code §20.285(f)(1), as a condition of payment, a prime Vendor shall maintain business records documenting compliance with the HUB subcontracting plan and shall submit a compliance report to the state contracting agency each month. Therefore, as a condition of payment under the Contract, from start date of Contract through completion date of Contract, a prime Vendor (Vendor) awarded a Contract arising from this RFP shall monthly submit a HUB Subcontracting Plan (HSP) Prime Vendor Progress Assessment Report prior to RRC's approval of payment under the Contract.

**2.5.5 RRC'S HUB PROGRAM ADMINISTRATION.** For explanation of the RRC's HUB program, for assistance in completing the HSP form, and to obtain HUB lists if web access is not available, Respondents are encouraged to contact RRC's HUB Administration (Phone: 512-936-0806; or email: [michael.herman@rrc.texas.gov](mailto:michael.herman@rrc.texas.gov).)

## **2.6 PROPOSAL REQUIREMENTS**

**2.6.1 REQUIRED NUMBER OF PROPOSAL ORIGINALS AND COPIES.** Respondent must submit one (1) Original Copy of the Proposal in readable Adobe Acrobat Reader DC® PDF format. The Original Copy must include an original ink signature prior to conversion to electronic format, and the name and title of the individual signing who must possess the authority to legally bind the Respondent. RRC reserves the right to require a Respondent to furnish documentary evidence of Respondent's signature authority.

**2.6.2 CONFIDENTIAL INFORMATION; PUBLIC INFORMATION ACT DISCLOSURES.** RRC is a governmental body subject to the Texas Public Information Act ("PIA"), Texas Government Code Chapter 552. Any Proposal and other information submitted to RRC by Respondent are subject to release as public information by RRC. A Proposal and other submitted information are presumed subject to disclosure unless a specific exception to disclosure under the PIA applies. If it is necessary for Respondent to include proprietary or otherwise confidential

information in its Proposal or other submitted information, the Respondent must clearly label that proprietary or confidential information and identify the legal basis for confidentiality. Merely making a blanket claim that the entire Proposal is protected from disclosure because it contains some proprietary information is not acceptable and will make the entire Proposal subject to release under the PIA. In order to trigger the process of seeking an Attorney General opinion on the release of proprietary or confidential information, the specific provisions of the Proposal that are considered by the Respondent to be proprietary or confidential must be clearly labeled as described above. Any information that is not clearly identified by the Respondent as proprietary or confidential will be deemed subject to disclosure pursuant to the PIA. Respondent will be deemed to have irrevocably waived, and to have agreed to fully indemnify the State of Texas and the RRC against, any claim of infringement by RRC regarding the intellectual property rights of Respondent or any third party for any materials appearing in the Proposal.

Respondent is required to make any information created or exchanged with a state governmental entity (as defined by Texas Government Code §2252.907(d)) pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in at least one of the following formats that is accessible by the public at no additional charge to the State of Texas and/or RRC: \*.pdf format compatible with the latest version of Adobe Acrobat®; Microsoft Word®; Microsoft Excel®.

If Respondent's Response contains any information which Respondent claims is confidential and not subject to release under the PIA, Respondent must prepare and email to RRC two PDF documents containing the following information:

One PDF document containing complete copies of all of Respondent's submissions pursuant to this RFP. Respondent must label this PDF document "**Complete Proposal Documents, [Respondent's Name], RRC RFP No. 455-20-1018. CONTAINS CONFIDENTIAL INFORMATION.**"

One PDF document, containing copies of all of Respondent's submissions with all information claimed as confidential excised, blacked out, or otherwise redacted. This document must also contain an appendix which contains clear references to all redacted information including a general description of the redacted information. Respondent must label this PDF document "**For Public Release: Redacted version of [Respondent's Name], RRC RFP No. 455-20-1018.**"

## **2.7      Exception to Provisions**

Respondent is strictly prohibited from taking blanket exception to the entire RFP; a Proposal that includes blanket exception to the entire RFP or that does not include proposed alternative language to exceptions taken, may be disqualified from Contract award. Any exception may result in a contract not being awarded to Respondent.

## **2.8      Organization of Proposal**

All Proposals shall have all pages numbered and be organized in a manner that directly corresponds with the identified tabs set forth within this RFP section. Proposals shall contain all required information, at a minimum, and be stated in a clear and concise manner. Vague and general responses shall be considered nonresponsive and thereby disqualified from consideration of Contract award. Respondent shall include all information Respondent believes is necessary and/or helpful to RRC in determining Respondent's qualifications and ability to deliver all goods and services in accordance with this RFP, including the specifications stated within the SOW and all terms and conditions of the Contract. Respondent shall submit a Proposal that includes, at a minimum, the following:

### **2.8.1    TITLE PAGE (TAB A).** The Proposal title page must include:

- a. RRC's RFP number: **RFP No. 455-20-1018**;
- b. Respondent's name and physical address;
- c. Respondent's Texas Taxpayer Number (11-digit number issued by the Texas CPA);
- d. Respondent's Federal Employer Identification Number (9-digit number issued by the IRS); and
- e. Respondent's authorized agent's signature, printed name, title, and date of signature to Proposal.

**2.8.2 EXECUTIVE SUMMARY (TAB B).** Respondent shall provide a clear and comprehensive synopsis of Respondent's qualifications and abilities to deliver all work required under a contract arising from this RFP.

**2.8.2.1** Respondent's Executive Summary should include, at a minimum, the following:

- a. High-level overview of the Proposal, including identification and brief summary of goods and services included in the Proposal and explanation of how, in Respondent's opinion, the goods and services offered meet or exceed the RFP requirements and the project goals and objectives;
- b. Summary of Respondent's qualifications, including licenses and/or certifications if applicable and/or required by this RFP, and statement of Respondent's ability to meet or exceed required minimum qualifications;
- c. Summary of Respondent's experience in delivery of same or substantially similar services as those required under this RFP, and statement of Respondent's ability to meet or exceed required minimum experience;
- d. Explanation of Respondent's interpretation and understanding of SOW requirements, including specifications within the scope of work;
- e. Respondent's identification and explanation of RRC omitted requirements, if any;
- f. Explanation of Respondent's submitted documentation not otherwise captured or addressed within the RFP, but which Respondent has included as a material component to the Proposal; and
- g. Clear, concise, detailed explanation of Respondent's exceptions taken, if any, to terms and/or conditions of this RFP.

**2.8.2.2** Proposals that include goods and/or services alternate to the goods and/or services required by the RFP and specified within the SOW must clearly identify, define, and explain the proposed alternate goods and/or services. Respondent shall give care and attention to ensure proposed alternate goods and/or services meet or exceed specifications stated within the RFP, including the SOW. Identification and detailed explanation of proposed alternate goods and/or services shall be included within the Executive Summary.

**2.8.3 EXPERIENCE AND QUALIFICATIONS (TAB C).** Tab C shall include elaboration of, and details related to, projects identified within Vendor's Qualifications Statement contained within Tab E Respondent's Submittals.

**2.8.3.1** Respondent shall include examples and detailed description of at least three (3) projects delivered by Respondent within past five (5) years that demonstrate Respondent's ability and qualifications to deliver the goods and services required under a contract arising from this RFP. **Respondent shall include projects that represent delivery of debt collection services, similar in size and scope to that of the collections described within this RFP.**

**2.8.3.2** Respondent shall include within Tab C a list of Respondent's proposed project team key personnel.

Respondent shall include for each project team key member (e.g., project manager, field manager) a statement of qualifications, and include, but not be limited to, the following required information:

- a. Relevant certifications and/or licenses;
- b. Description of experience, including quantity (months/years), projects, roles, and type of tasks; and
- c. Details of time in service with Respondent, including quantity (months/years), projects, roles, and types of tasks.

**2.8.4 RESPONDENT'S APPROACH TO MEETING RFP REQUIREMENTS AND OBJECTIVES (TAB D).** Contents of Tab D shall include elaboration of, and details related to, Respondent's approach to meeting the goals and objectives of the RFP as set forth in the SOW. Respondent's approach shall demonstrate Respondent's experience, expertise, and ability to plan and complete all work required under a Contract arising from this RFP. Respondent is solely responsible for providing sufficient details to assure RRC's evaluation committee members can determine Respondent's understanding of the SOW, scope of work and related specifications, and special conditions applicable to performance of the Services within this RFP. Respondent is encouraged to address, *at a minimum*, the following criteria:

- a. Respondent's approach to debt collection;
- b. Respondent's experience with debt collection; and
- c. Respondent's proposed work plan, including schedule. For this criterion, Respondent is encouraged to address:
  - i. Average length of time to collect after referral; and
  - ii. Recommended sequence of debt collection activities.

## 2.8.5 PROPOSED PRICING (TAB E).

2.8.5.1 A Proposal shall include pricing information applicable to all work reasonably anticipated to be necessary under the Contract. Pricing shall be reported as a uniform percentage fee per the total sum for all debts.

## 2.8.6 RESPONDENT'S SUBMITTALS (TAB F).

2.8.6.1 **REQUIRED RRC RFP ATTACHMENTS.** Within the Proposal's section titled "Respondent's Submittals" a Respondent shall include properly completed Required RRC RFP Attachments identified within this section. Failure to include all the Required RRC RFP Attachments shall result in the Proposal being deemed nonresponsive to the RFP and disqualified from consideration of Contract award. The Required RRC RFP Attachments applicable to this solicitation include:

- a. Attachment 2: Respondent's Statements and Covenants
- b. Attachment 3: Vendor's Qualifications Statement
- c. Attachment 4: HUB Subcontracting Plan form

2.8.6.2 **RRC RFP ATTACHMENTS.** *TABLE 3* of this RFP is provided as a general guide only so that Respondent may note certain RRC RFP Attachments that may be required to be returned with the Proposal submitted. **TABLE 3 of this RFP is not intended as a minimum, comprehensive, or exhaustive checklist of required elements of a Proposal.** Respondent is solely responsible for review and understanding of the entire RFP including all terms, conditions, specifications, attachments, and addenda, if any, issued and for ensuring a submitted Proposal contains all required elements and forms to be considered responsive to the RFP.

**TABLE 3. RRC RFP ATTACHMENTS**

Attachment Number: Name	Return with Proposal?
Attachment 1: Statement of Work	No
Attachment 2: Respondent's Statements and Covenants	Yes
Attachment 3: Respondent's Qualifications Statement	Yes
Attachment 4: HUB Subcontract Plan (HSP) form	Yes
Attachment 5: Sample RRC Contract	No

2.8.6.3 In addition to the Required RRC RFP Attachments, a Respondent shall include within the "Respondent's Submittals" section any additional statements, including any statements arising from section 2.9 of this RFP, or such other information Respondent deems necessary, valuable, and appropriate to fully inform RRC of Respondent's qualifications, expertise, and superiority in selection as Vendor for Contract award.

## 2.9 DISCLOSURES

Each Proposal shall include (within Tab F Respondent's Submittals) Respondent's statements addressing the following disclosures:

2.9.1 **CHANGES IN OWNERSHIP CONDITIONS.** Respondent shall include a statement certifying Respondent will notify RRC of:

2.9.1.1 Any change in ownership during the period prior to Contract award, and

2.9.1.2 Any change in ownership during the term of the Contract or any extension or renewal period(s) thereof.

2.9.1.3 Respondent shall notify RRC in writing, immediately on or before the change in ownership occurs or is identified. Failure of Respondent and/or Vendor to notify RRC as required herein shall be grounds for rejection of the Proposal and/or termination of the Contract.

2.9.2 **LEGAL ACTIONS.** Respondent shall identify any pending or completed legal actions that were brought against Respondent, Respondent's agents, officers, and/or Respondent's subcontractors, within the five-year period immediately preceding the Proposal due date and that relate to failure to perform contracted services, breach of contract, mismanagement of a contract, and/or assessment of any penalties or liquidated damages under any contract with any governmental entity. Respondent shall provide details related to jurisdiction of legal action or contract dispute, reason for penalties or liquidated damages, and penalties or liquidated damages amount for each incident.

**2.9.3 OTHER.** In addition to the disclosures stated above, Respondent shall include any disclosures necessary to conform with RFP Attachment 2. Respondent is strongly encouraged to carefully and thoroughly review each statement and covenant within Attachment 2 to determine applicability of disclosures and to ensure Respondent's Proposal includes all mandatory disclosure statements applicable to Respondent including, but not limited to, conflicts or potential conflicts of interest (see RFP Attachment 2 item 5.)

## **2.10 PROPOSAL EVALUATION AND CONTRACT AWARD**

**2.10.1 REVIEW PHASES.** Proposals shall undergo a minimum of two (2) review phases prior to Contract award, if any. The first review shall be an administrative review of Proposals to determine responsiveness based upon the Proposal satisfactorily meeting all submission requirements stipulated in this RFP. The second review shall be an evaluation of Proposals that RRC has deemed responsive and shall be conducted by RRC's evaluation committee applying a scoring system set forth within this RFP.

During the second review, RRC shall solely determine whether negotiations or Best and Final Offers are appropriate and/or necessary. RRC may, but not must, invite selected Respondents to deliver oral presentations to highlight the Respondent's strengths and unique aspects of the Proposal and to provide answers to clarification questions RRC may have regarding the Proposal. Following completion of both review phases, RRC may, but not must, issue a Notice of Award to the selected Vendor. RRC reserves the right to conduct studies and other investigations as necessary to evaluate any Proposal and reserves the right to reject any or all Proposals and to waive any or all informalities in connection therewith. Submission of Proposals confers no legal rights upon any Respondent.

### **2.10.2 EVALUATION CRITERIA.**

**2.10.2.1**Evaluation of responsive Proposals shall be conducted applying the best value standard for purchase of goods or services as set forth in Texas Government Code §2155.074. Factors that may be considered include:

- a. Pricing;
- b. Whether goods and services meet RFP specifications;
- c. Quality and reliability of the goods and services;
- d. Qualifications of Respondent, Respondent's personnel;
- e. Respondent's ability to perform the Contract or provide the services promptly, or in the time required, without delay or interference;
- f. Indicators of probable Vendor performance under the contract such as past Vendor performance, Vendor's financial resources and ability to perform, and Vendor's experience or demonstrated capability and responsibility;
- g. Respondent's compliance with RFP Proposal submission requirements; and
- h. Respondent's acceptance of terms and conditions.

**2.10.2.2**Scoring of Proposals shall include evaluation criteria and respective relative weight/points indicated in **TABLE 4** of this RFP.

**TABLE 4: EVALUATION CRITERIA**

<b>Criteria</b>	<b>Maximum Possible Score</b>
Price	40
Respondent's Approach to RFP	20
Respondent's Qualifications	40
<b>Total Base Points</b>	<b>100</b>

- a. Evaluation and scoring of Respondent's Approach to RFP shall include, but is not limited to, examination of Respondent's organization and presentation of Proposal, demonstration of understanding of RFP requirements, and Respondent's approach to project delivery in accordance

with requirements of RFP Attachment 1 and all terms and conditions of all Solicitation and Contract Documents, including RFP Attachment 5.

- b. Evaluation and scoring of Respondent's Qualifications shall include, but is not limited to, examination of qualifications of Respondent and Respondent's Superintendent, Respondent's comparable (as judged by RRC) experience and success, Respondent's subcontractor's comparable (as judged by RRC) experience for roles assigned, and Respondent's Texas CPA Vendor Performance Tracking System score (if any).

**2.10.3 EVALUATION BY RRC EVALUATION COMMITTEE.** Each member of RRC's evaluation committee shall conduct an independent review of each responsive Proposal submitted and shall score each responsive Proposal in accordance with the Evaluation Criteria provided in **TABLE 4** of this RFP. The RRC evaluation committee may request clarification of information or representations made in one Proposal or in all Proposals before completing evaluation and scoring. Any/all requests for clarification and responses to requests for clarification shall be made in writing and shall become part of the evaluation record. RRC's Contract Management Section shall compile scores put forth from the evaluation committee members and determine the final average score for each Respondent to establish a competitive range based upon all Proposal scores.

**2.10.4 PAST PERFORMANCE.** A Respondent's past performance will be measured in compliance with applicable provisions of Texas Government Code Chapters 2155 and 2156. Respondents may fail this selection criterion should one or more of the following conditions apply to Respondent:

- a. A score of less than C or Legacy Unsatisfactory in the Texas Comptroller's Vendor Performance Tracking System at [comptroller.texas.gov/.../vendor-performance.../](http://comptroller.texas.gov/.../vendor-performance.../);
- b. Currently under a Corrective Action Plan through RRC;
- c. Having repeated negative Vendor Performance Reports for the same reason;
- d. Having a record of repeated non-responsiveness to Vendor Performance issues; and/or
- e. Having one or more purchase orders that have been cancelled for non-performance in the previous 12 months for non-performance.

To evaluate Respondent's past performance, RRC may also contact other entities including any federal, state, or local government agency. RRC may conduct research and investigation as deemed necessary to fully evaluate Respondent's past performance and may consider notices of termination, cure notices, assessment of liquidated damages, litigation, audit reports, contract non-renewals, and other performance related facts, reports, actions, or information. Any such investigations shall be at the sole discretion of RRC and any negative findings, as determined by RRC, may result in non-award to the Respondent.

**2.10.5 RESPONDENT ORAL PRESENTATIONS.** Respondent oral presentations shall be at sole discretion of RRC. Oral presentations, if any, shall provide Respondents an opportunity to highlight the entity's strengths and unique aspects of Respondent's approach contained within the Proposal, as well as to address any questions put forth by RRC's evaluation committee members. Respondent oral presentations are not guaranteed and may, but not must, include demonstration of product or solutions proposed as part of the Proposal.

**2.10.5.1** After initial scoring of responsive Respondents, RRC may, but not must, determine it is necessary to interview short-listed Respondents prior to making a final recommendation of award. Short-listed Respondents shall be deemed those falling within a competitive range, as determined by RRC. The competitive range refers to response(s) determined to be reasonably considered for award selection and is an objective means of narrowing the field of Respondents that will participate in subsequent evaluation activities such as oral presentations.

RRC shall employ the following guidelines when determining the competitive range for invitations, if any, to optional oral presentations:

- a. A "natural break" in the scores will determine the competitive range; or the point difference between the first and second ranked Proposal is less than three points.

- b. The number of Respondents, if any, invited to oral presentations shall depend upon closeness of scores following evaluation of submitted Proposals.
- c. In determining number, if any, of Respondents to be invited for oral presentations, RRC staff shall consider significant gaps in point separation between the top ranked Respondents.
- d. Only those Respondents that are determined by RRC to be qualified to perform all required work may be invited for oral presentations.
- e. No more than three (3) Respondents shall be invited for oral presentations.
- f. Oral presentations, if any, shall be held at RRC headquarters in Austin, Texas or virtually due to COVID-19 or other related public health or safety issues.
- g. All expenses associated with responding to and/or attending an oral presentation shall be borne exclusively by the Respondent accepting and/or attending the oral presentation.

**2.10.6 BEST AND FINAL OFFER (“BAFO”).** At sole discretion of RRC, after completion of initial evaluation, scoring, and oral presentations (if any), RRC may award a Contract or may request BAFOs from one or more Respondents whose scores are sufficient to qualify the Respondent(s) for further consideration and negotiation as determined exclusively by RRC. In event RRC issues a request for BAFO, Respondents may be permitted to modify an original Proposal, and the RRC Contract Management Section shall evaluate the BAFOs received.

**2.10.7 RESPONDENT’S BEST PRICE.** RRC makes no guarantee of any opportunity to negotiate or provide alternative pricing at any point during the Proposal evaluation and contract award process. RRC may restrict the competitive range of Proposals to those that represent the greatest number of Proposals to effect efficient competition among Respondents and in accordance with the specifications and requirements of this RFP. RRC may seek additional information and solicit BAFOs only from those Respondents whose Proposal has been determined to exist within the competitive range.

**2.10.8 CONTRACT NEGOTIATIONS.** RRC reserves the option to negotiate with one or more Respondents whose Proposals are deemed responsive. Negotiation elements may include, but shall not be limited to pricing, services, terms and conditions. RRC reserves the right to continue negotiations until the best value for RRC and the State has been determined as achieved.

**2.11 RRC Contact(s) Following Award.** RRC contact(s) for day-to-day administration of the contract will be determined following contract award. These individuals may appoint one or more delegates to assist in the day-to-day administration of the contract and may provide to Vendor a written list of RRC delegates.

**2.12 Reservation of Rights.** In addition to any other rights specified elsewhere in this RFP, RRC reserves the following rights:

- a. RRC reserves the right to reject a Proposal that does not fully comply with the instructions and criteria outlined in this RFP.
- b. RRC reserves the right to reject any or all Proposals and call for new Proposals if deemed by RRC to be in the best interest of RRC and/or the State of Texas.
- c. RRC reserves the right to select none, one, or more than one Proposal for Contract Award when RRC determines that such action would be in the best interest of RRC and/or the State of Texas.

## PART III: TERMS AND CONDITIONS

**3.** The terms and conditions herein shall be fully incorporated into and constitute part of the RFP and the Contract. Vendor shall comply, and Vendor shall require all subcontractors of all tiers to comply, with the terms and conditions of the Contract. In absence of express exclusion in whole or in part from Respondent’s Proposal, all terms and conditions are deemed incorporated therein.

### 3.1 GENERAL TERMS AND CONDITIONS

**3.1.1 COMPLIANCE WITH RFP AND CONTRACT.** By submitting a response, acknowledging and accepting the Contract, or delivering any services under the Contract, Vendor acknowledges, accepts, and agrees to all terms, conditions, specifications, provisions, statements, and guidelines of the Contract, including, but not limited to, the RFP. All parts of the RFP are fully incorporated into and constitute part of the Contract for all purposes intended.

RRCC, at its sole discretion, may disqualify a Proposal from consideration if RRC determines a Proposal is non-responsive and/or non-compliant, in whole or in part, with the requirements set forth in this RFP.

**3.1.2 MISUNDERSTANDING OR LACK OF INFORMATION.** Respondents submitting a Proposal to the RFP must be thoroughly informed concerning all relevant facts, data, site conditions, and estimates required for the purpose of assembling a Proposal and concerning all difficulties that may be encountered in managing or operating the project under the Contract.

**3.1.2.1** No plea of ignorance of existing site conditions or difficulties that may be encountered during performance of the work under the Contract shall be accepted as an excuse for any failure or omission by Vendor to fulfill in every detail all requirements of the Contract or shall be accepted as a basis for any claim whatsoever for additional compensation.

**3.1.2.2** By submitting a response, each Respondent acknowledges and agrees that it fully understands and shall abide by the terms and conditions of the RFP, and that Respondent shall not make any claims for, or has any rights to, cancellation or relief without consequences because of any misunderstanding or lack of information.

**3.1.3 AMBIGUITY, CONFLICT, EXCLUSIONARY SPECIFICATION, OR OMISSION.** If Respondent discovers any ambiguity, conflict, discrepancy, exclusionary specifications, omission, or other error in the RFP, Respondent must immediately notify in writing RRC's point of contact for the Contract. If Respondent fails to notify RRC's point of contact for the Contract of any error, ambiguity, conflict, discrepancy, exclusionary specification, or omission, Respondent's submittal of a Proposal is done so at Respondent's own risk, and if awarded a contract, Respondent shall not be entitled to additional compensation, relief, or time by reason of the error or its later correction.

**3.1.4 RIGHT TO AMEND, MODIFY, OR WITHDRAW THE RFP.** RRC reserves the right to alter, amend, or modify any provisions of the RFP or to rescind, revoke, or withdraw the RFP, in whole or in part, at any time prior to Contract award if such action is determined by RRC to be in the best interest of the State of Texas and/or RRC.

**3.1.5 NO ALTERATIONS OR WITHDRAWALS OF PROPOSAL AFTER DEADLINE.** Proposals cannot be altered or amended after the Proposal due date and time specified in Part II of the RFP. Any alterations made before the Proposal due date and time must be initialed by Respondent or Respondent's authorized agent. Proposals submitted cannot be withdrawn after submission deadline. However, upon receipt of Respondent's written request to withdraw their Proposal, RRC may, but not must, in its sole discretion approve the request to withdraw a Proposal.

**3.1.6 ATTACHMENTS.** Any terms and conditions attached to Respondent's Proposal will not be considered unless specifically referred to in the Proposal. RRC reserves the right, in its sole discretion, to reject any Respondent terms and conditions or other documents or attachments as part of Respondent's Proposal.

**3.1.7 BINDING EFFECT OF PROPOSAL.** Unless otherwise agreed in writing and signed by RRC, Respondent agrees to and is bound by the information and documentation provided with the Proposal, including prices quoted for services. By submitting a Proposal, Respondent commits to providing the goods and services required at the prices set forth in the Proposal and that Proposal prices remain valid for 180 calendar days following the Proposal due date and time. Upon award of Contract, prices shall remain fixed and guaranteed for the entire Contract period.

**3.1.8 BINDING EFFECT OF CONTRACT.** An awarded Contract shall inure to the benefit of, be binding upon, and be enforceable against, each party and their respective permitted successors, assigns, transferees and delegates.

**3.1.9 REJECTION OF PROPOSAL AND CANCELLATION OF RFP.** Issuance of this RFP does not constitute a commitment on the part of RRC to award a contract. RRC is under no obligation to award any contract as a result of this RFP. RRC maintains sole right and discretion to reject any or all Proposals and to cancel the RFP if RRC deems such action as in the best interest of the State of Texas and/or RRC. RRC's waiver of any deviations in any Proposal will not constitute a modification of the RFP and will not preclude RRC from asserting all rights against Vendor for failure to fully comply with all terms and conditions of the RFP. Consistent and continued tie Proposals could cause rejection of Proposals by RRC.

**3.1.10 RESPONDENT COSTS.** Respondent shall bear all costs and expenses associated with preparation and submission of a Proposal, including costs associated with travel to and attendance of pre-proposal site visits, and

submission of all required documents and all required copies of documents. Proposal pricing shall include all costs and expenses associated with performance of the work in accordance with the requirements, terms, and conditions of the Solicitation and Contract documents including any specifications and the SOW; no alternate pricing or additional costs will be paid.

**3.1.11 RESPONDENT IDENTIFICATION.** Prior to award of Contract, Vendor must provide Vendor's Texas Identification Number (TIN) issued by the Texas Comptroller of Public Accounts.

**3.1.12 CONTRACT AWARD, COPYRIGHT, REISSUANCE.** A response to the RFP is an offer to contract with the State of Texas through RRC based upon the specifications, terms, and conditions contained in the RFP. The Proposal shall not become a contract with RRC unless, until, and to the extent RRC issues a fully executed Contract and Notice of Award to the successful Vendor. RRC in its sole discretion reserves the right to reject any or all Proposals, all or any part of any Proposal, waive minor technicalities, negotiate pricing and Contract terms and conditions with all Vendors or no Vendors, and award a Contract in the best interest of the State of Texas and RRC.

Copyrighted Proposals are unacceptable and are subject to disqualification as nonresponsive; in addition, RRC reserves the right to disqualify any Proposal that asserts any copyright on any RRC forms designated by the RFP as a form required to be submitted with Respondent's Proposal.

Prior to issuance of a Contract, RRC reserves the right to make any corrections or include additional requirements necessary for RRC's compliance with all federal and state laws, regulations, rules, policies, and best practices. RRC reserves the right to at any time reissue the RFP or issue another RFP for the goods and/or services described in this RFP.

**3.1.13 LIMITATION ON AUTHORITY, NO OTHER OBLIGATIONS.** Vendor will have no authority to act for or on behalf of the State of Texas and/or RRC except as expressly provided in the fully executed Contract. No other authority, power, or use is granted or implied. Vendor may not incur any debt, obligation, expenses, or liability of any kind on behalf of RRC or the State of Texas.

**3.1.14 NO OTHER BENEFITS.** Vendor has no exclusive rights or benefits other than those set forth within the Contract.

**3.1.15 AMENDMENTS TO THE CONTRACT.** The Contract may be amended only upon written agreement between RRC and Vendor; however, the Contract may not be amended in a manner that conflicts with the laws of the United States or of the State of Texas. Vendor agrees to amend the Contract and to cooperate in the execution of any contract amendments necessary to effectuate compliance with laws of the State of Texas when such laws require RRC to include additional language in the Contract. During the term of the Contract and any extensions or renewals thereof, RRC reserves the right to request amendments or modifications to the Contract when RRC determines such action to be in the best interests of the State of Texas and/or RRC and for compliance with all applicable state and federal laws, regulations, requirements, and guidelines. Except as otherwise provided in negotiated terms and conditions expressly identified and formalized in the Contract, the entire agreement between RRC and Vendor shall consist of the following documents: the Contract, amendments to the Contract, Purchase Orders, Change Notices (if any), the RFP (including addenda, if any), and the Proposal.

**3.1.16 ORDER OF PRECEDENCE; PROHIBITED EXCEPTIONS**

**3.1.16.1 ORDER OF PRECEDENCE.** In event of conflict between the RFP and the Contract Documents, the following documents, in order of precedence, shall apply in resolving such conflicts:

- a. The Contract (including expressly identified, negotiated terms and conditions) and Amendments to the Contract,
- b. The RFP and Addenda (if any), and
- c. The Proposal.

**3.1.16.2 PROHIBITED EXCEPTIONS.** Unless expressly accepted in writing by RRC, the following exceptions within any Respondent's Proposal shall be rejected:

- a. Incorporation of laws of a state other than Texas,
- b. Any requirements for prepayment,
- c. Any limitations on RRC's remedies,

- d. Any requirements that RRC indemnify the Respondent,
- e. Any requirements that Respondent's documents control in case of conflicts,
- f. Any requirements that Respondent's documents control even if Respondent accepts or acknowledges the Contract,
- g. Any requirements to reduce or eliminate required insurance coverages, types, endorsements and limits, and
- h. Any disclaimer of warranties.

**3.1.17 STATEMENT OF WORK, PERFORMANCE.** Vendor shall provide the requested services in the manner described in this RFP. In the event of Vendor's failure to conform to all requirements of this RFP, consequences may include, but not be limited to, RRC's withholding of acceptance and payments under the Contract, RRC's cancellation of all or part of the Contract, RRC's revocation of any prior acceptance and Vendor's refund of amounts paid prior to revocation of acceptance.

**3.1.18 TIME LIMITS ENFORCED.** Time is of the essence in the performance of this Contract. Vendor shall strictly comply with all deadlines, requirements, and standards of performance for this Contract and in execution of the work. Vendor acknowledges and accepts all time limits will be strictly construed and rigidly enforced.

**3.1.19 CHANGES AND CHANGED CONDITIONS.**

- 3.1.19.1** RRC's Authorized Representative may, in writing, order changes in the work within the general scope of the Contract.
- 3.1.19.2** In event Vendor identifies Changed Conditions, Vendor shall not further proceed with work until Vendor has submitted a written notice of Changed Conditions to RRC's Authorized Representative and received from RRC's Authorized Representative an authorization to continue with work.
- 3.1.19.3** If Changed Conditions increase or decrease the cost of, or time required for performing, the work, Vendor shall assert a claim in writing prior to the making of final request for payment under the Contract, and RRC may issue a written equitable adjustment by change order. However, no adjustment shall be made in favor of Vendor unless Vendor has timely submitted written notice of Change Conditions and written assertion of claim in conformance with the terms of the Contract. Notwithstanding the forgoing, in absence of a written notice of Changed Conditions having been timely submitted by Vendor, RRC in its sole discretion may waive the requirement therefore and approve Vendor's claim. In the event RRC and Vendor cannot agree upon an equitable adjustment, the dispute shall be decided pursuant to the dispute resolution process contained within the terms and conditions of the Contract.
- 3.1.19.4** It is recognized and agreed to by RRC and Vendor that information provided within the RFP, including specifications, attachments and addenda, if any, may not be complete or free from errors, omissions and imperfections, or that the information may require changes or supplementation in order for the work to be completed to the RRC's satisfaction. Accordingly, it is the express intention of RRC and Vendor, notwithstanding any other provisions in the Contract, that any errors, omissions or imperfections in such specifications, exhibits to the RFP, and addenda, if any, or any changes in or supplementation to same or to the work ordered by RRC and any resulting delays in the work or increases in Vendor's costs and expenses arising out of such errors, omissions or imperfections shall not constitute or give rise to any claim, demand or cause of action of any nature whatsoever in favor of Vendor, whether for breach of Contract or otherwise; provided, however, that RRC shall be liable to Vendor for the sum stated to be due Vendor in any change order approved and signed by both RRC and Vendor, it being agreed hereby that such sum, together with any extension of time contained within the approved change order, shall constitute full compensation to Vendor for all costs, expenses, and damages to Vendor as permitted under Texas Government Code Chapter 2260.

**3.1.20 CONTRACT COMPLETION.**

- 3.1.20.1 Performance Period.** The performance period for work under a work order or purchase order arising under the Contract shall commence on the date stated within the NTP issued from RRC to the Vendor, and all work under the work order or purchase order shall be completed not later than the specified within the work order or purchase order.

**3.1.21 ASSIGNMENTS AND SUBCONTRACTORS.** Vendor shall not assign Vendor's rights, or delegate the performance of Vendor's duties, under the Contract without prior written consent of RRC. Any attempted assignment in violation of this provision is void and without effect.

- 3.1.21.1** Vendor must submit to RRC's Authorized Representative any proposed subcontractor and shall receive from RRC's Authorized Representative, written approval of the subcontractor prior to Vendor authorizing subcontractor's performance of any work under the Contract.
- 3.1.21.2** Subcontractors providing service under the Contract shall meet the same requirements and level of experience as required of the Vendor.
- 3.1.21.3** No subcontract under the Contract shall relieve the Vendor of responsibility for delivery of work and services required under the Contract. If Vendor uses a subcontractor for any or all work required, the following conditions shall apply under the listed circumstances:
  - a.** Respondents planning to subcontract all or a portion of the work to be performed under this Contract shall identify each proposed subcontractor on the HSP form (see RFP Attachment 7.)
  - b.** Subcontracting shall be at Vendor's expense.
  - c.** RRC retains the right to review any subcontractor's background and approve or reject the use of Vendor's proposed subcontractors.
  - d.** Vendor shall be the only Vendor for RRC for the Contract. Vendor shall manage Vendor's subcontractors, if any. Vendor shall provide contact information, including mobile phone number and email address, of Vendor's designated point of contact to which RRC and Vendor's subcontractors shall submit any inquiries.

**3.1.22 PAYMENTS TO VENDOR.** Vendor shall submit by email to RRC's designated point of contact all requests for payment. Payment requests shall be submitted upon Respondent's completion of and RRC's acceptance of one or more deliverables. When submitting request by email, Vendor shall include Vendor's invoice, all additional documents required by Contract, and a completed "Vendor's Progress Payment Affidavit" or "Vendor's Final Payment Affidavit," as applicable to the payment request, as attachments to the email. Vendor shall also mail within three (3) business days the original, signed and notarized Vendor's Progress Payment Affidavit or Vendor's Final Payment Affidavit, as applicable to the payment request, to RRC designated Contract Manager. Each Vendor's invoice shall reflect a single Contract and all and only items related thereto which have been delivered, inspected, tested, evaluated, and accepted by RRC within the Contract performance period concluding on the invoice date.

**3.1.22.1 Compliance with Texas Government Code Chapter 2251 required.** A Vendor awarded a Contract arising from this RFP, and all Vendor's subcontractors, if any, shall comply with all applicable provisions of Texas Government Code Chapter 2251 relating to prompt payment for goods and services under a contract issued by a state agency. Texas Government Code Chapter 2251 requires, in part, that a Vendor that receives payment from a state agency shall pay a subcontractor the appropriate share of the payment not later than the 10th day after the date the Vendor receives the payment; and, the Vendor's subcontractor who receives a payment from the Vendor shall pay a person who supplies goods or a service for which the payment is made, the appropriate share of the payment not later than the 10th day after the date the subcontractor receives the payment. Vendor's compliance with this provision shall be strictly enforced by RRC. RRC reserves the right to request evidence of Vendor's compliance, and evidence of Vendor's subcontractor's compliance with this condition of the Contract.

**3.1.22.2 Final Payments.** Upon Respondent's completion of all final, not previously invoiced, work, and upon RRC's acceptance thereof, Vendor shall submit a properly prepared invoice as Vendor's request for final payment under the Contract. Upon Vendor's submittal of a properly prepared, itemized invoice accompanied by all additional documents required by Contract, final payment may be made by RRC in accordance with Texas Government Code Chapter 2251. Vendor's final payment request shall reflect value for 100% of the value of work performed by Vendor and accepted by RRC, but not previously invoiced by Vendor, and shall include invoicing for all retainage previously withheld under the Contract. Vendor's final payment invoice and additional documents required by the Contract shall be accompanied by a completed "Final Payment Affidavit" (see RFP Attachment 12.)

**3.1.22.3 INVOICE REQUIREMENTS.**

- a. Vendor's invoice must clearly reflect the following:
  - i. RRC Contract Number and work order or purchase order number (as applicable);
  - ii. RRC bill to information;
  - iii. Vendor name;
  - iv. Vendor address;
  - v. Vendor remit payment to information;
  - vi. Vendor Texas Identification Number (TIN) assigned by Texas Comptroller of Public Accounts;
  - vii. Invoice date;
  - viii. Invoice number (may not be duplicate invoice number from prior invoice submitted);
  - ix. Date(s) of delivery of services and/or goods; and
  - x. Description of services, to include (per debt collected):
    - Vendor name
    - Attempts made
    - Age of debt
    - Date debt collected
  - xi. Invoice total.
- b. Vendor's invoices submitted to and received by RRC, but which fail to conform to all invoice requirements stipulated within the Contract Documents will be returned to Vendor unpaid or will be held by RRC until all requirements for submittal of revised invoice and/or additional documents required by the Contract are satisfied.

**3.1.22.4 AUTHORIZATION OF PAYMENT.** Prior to authorizing payment to Vendor, RRC shall evaluate Vendor's performance in accordance with Contract requirements.

**3.1.22.5 NON-REIMBURSABLE ITEMS.** RRC will not reimburse for travel, meals, lodging, or other related expenses unless specifically provided for under the Contract and approved by an RRC representative. In such an event, costs will be invoiced to RRC based on actual expenses, and RRC shall not be liable for reimbursement of expenses that (i) were not preapproved in writing by RRC, or (ii) exceed the current State Travel Regulations. Vendors are required to provide receipts to validate invoicing. State Travel Reimbursement Rates may be found at:

<https://fmx.cpa.texas.gov/fmx/travel/textravel/rates/current.php>.

**3.1.22.6 NO PREPAYMENTS.** RRC will not prepay for any services provided to RRC by Vendor in performance of services or work under the Contract. RRC shall not make down payments, deposits, pay advances, advance deposits, or any other payments that are not made specifically for properly documented completed services approved for payment by and satisfactorily provided to RRC.

**3.1.22.7 REFUNDS.** Upon Vendor's discovery of any erroneous payment from RRC to Vendor of any funds, or upon receipt of written notice of erroneous payments issued by RRC, Vendor shall promptly refund or credit within thirty (30) calendar days any funds erroneously paid by RRC or which are not expressly authorized under the Contract.

**3.1.23 RECORDS MAINTENANCE, RETENTION, AND AUDIT.** Respondent shall maintain and retain all records relating to the performance of the Contract including supporting fiscal documents adequate to ensure that claims for contract funds are in accordance with applicable State of Texas requirements. These records shall be maintained and retained by Respondent for a period of seven (7) years after the contract expiration date or until all audit, claim, and litigation matters are resolved, whichever is later.

Respondent shall make available at reasonable times and upon reasonable notice, and for reasonable periods, work papers, reports, books, records, and supporting documents kept current by Respondent pertaining to the contract for purposes of inspecting, monitoring, auditing, or evaluating by Agency and the State of Texas.

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

### **3.1.24 INDEMNIFICATION.**

- 3.1.24.1 ACTS OR OMISSIONS.** RESPONDENT/VENDOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND RRC, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, VENDORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF RESPONDENT/VENDOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY RESPONDENT/VENDOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND RESPONDENT/VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. VENDOR AND RRC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.
- 3.1.24.2 TEXAS/WORKERS' COMPENSATION/UNEMPLOYMENT INSURANCE; INCLUDING INDEMNITY.** VENDOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, VENDOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF VENDOR'S AND VENDOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. VENDOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. RRC AND/OR THE STATE SHALL NOT BE LIABLE TO THE VENDOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY RRC.

VENDOR AGREES TO INDEMNIFY AND HOLD HARMLESS RRC, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, VENDORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE

FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND RRC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

**3.1.25 INFRINGEMENT: PATENT, TRADEMARK, COPYRIGHT, AND OTHER INTELLECTUAL PROPERTY.**

- 3.1.25.1 CLAIMS.** RESPONDENT SHALL DEFEND, INDEMNIFY, SAVE, AND HOLD HARMLESS THE STATE OF TEXAS AND RRC, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, VENDORS, ASSIGNEES, AND/OR DESIGNEES FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, SERVICEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL, INTANGIBLE PROPERTY, PUBLICITY, OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF RESPONDENT PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) RRC'S AND/OR RESPONDENT'S USE OF OR ACQUISITION OF ANY SERVICES OR OTHER ITEMS PROVIDED TO RRC BY RESPONDENT OR OTHERWISE TO WHICH THE STATE OF TEXAS AND/OR RRC HAS ACCESS AS A RESULT OF RESPONDENT'S PERFORMANCE UNDER THIS CONTRACT.
- RESPONDENT AND RRC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. RESPONDENT SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY RESPONDENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND RESPONDENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, RESPONDENT WILL REIMBURSE AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF RESPONDENT OR IF AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND RESPONDENT WILL PAY ALL REASONABLE COSTS OF AGENCY'S COUNSEL.
- 3.1.25.2 NOTICE.** If Vendor becomes aware of an actual or potential claim, or RRC provides Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against RRC, shall), at Vendor's sole option and expense; (i) procure for RRC the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that RRC's use is non-infringing.
- 3.1.25.3 LIMITATIONS.** Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Vendor's written approval, (iii) any modifications made to the product by the Vendor pursuant to RRC's specific instructions, (iv) any intellectual property right owned by or licensed to RRC, or (v) any use of the product or service by RRC that is not in conformity with the terms of any applicable license agreement.

**3.1.26 PERSONAL INJURY, PROPERTY DAMAGE.** Vendor shall be liable for any bodily injury or personal injury to any individual caused by any of Vendor's employees during any assignment under the terms of the Contract. In the event of loss, destruction, or damage to any State of Texas or RRC property by Vendor's employees, Vendor shall indemnify the State of Texas and RRC and pay to the State of Texas and/or RRC the full cost of repair, reconstruction, or replacement at RRC's election. Vendor shall reimburse the State of Texas and/or RRC for such

property damage within thirty (30) calendar days after Vendor's receipt of RRC's written notice of amount due. This provision survives the termination or expiration of the Contract.

**3.1.27 INSURANCE REQUIREMENTS. Time is of the essence. Vendor shall submit to RRC a complete, current, certificate of insurance not later than ten (10) calendar days after RRC's issuance of written Notice of Intent to Award.** Vendor's certificate of insurance shall be fully compliant with all terms and conditions of the Contract. Vendor shall maintain required insurance coverages in accordance with the terms and conditions of the Contract throughout the entire Contract term (including warranty, if applicable.) Vendor shall not proceed with any work under the Contract without RRC's approval of certificate of insurance.

- 3.1.27.1** All required insurance coverage must issue from a company or companies that:
  - a. Have both a Financial Strength Rating of "A" or better from A.M. Best Company, Inc.; and
  - b. Have a Financial Size Category Class of "VII" or better from A. M. Best Company, Inc.
- 3.1.27.2** All insurance policies for required coverage must be issued by companies authorized to do business in, and under the laws of, the State of Texas. Certificates of insurance shall be issued on a form approved by the Texas Department of Insurance and be satisfactory to RRC. Certificates of insurance shall specify and/or set forth the following:
  - a. RRC as certificate holder with correct mailing address;
  - b. Insured's name which must match Vendor's legal name on and within this Contract;
  - c. Insurance company(ies) affording each coverage, policy number of each coverage, policy dates of each coverage, all coverages and limits described herein, and signature of authorized representative of the insurance company(ies);
  - d. Producer of the certificate of insurance with correct address and phone number listed;
  - e. Additional insured status as required herein;
  - f. Amount of any deductibles and/or retentions;
  - g. A 30-day Notice of Cancellation, non-renewal, or reduction in coverage;
  - h. Contractual liability coverages as required herein;
  - i. Primary and non-contributing endorsement. All insurance coverage required herein shall be primary to and shall seek no contribution from all insurance available to RRC, with RRC's insurance being excess, secondary, and non-contributing;
  - j. Waiver of Subrogation endorsement; and
  - k. Listing of all exclusions and limitations added by endorsement to general liability coverage; however, no endorsements shall restrict, limit, or exclude in any manner whatsoever, coverage required.
- 3.1.27.3** All certificates of insurance for required coverage other than workers' compensation and professional liability (as applicable) shall name the State of Texas, RRC, and its officers, directors, and employees as additional insured.
- 3.1.27.4** Respondent's Proposal shall include proof of minimum required insurance types and limits of coverage. Proof of insurance may be provided in the form of current certificates of insurance (e.g., an Acord™ form).

### **3.1.27.5 Minimum Contractually Required Insurance Types and Coverage:**

<b>Insurance Type</b>	<b>Each Occurrence/Aggregate Limits</b>
<u>Workers' Compensation</u>	Within statutory limits/Texas Workers' Compensation Act.
<u>Employer's Liability</u>	Bodily Injury by Accident \$1,000,000 Each Accident Bodily Injury by Disease \$1,000,000 Each Employee \$1,000,000 Policy Limit
<u>Commercial General Liability</u> Includes liability arising out of all locations and operations of Vendor, including but not limited to liability assumed under this Contract (including the tort liability of another assumed in a business contract). Defense shall be provided as an additional benefit and not included within the limits of liability.	Bodily Injury and Property Damage \$1,000,000 Each Occurrence/\$2,000,000 General Aggregate \$2,000,000 Product-Completed Operations Aggregate \$1,000,000 Personal Injury and Advertising Liability \$5,000 Medical Expense each person
<u>Commercial Umbrella</u> <u>Excess Liability</u>	\$1,000,000 Each Occurrence/\$1,000,000 General Aggregate \$1,000,000 Each Occurrence/Person \$1,000,000 General Aggregate
<u>Automobile Liability</u> Must include liability arising out of <u>any auto</u> and be on business auto form.	\$1,000,000 Combined Single Limit (for each accident)
<u>Errors and Omissions</u>	\$1,000,000 Each Occurrence

**3.1.27.6 Failure to Obtain, Maintain, or Renew Required Insurance.** Failure to obtain, maintain, and/or renew the required insurance shall constitute a material breach of and default under this Contract. If Vendor fails to remedy such breach within five (5) business days after written notice by RRC, Vendor shall be liable for any and all costs, liabilities, damages and penalties resulting to the State of Texas and RRC from such breach, unless a written waiver of the specific insurance requirement(s) is provided to Vendor by RRC. In the event of any failure by Vendor to comply with the provisions of this Contract, RRC may, without in any way compromising or waiving any right or remedy at law or in equity, on written notice to Vendor, purchase such insurance, at Vendor's expense, provided that RRC shall have no obligation to do so and if RRC shall do so, Vendor shall not be relieved of or excused from the obligation to obtain and maintain such insurance amounts and coverages.

**3.1.28 TERMINATION AND CANCELLATION.** The Contract may be terminated, canceled, or cancellation of services may occur, in whole or in part, in any one or more of the following circumstances:

#### **3.1.28.1 TERMINATION OR CANCELLATION FOR CONVENIENCE.**

- a. **Mutual Agreement.** Upon the mutual written agreement of RRC and Vendor, the Contract may be terminated or canceled.
- b. **RRC Cancellation upon Thirty (30) Days' Notice.** RRC may in its sole discretion terminate, cancel the Contract, or cancel specific services of the Contract with thirty (30) calendar days' written notice to Vendor.

#### **3.1.28.2 TERMINATION OR CANCELLATION FOR CAUSE.**

- a. **Breach of Material Term.** Either party may, upon giving thirty (30) calendar days' written notice identifying specifically the basis of such notice, terminate the Contract for breach of a material term or condition of the Contract, provided the breaching party must not have cured such breach within the thirty (30) calendar days' period. In the event of such termination,

- Vendor will be paid for all services accepted prior to the date of the termination. No additional charges or fees will be assessed to RRC for the termination or cancellation.
- b. **Vendor Nonperformance.** If Vendor defaults on the Contract after award has been made, RRC reserves the right to cancel the Contract without notice and either reissue the RFP or award the Contract to the next qualified, responsive and responsible Vendor offering the best value to the state as determined by RRC. In such event, the defaulting Vendor will not be considered for award for any Contract arising under the re-solicitation and may not be considered in future solicitations for the same type of work unless the specifications or scope of work differ substantially from the work and/or services under the Contract on which Vendor defaulted. The length of any period of suspension shall be determined by RRC based on the seriousness of the default. In the event of nonperformance default, Vendor shall remain liable for all covenants and indemnities under the Contract. Vendor shall be liable for all costs and expenses, including any attorneys' fees and court costs, incurred by RRC with respect to the enforcement of any remedies listed herein.
  - c. **Bankruptcy.** Upon the filing of a petition for bankruptcy, or upon the judgment of bankruptcy or insolvency by or against Vendor, RRC may terminate the Contract for cause without notice. Such termination shall be effective upon the date of such filing or upon the date of judgment.
  - d. **Availability of State Funds, Legislative Action, Necessity of Performance.** The Contract is subject to termination or cancellation, without penalty to RRC, either in whole or in part, subject to the availability of state funds.
  - e. **Legal Remedies and Damages from Breach of Contract.** RRC expressly reserves all legal remedies to which it may be entitled to collect and all damages directly or indirectly resulting from breach of contract by Vendor or any of its agents, representatives, subcontractors, employees, or any other party acting on behalf of Vendor. RRC reserves the right to pursue all applicable rights and remedies if the Contract is terminated for any reason and RRC expressly waives no such rights or remedies.
  - f. **Substitution of Services.** In the event of RRC's termination or cancellation of the Contract for cause, RRC may procure, upon such reasonable terms and in such manner as RRC deems appropriate, substitute services similar to services terminated or canceled. Vendor shall be liable to RRC for any excess or additional costs incurred by RRC in acquiring such services plus court costs and attorneys' fees. RRC's recovery of costs under this section is in addition to any other remedies available to RRC under the Contract and/or under applicable law.

### **3.1.28.3 MISCELLANEOUS TERMINATION PROVISIONS.**

- a. **Recovery of Funds.** RRC reserves the right to recover reasonable costs, fees, expenses, and other amounts or damages available to RRC under the Contract or under applicable law, including, but not limited to, attorneys' fees and court costs, if termination or cancellation is at Vendor's request or if termination or cancellation is for cause. This right is in addition to any other remedies available to RRC under the Contract or under applicable law. RRC reserves the right to pursue all applicable rights and remedies if the Contract is terminated for any reason, and RRC expressly waives no such rights or remedies.
- b. **Notice of Termination or Cancellation Delivery.** Any termination by RRC of the Contract which requires written notice may be accomplished by RRC's delivery to Vendor of a notice of termination or cancellation specifying that the Contract is terminated or canceled.

**3.1.29 FEDERAL, STATE, AND LOCAL REQUIREMENTS.** Vendor shall demonstrate onsite compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Forms W-2 to common law employees. Vendor shall be solely responsible for both federal and state unemployment insurance coverage and standard Worker's Compensation Insurance coverage for Vendor's employees. Vendor shall comply with all federal and state employment tax laws and withholding requirements. The State of Texas shall not be liable to Vendor and Vendor's employees for any unemployment, workers' compensation, or federal or state tax withholding requirements. Vendor shall indemnify the State of Texas and RRC and shall pay all costs, penalties, or losses resulting from Vendor's omission or breach of this section.

**3.1.30 INDEPENDENT VENDOR.** Vendor shall serve as an independent Vendor in providing services under this Contract. Vendor's employees are not and shall not be construed as employees or agents of the State of Texas. Subject only to the terms of this Contract, Vendor shall have the sole right to supervise, manage, operate, control, and direct performance of its duties under this Contract. Nothing contained in the Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for RRC whatsoever with respect to the indebtedness, liabilities, and obligations of Vendor or any other party. Vendor shall be solely responsible for, and RRC shall have no obligation with respect to:

- a. Withholding of income taxes, FICA, or any other taxes or fees;
- b. Industrial worker's compensation insurance coverage;
- c. Participation in any group insurance plans available to employees of the State of Texas;
- d. Participation or contributions by State of Texas to the State Employees Retirement System;
- e. Accumulation of vacation or sick leave, or
- f. Unemployment compensation coverage provided by the state.

**3.1.31 FORCE MAJEURE.** Any delays in or failure of performance by either party, except in respect of the obligation of payments under the RFP or Contract, shall not constitute default hereunder if and to the extent such delays or failure of performance are caused by occurrence(s) beyond the reasonable control of the party affected, and which by the exercise of due diligence such party is unable to prevent, herein called "Force Majeure," including acts of God or the public enemy, sabotage, war, mobilization, revolution, civil unrest, riots, strikes, lockouts, fires, accidents breakdowns, floods, earthquakes, hurricanes or any other natural disaster or governmental actions. In any such event, the party claiming Force Majeure shall promptly notify the other party of the Force Majeure event in writing and, if possible, such notice shall set forth the extent and duration thereof. The party claiming Force Majeure shall exercise due diligences to prevent, eliminate, or overcome such Force Majeure event where it is possible to do so and resume performance at the earliest possible date. However, if non-performance continues for more than thirty (30) days, RRC may terminate the Contract immediately upon written notification to the Respondent.

**3.1.32 LABOR ACTIVITY.** Notwithstanding the foregoing paragraph, in the event any strike, boycott, picketing, work stoppage, slowdown, or other labor activity is directed against Vendor at RRC's facility and such labor activity results in the curtailment or discontinuation of services performed under the Contract, RRC shall have the right during said period to employ any means legally permissible to have the work performed.

**3.1.33 DISPUTE RESOLUTION.** Disputes arising under the Contract shall be resolved in accordance with the dispute resolution process provided in Texas Government Code Chapter 2260 and in accordance with 16 Texas Administrative Code Chapter 20, Subchapter A, Division 2. Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practices and Remedies Code. Neither the execution of the Contract by RRC nor any other conduct of any representative of RRC relating to the Contract shall be considered a waiver of sovereign immunity to suit.

**3.1.34 COMPLIANCE WITH OTHER LAWS.** Respondent shall comply with all laws, regulations, requirements and guidelines applicable to any vendor providing services and products required by the Contract to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as amended throughout the term of the Contract. RRC reserves the right, in its sole discretion, to unilaterally amend the contract prior to award and throughout the term of the Contract to incorporate any modifications necessary for RRC's compliance, as an agency of the State of Texas, with all applicable state and federal laws, regulations, requirements and guidelines.

**3.1.35 PERMITS, LICENSES, CERTIFICATIONS.** Vendor shall obtain and maintain all permits, licenses, or other authorizations as may be required for performance of the work under the Contract. Upon request by RRC, Vendor shall furnish to RRC certified copies of required permits, licenses, or other required authorizations. Vendor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Vendor shall be responsible for payment of any such government obligations not paid by Vendor's subcontractors during performance of the Contract.

**3.1.36 LEGAL NOTICES.** Any legal notice required or permitted to be delivered under the RFP and/or Contract shall be deemed delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to RRC or Respondent. Notice given in any other manner shall be deemed effective only

when received by the party to be notified. Either party may change its address for notice by providing written notice to the other party in accordance with the terms and conditions herein.

**3.1.37 GOVERNING LAW AND VENUE.** The RFP and Contract shall be governed by and construed in accordance with the laws of the State of Texas without regard to conflicts of law provisions. The venue of any suit brought under the RFP and/or Contract is fixed in any court of competent jurisdiction in Travis County, Texas unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the RRC. Vendor irrevocably waives any objection, including any objection to personal jurisdiction or proper venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the filing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto. **Nothing in this Section shall be construed as a waiver of sovereign immunity by RRC.**

**3.1.38 NO WAIVER.** Failure of either party to require performance by another party under the Contract will not affect the right of such party to require performance in the future. No delay, failure, or waiver of either Party's exercise or partial exercise of any right or remedy under the contract shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy. A waiver by a Party of any breach of any term of the contract will not be construed as a waiver of any continuing or successive breach.

**3.1.39 CONFIDENTIAL INFORMATION; PUBLIC INFORMATION ACT DISCLOSURES.** Information, documentation, and other material in connection with this Solicitation or any resulting Contract may be subject to public disclosure pursuant to Texas Government Code Chapter 552 (the "Public Information Act"). In accordance with Texas Government Code §2252.907, Respondent is required to make any information created or exchanged with the State pursuant to the Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State. Specific forms acceptable to RRC include MS Word®, MS Excel®, and \*.pdf files.

**3.1.40 DISASTER RECOVERY PLAN.** Upon request of RRC, Respondent shall provide to RRC the descriptions of Respondent's business continuity and disaster recovery plans.

**3.1.41 PUBLIC DISCLOSURE.** Respondent shall not use RRC's name, logo, or other likeness in any press release, marketing material, or other announcement; no public disclosures or news releases pertaining to the RFP or any resulting Contract shall be made without prior written approval of RRC. RRC does not, and shall not, endorse any vendor, commodity, or service. Without obtaining RRC's prior written consent, Respondent shall not, and is not authorized to, make or participate in any media releases or public announcements pertaining to the Solicitation, a contract arising from this RFP, Respondent's Proposal, or the services to which they relate.

**3.1.42 ENTIRE CONTRACT AND MODIFICATION.** The Contract and its integrated attachment(s) constitute the entire agreement of the parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements made in connection with the subject matter hereof. Unless an integrated attachment to the RFP and Contract expressly states a mutual intent to amend a specific article, section, item, term, or condition of the RFP and/or Contract, general conflicts in language between any attachment and the RFP and Contract shall be construed in favor of the terms and conditions of the RFP and Contract. Unless expressly authorized by the terms of this Contract, no modification, renewal, extension, or amendment to the RFP and Contract shall be binding upon the parties unless the same is in writing and signed by all Parties through an authorized representative of each Party with authority to bind the Party to the Contract.

**3.1.43 SEVERABILITY.** If any provision contained in this RFP and the Contract is held to be unenforceable by a court of law or equity, the RFP and Contract shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

**3.1.44 COUNTERPARTS.** The Contract issued pursuant to this RFP may be executed in any number of counterparts, each of which shall be an original, and each such counterpart shall together constitute but one and the same agreement.

**3.1.45 RESPONDENT'S STATEMENTS AND COVENANTS REQUIRED.** Respondents must sign and return the ***Respondent's Statements and Covenants*** form (see RFP Attachment 4) which shall be part of Respondent's Proposal and shall be fully incorporated by reference and constitute part of the Contract if awarded to Respondent. Failure to include a signed ***Respondent's Statements and Covenants*** form shall result in a Proposal being deemed nonresponsive and ineligible for Contract award.

## **3.2 SUPPLEMENTAL TERMS AND CONDITIONS APPLICABLE TO RFP No. 455-20-1018.**

- 3.2.1 Prohibited Use of State Property.** Respondent is prohibited from using State Property for any purpose other than performing Services authorized under the Contract.
- 3.2.1.1 State Property includes, but is not limited to, RRC's office space, identification badges, RRC information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads, external hard drives, data storage devices, any RRC issued software, and the RRC Virtual Private Network (VPN client)), and any other resources of RRC.
- 3.2.1.2 Respondent shall not remove State Property from the continental United States.
- 3.2.1.3 Respondent may not use any computing device to access Agency's network or e-mail while outside of the continental United States. Respondent shall not perform any maintenance services on State Property unless the contract expressly authorizes such services. During the time that State Property is in the possession of Respondent, Respondent shall be responsible for (i) all repair and replacement charges incurred by Agency that are associated with loss of State Property or damage beyond normal wear and tear and (ii) all charges attributable to Respondent's use of State Property that exceeds the contract scope. Respondent shall fully reimburse such charges to Agency within ten (10) calendar days of Respondent's receipt of Agency's notice of amount due. Use of State Property for a purpose not authorized by contract shall constitute breach of contract and may result in termination of the contract and the pursuit of other remedies available to Agency under contract, at law, or in equity.
- 3.2.2 Vendor's Identification of Key Personnel.** Prior to start of any work required under the Contract, Vendor must receive written approval of Vendor's list of all Vendor's personnel, including subcontractors, who shall be assigned to RRC's project in a project management or operations management role and/or such other assignments to critical project activities and/or segments ("Key Personnel Roles"). Vendor's list shall include, at a minimum, identification of Vendor's senior project staff within the following types of roles: Project Manager, Project Technical Architect, Project Technical Director, Project Business Analyst, Project Quality Assurance Manager, Project Contract Manager.
- 3.2.2.1 Upon receipt of written approval of Vendor's list under this article, Vendor shall not reassign, transfer, or delegate any Key Personnel Roles, responsibilities, tasks or duties under the Contract, throughout the life of the Contract, without prior written consent of RRC.
- 3.2.2.2 Vendor shall be solely responsible for ensuring, throughout Contract Term, that Vendor's personnel, including subcontractor that are assigned to a Key Personnel Role, shall meet all minimum qualifications, certifications, licenses, and experience required by the Solicitation and Contract Documents.
- 3.2.2.3 In event Vendor receives written approval from RRC to replace any personnel assigned a Key Personnel Role, Vendor shall ensure replacement of the personnel shall be with a qualified individual with equal or better qualifications of the previously approved Vendor personnel.

## **ATTACHMENTS**

Attachment 1

Statement of Work

Attachment 2

Respondent's Statements and Covenants

Attachment 3

Respondent's Qualifications Statement

Attachment 4

HUB Subcontract Plan form

Attachment 5

Sample RRC Contract

## **STATEMENT OF WORK**

### **1. INTRODUCTION AND BACKGROUND**

Pursuant to the Texas Natural Resources Code, and the RRC rules, the RRC collects a variety of fees, reimbursements and administrative penalties from regulated entities (including individuals, businesses, and governmental entities) to fund programs administered by the RRC and to enforce federal and state environmental laws. The Office of General Counsel Legal Enforcement Section processes these debts and attempts to collect past due fees, penalties and reimbursements, through internal attempts such as Commission orders, which are referred to the OAG if the amount owed exceeds \$5,000.00, and utilization of the Comptroller's Warrant Hold program. However, these internal attempts to collect account receivables are a separate function from the collection activities of a debt collection agency.

Texas Government Code § 2107.001, defines the term "obligation" to include a debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant. An ongoing assessment of fees and penalties collected by the RRC reflects that a number of these obligations are delinquent or will be delinquent during the fiscal year billing cycle. The OAG assists in collecting delinquent obligations owed to the RRC that meet the OAG's threshold criteria for referral and suit tolerance amount of \$5,000.00, and its assessment of the delinquent obligation's collectability. However, the RRC requires outside assistance to collect delinquent accounts that do not meet the current criteria for referral to the OAG. Any delinquent obligations that do not meet the OAG's acceptance criteria for referral may be referred to the Vendor at any time during the period of the Contract. The OAG referral acceptance criteria is subject to change during the term of the Contract.

Under this Contract, payments from debtors are to be made directly to the RRC. The RRC shall compute the Vendor's compensation, which will be a percentage of the amounts collected by the RRC as a result of the Vendor's performance under the Contract.

All contracts utilizing debt collection services are subject to review by the OAG prior to award.

### **2. Scope of Work**

#### **2.1 General Debt Collection Requirements**

- 2.1.1 Vendor agrees to accept for collection, upon the terms and conditions prescribed in this Contract, all unpaid accounts that the RRC may choose to refer to the Vendor. The number and origin of these accounts and the means by which Vendor shall receive the accounts will be determined solely by, and may be altered at the discretion of, the RRC. RRC prefers to refer accounts through electronic flat files.
- 2.1.2 Vendor shall promptly undertake, through proper and lawful means, the collection of every account referred by the RRC without regard to the amount. Vendor agrees and warrants that all collection activities will be in conformity with existing federal, state or local laws and regulations, including those governing the collection of delinquent obligations owed to the State of Texas.
- 2.1.3 Vendor shall implement thorough collection procedures to achieve a maximum recovery of debts. Vendor shall use telephone calls, mail efforts, asset searches, and skip tracing procedures in whatever combination Vendor deems appropriate. If Vendor wishes to use additional or alternative collection procedures besides those mentioned in this paragraph, Vendor shall request written approval from the RRC before using collection procedures not mentioned here. Vendor shall maintain records of its telephone scripts, guidelines, and of its form letters; RRC may review the language Vendor uses in telephone calls and require review and approve of collection letters. Vendor shall modify this language if the RRC directs Vendor to do so.

- 2.1.4 Vendor acknowledges the privacy rights of debtors and shall not release information concerning the delinquent debtor to any credit bureau or other third parties without full compliance with all federal and state laws and prior written approval from the RRC.
- 2.1.5 Vendor shall direct debtors to remit payment directly to the RRC. In the event that Vendor receives a payment directly, however, Vendor shall promptly deliver such payments to the RRC Financial Department by hand-delivery or overnight US mail or nationally recognized overnight courier. Vendor collection letters shall include a tear-off coupon to be returned with a customer's payment to RRC's designated Legal Enforcement Staff detailing to RRC specifications for each fee, reimbursement, or penalty type.
- 2.1.6 **THE VENDOR IS NOT AUTHORIZED TO FILE LAWSUITS ON BEHALF OF THE COMMISSION IN ORDER TO COLLECT ACCOUNTS.** The RRC will be responsible only for the specified commission and no other expenses incurred by Vendor. Payment of the commission fee to the Vendor is subject to the Texas Prompt Payment Act. Tex. Gov't Code § 2251.
- 2.1.7 Vendor shall be responsible for recording transactions on assigned accounts through weekly electronic files from the RRC of transactions posted to referred accounts. The RRC maintains the official record of the customer's account, which is updated to reflect the amount actually past due. Vendor shall return an account to the RRC as soon as the delinquency has been paid. Vendor shall not inform a debtor that the debt is paid in full.
- 2.1.8 Without limiting any other remedy that may be available to RRC, Vendor shall reimburse the RRC for any amount that becomes uncollectible or that is lost due to any act or omission of the Vendor or its officers, agents or employees. Such acts or omissions may include, but are not limited to, accepting a compromise settlement for less than the total amount due without authorization of the RRC, acknowledging that a payment constitutes payment in full when in fact the account is not paid in full, failing to immediately refer a substantive dispute by the debtor to the appropriate Legal Enforcement Staff, including notice to the appropriate RRC Contract Manager, and failing to immediately refer any Notice of Bankruptcy to the RRC Contract Manager. The rights and remedies available to the RRC under this paragraph are in addition to and are not to be construed in any way as a limitation of, any rights and remedies available to the RRC under this Contract or applicable law.
- 2.1.9 Vendor agrees to suspend action either temporarily or permanently on any account referred for collection upon notification to do so by the RRC and to return the specified accounts to the RRC upon request.
- 2.1.10 No collection fees shall be paid to Vendor:
- (A) On accounts that are administratively resolved or for invoices receiving credit adjustments, regardless of whether Vendor has initiated collection efforts; or
- (B) On accounts where the RRC collects funds as a result of any offset from monies owed the debtor by the State of Texas or the RRC, regardless of whether Vendor has initiated collection efforts.
- 2.1.11 Vendor shall not be entitled to a collection fee for overpayments and shall not retain any portion of an overpayment.
- 2.1.12 Through electronic means, Vendor agrees to promptly return to the RRC all accounts on which collection activity has ceased or accounts which are requested to be returned by the RRC. Vendor agrees to return accounts with a record of any contacts made with the debtor including current address, telephone number, and any other information that will aid in the future collection of the account. The transmission of such information is part of the service to the RRC that Vendor agrees to perform.

- 2.1.13 Vendor shall appoint at least one representative who will have primary responsibility and authority for the RRC's accounts. Vendor shall designate a single point of contact to request invoices from RRC for referred accounts and to refer customer disputes to RRC.
- 2.1.14 Vendor shall be responsible for and shall protect the RRC from loss of any funds collected while the funds are in the custody of the Vendor. Vendor shall promptly transmit to the RRC all funds collected regardless of any such loss. Should Vendor either fail or refuse to promptly transmit to the RRC all funds collected, Vendor shall cease any further collection effort on the account and shall consider the account under the control of the RRC. Vendor shall be responsible for all costs, fees, and expenses incurred by the RRC or the OAG in their efforts, either in or out of court, to obtain the funds. Vendor shall also be responsible for any claims or damages which may arise from its failure or refusal to transmit funds in a timely fashion. Vendor shall not share in funds collected by the RRC, or collected by the OAG on the RRC's behalf, on such an account.
- 2.1.15 Reports/Documents/Deliverables. Reports shall be in a form acceptable to the RRC, shall include information required by the RRC, and be furnished at times prescribed by the RRC. All reports must be filed in duplicate with the RRC Contract Manager and the Office of General Counsel—Legal Enforcement Section or placed in a secure web accessible location for both.
- 2.1.16 **Monthly Reports.** The RRC may modify monthly reporting requirements in their sole discretion upon ten (10) days' written notice to Vendor. At a minimum, monthly reports shall include:
- a) List of all accounts referred by the RRC including the date the referral was received, the RRC customer account number, the amount referred for collection, and the collected amount;
  - b) By account, payments received from debtor by Vendor, date received, check number, and date submitted to the RRC;
  - c) Summary report of accounts by fee code including number of accounts, aging by referral date, assigned amount, collected amount, cancelled amount, and active amount.
  - d) Accounts returned to RRC including the reason for the return; and
  - e) Change of address and phone number for each account that was recorded during the month.
- 2.1.17 **Read-Only Access for RRC.** The RRC Contract Manager and collection coordinators shall have read-only access to Vendor data systems for all RRC accounts referred to Vendor. Remote access shall be available in real-time to the RRC without cost to the RRC. In addition to the RRC account information, the collection history on the account shall be available including:
- a) Efforts taken to collect: dates of letters, letter type, phone or personal contact dates, name of contact, title of contact, and update of address and phone number; and
  - b) Status of account (e.g., payment promised by [date], dispute referred to [RRC staff name], account returned to the RRC [date], and last payment received [date]).

### **3. Staff Requirements**

#### **3.1 RRC Staff Requirements**

The following RRC personnel will be available for consultation and assistance as necessary, provided the Vendor affords sufficient lead time and all requests for consultation and assistance are approved by RRC management:

- Finance Division Staff
- Office of General Counsel – Legal Enforcement Section
- Contracts Management Staff

### **3.2 Vendor Staff Requirements**

Vendor will provide staff available to assist RRC staff between the hours of 8:00 am and 5:00 pm, Central Time, Monday through Friday.

### **4. Documentation Provided to Vendor**

At a minimum, the RRC will provide Vendor with a weekly electronic file of accounts in referred status, outstanding transactions on referred accounts, and payments received on those accounts. The Vendor will also be provided with debtor contact information and a summary of all fees and penalties that the RRC assesses.

## **RESPONDENT'S STATEMENTS AND COVENANTS**

By signature hereto, Respondent makes and agrees to the following certifications, covenants, representations, statements, and warranties, as applicable:

1. The provisions in **RFP No. 455-20-1018** apply to Respondent and all of Respondent's principals officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent Vendors, and any other representatives who may provide services under, who have a financial interest in, or who otherwise are interested in the RFP or the Contract arising therefrom.
2. Respondent certifies Respondent's intent to furnish the requested goods and/or services at the prices quoted in its Proposal, and notwithstanding any disclaimers in Respondent's Proposal and notwithstanding any other provision of the RFP or the Contract to the contrary, Respondent warrants and guarantees that all goods and services shall meet all specifications of the Contract.
3. Respondent certifies Respondent's prices include all costs of Respondent in providing the requested items that meet all specifications of this RFP, and that its prices will remain firm for acceptance for a minimum of one hundred eighty (180) calendar days from deadline for submission of Proposal.
4. Each of Respondent's employees, including replacement employees hired in the future, shall possess the qualifications, education, training, experience, and certifications required to perform the services in the manner required by the RFP.
5. Respondent represents and warrants that Respondent's provision of goods and/or services, or other performance under the Contract, will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
6. Pursuant to Texas Government Code Section 2155.003, Respondent has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
7. Respondent represents and warrants that RRC's payments to Respondent and Respondent's receipt of appropriated or other funds under the Contract are not prohibited by Texas Government Code §§556.005 or 556.0055.
8. Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed to the State of Texas under Texas Tax Code Chapter 171. In addition, if Respondent is an individual not residing in Texas or a business entity not incorporated in or whose principal domicile is not in Texas, the following certification applies:

Vendor certifies that it holds a permit issued by the Texas Comptroller to collect or remit all state and local sales and use taxes that become due and owing as a result of the individual's or entity's business in Texas, or certifies that it does not sell tangible personal property or services that are subject to the state and local sales and use tax.

9. Respondent represents and warrants that Respondent shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, state, or local income, sales, or excise taxes of Respondent and Respondent's employees. RRC shall not be liable for any taxes resulting from this Contract.
10. Respondent represents and warrants that in accordance with Texas Government Code §2155.005, neither Respondent nor the firm, corporation, partnership, or institution represented by Respondent, nor anyone acting for such a firm, corporation or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Texas Business and Commerce Code Chapter 15, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Proposal to any competitor or any other person engaged in the same line of business as Respondent.

11. By submitting a Proposal, Respondent represents and warrants that the individual submitting this ***Respondent's Statements and Covenants*** is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract that may result from the submission of the Proposal.
12. Respondent certifies that if a Texas address is shown as the address of Respondent within the Proposal, Respondent qualifies as a Texas Bidder as defined in Texas Government Code §2155.444(c).
13. Under Texas Family Code §231.006, regarding child support, Respondent certifies that the individual or business entity named in the Proposal and any Contract resulting from Respondent's Proposal to this RFP is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, pursuant to Texas Family Code §231.006, in event of Contract award, Respondent agrees to provide, prior to Contract award, the name and Social Security Number for each person with 25% or greater ownership interest in the business entity.
14. Under Texas Government Code §669.003, Respondent certifies that it does not employ, or has disclosed its employment of, any former executive head of RRC. Respondent must provide the following information (or indicate "N/A" if not applicable) in Respondent's Proposal.

**Name of Former Executive:** \_\_\_\_\_

**Name of State Agency:** \_\_\_\_\_

**Date of Separation from State Agency:** \_\_\_\_\_

**Position with Respondent:** \_\_\_\_\_

**Date of Employment with Respondent:** \_\_\_\_\_

15. Respondent has not been the subject of allegations of deceptive trade practices violations under Texas Business and Commerce Code Chapter 17, or allegations of any unfair business practice in any administrative hearing or court suit, and Respondent has not been found to be liable for such practices in such proceedings.

Respondent certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of deceptive trade practice violations or allegations of any unfair business practices in an administrative hearing or court suit, and that such officers have not been found to be liable for such practices in such proceedings.

16. In accordance with Texas Government Code §2155.4441, Respondent agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.
17. Pursuant to Texas Government Code §2272.003, Respondent certifies that either (i) it meets an exemption criterion under Texas Government Code §2272.003; or (ii) it is not an abortion provider or an affiliate of an abortion provider during the term of the Contract resulting from this solicitation.
18. Pursuant to Texas Government Code §2270.002, Respondent certifies that either (i) it meets an exemption criterion under Texas Government Code §2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the Contract resulting from this solicitation. **Respondent shall state any facts that make it exempt from the boycott certification in its Proposal.**
19. Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Texas Government Code §2252.152.
20. Respondent certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.

21. If Respondent is submitting a Proposal for the purchase or lease of computer equipment, then Respondent hereby certifies that it is in compliance with Texas Health and Safety Code Chapter 361, Subchapter Y, and Texas Commission on Environmental Quality rules in 30 Texas Administrative Code Chapter 328.
22. Respondent shall ensure that any Respondent employee or subcontractor employee who has access to a state computer system or database shall complete a cybersecurity training program certified under Texas Government Code §2054.5192. Such training is required to occur during the contract term and the renewal period. Respondent shall provide RRC with verification of the completion of the requisite training.
23. Respondent represents and warrants that within the five (5) calendar years immediately preceding the submission of Respondent's Proposal, Respondent is not aware of and has received no notice of any court or governmental agency actions, proceedings, or investigations, etc., pending or threatened against Respondent, or any of the individuals or entities included in Respondent's Proposal, that would or could impair Respondent's performance under any contract resulting from this RFP, relate to the solicited or similar goods or services, or otherwise be relevant to RRC's consideration of Respondent's Proposal. If Respondent is unable to make such representation and warranty, Respondent instead represents and warrants that it has included as a detailed attachment in its Proposal a complete disclosure of any such court or governmental agency actions, proceedings or investigations, etc. that would or could impair Respondent's performance under any contract resulting from this RFP, relate to the solicited or similar goods or services, or otherwise be relevant to RRC's consideration of Respondent's Proposal. In addition, Respondent represents and warrants that it shall notify RRC in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update RRC shall constitute breach of contract and may result in immediate termination of any agreement resulting from this RFP.
24. Respondent represents and warrants that Respondent and each of Respondent's subcontractors have the requisite resources, qualifications, and independence to conduct the services free from outside direction, control, or influence, and subject only to the accomplishment of RRC's objectives.
25. Respondent represents and warrants that neither Respondent nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractor, identified in the Proposal has been convicted of a felony criminal offense, or that if such a conviction has occurred Respondent has fully advised RRC of the facts and circumstances in its Proposal.
26. Respondent has read and agrees to all terms and conditions of this RFP, unless Respondent specifically takes an exception and proposes an alternative provision in Respondent's Proposal (see RFP section 2.9.)
27. Pursuant to Texas Government Code §572.069, Respondent warrants and certifies Respondent will not employ any former RRC officer or employee, who in any manner participated in the procurement or Contract negotiation of this RFP, before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

Respondent shall disclose any current or former employees or subcontractors who are current or former employees of the State of Texas and shall disclose their role or position relative to the provision of services under the Contract, as well as their hire or contract date. Respondent shall also disclose any proposed personnel who are related by marriage or within the second degree of consanguinity to any current or former employees of the State. Failure to fully disclose the information required under this paragraph may result in disqualification of Respondent's Proposal or termination of the Contract.
28. As applicable, prior to submitting the signed Contract to RRC, Respondent shall comply with Texas Government Code §2252.908, relating to Disclosure of Interested Parties, by accessing the Texas Ethics Commission ("TEC") portal ([ethics.state.tx.us/...form1295](http://ethics.state.tx.us/...form1295)), reviewing the instructional video, creating a username and password, and completing and electronically filing with the TEC the "Certificate of Interested Parties".

29. Respondent certifies that for contracts for services Respondent shall utilize the [U.S. Department of Homeland Security's E-Verify system](#) during the term of the Contract to determine the eligibility of:
- All persons employed to perform duties within Texas; and
  - All persons, including subcontractors, assigned by Respondent to perform work pursuant to the Contract, within the United States of America.

If it is determined that Respondent has violated the certification set forth in this section, the (1) Respondent shall be in breach of the Contract, (2) RRC shall have the option to terminate the Contract for cause without prior notice, and (3) in addition to any other rights or remedies available to RRC under the Contract, Respondent shall be responsible for all costs incurred by RRC to obtain substitute services to replace the terminated Contract.

30. Respondent acknowledges and agrees that, to the extent Respondent owes any debt including, but not limited to, delinquent taxes, delinquent student loans, and child support owed to the State of Texas, any payments or other amounts Respondent is otherwise owed under the Contract may be applied toward any debt Respondent owes the State of Texas until the debt is paid in full. These provisions are effective at any time Respondent owes any such debt or delinquency.
31. In accordance with Texas Government Code §552.372, Respondent agrees to (1) preserve all contracting information related to the Contract as provided by the records retention requirements applicable to RRC for the duration of the Contract, (2) promptly provide to RRC any contracting information related to the Contract that is in the custody or possession of the Respondent on request of RRC, and (3) on termination or expiration of the Contract, either provide at no cost to RRC all contracting information related to the Contract that is in the custody or possession of the Respondent or preserve the contracting information related to the Contract as provided by the records retention requirements applicable to RRC. Except as provided by Texas Government Code §552.374(c), the requirements of Texas Government Code Chapter 552, Subchapter J, may apply to the Contract and the Respondent agrees that the Contract can be terminated if the Respondent knowingly or intentionally fails to comply with a requirement of that subchapter.
32. Pursuant to 34 Texas Administrative Code §20.306, if applicable to the RFP, Respondent claims the preference(s) checked below:

- |  |  |
|--|--|
| <input type="checkbox"/> Supplies, materials, or equipment produced in TX or Offered by TX bidder or TX bidder that is owned by a service-disabled veteran | <input type="checkbox"/> Rubberized asphalt paving material  |
| <input type="checkbox"/> Agricultural products produced or grown in TX   | <input type="checkbox"/> Foods of Higher Nutritional Value   |
| <input type="checkbox"/> Agricultural products and services Offered by TX bidders  | <input type="checkbox"/> Recycled motor oil and lubricants   |
| <input type="checkbox"/> USA produced supplies, materials, or equipment  | <input type="checkbox"/> Products produced at facilities located on formerly contaminated property |
| <input type="checkbox"/> Products of persons with mental or physical disabilities  | <input type="checkbox"/> Products and services from economically depressed or blighted areas       |
| <input type="checkbox"/> Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel                        | <input type="checkbox"/> Vendors that meet or exceed air quality standards                         |
|  | <input type="checkbox"/> Recycled or Reused Computer Equipment of Other                            |

33. Pursuant to Texas Government Code §§2155.004, 2155.006, 2155.0061, and 2261.053, Respondent certifies that the individual or business entity named in this Proposal is not ineligible to receive the Contract and acknowledges that the Contract may be terminated, and payment withheld if this certification is inaccurate.

34. Respondent represents and warrants Respondent currently is, and for the Contract term duration shall remain, in compliance with the requirements of 42 U.S.C. Ch. 126, §12101, et. seq., the Americans With Disabilities Act, and its implementing regulations, as each may be amended.
35. Respondent represents and warrants Respondent currently is, and for the Contract term duration shall remain, in compliance with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §§8101-8106.) and maintain a drug-free work environment. The final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget (2 C.F.R. Part 182) to implement the provisions of the Drug-Free Work Place Act of 1988 is fully incorporated by reference and shall constitute part of the Contract, and Vendor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.
36. Respondent agrees Respondent shall comply with all applicable provisions found within 41 CFR §60-1.4, related to Equal Employment Opportunity. Applicable provisions include, but are not limited to, the following: Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or age. Respondent shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or age.
37. Respondent represents and warrants that all articles and services provided by Respondent and Respondent's subcontractors under the Contract shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15), state, local, and industry related statutes, rules, regulations, and codes.
38. Respondent represents and warrants that Respondent currently is, and for the Contract term duration shall remain, in compliance with all requirements of the Immigration and Nationality Act (8 U.S.C. §1101 et seq.) and all subsequent immigration laws and amendments; additionally, Respondent shall not place any employee at a worksite and Respondent shall not permit any Respondent employee, or any employee of Respondent's subcontractor to perform any work on behalf of or for the benefit of the State of Texas and/or RRC without first ensuring the employee's authorization to lawfully work in the United States.
39. Respondent certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the [State of Texas Debarred Vendor List](#) maintained by the Texas Comptroller of Public Accounts and the [System for Award Management \(SAM\)](#) maintained by the U. S. General Services Administration.
40. Respondent represents and warrants that all statements and information prepared and submitted in this document and Respondent's Proposal are current, complete, true, and accurate. Submitting a Proposal with a false statement, and/or material misrepresentations made during the performance of a Contract, each are a material breach of the Contract and may void Respondent's submitted Proposal and the Contract, if awarded

**Authorized representative on behalf of Respondent must complete and sign the following:**

Respondent Name	Federal Employer Identification Number
Signature of Authorized Representative	Date signed
Printed Name & Title of Authorized Representative	

## **VENDOR'S QUALIFICATIONS STATEMENT**

**THIS FORM MUST BE FULLY COMPLETED AND INCLUDED WITH RESPONDENT'S PROPOSAL.** Failure to answer any question or provide the requested information may result in the Proposal being deemed non-responsive. Complete all blocks; if a question or information request is not applicable to Vendor, complete that item with "not applicable" or "N/A". If additional space is required for a complete response, provide the additional information on 8 x 11 1/2 paper with Vendor's letterhead, and include reference to specific page number, item, and section of this Vendor's Qualifications Statement applicable to the information.

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<b>FIRM</b>			
<b>ADDRESS</b>			
<b>PHONE</b>		<b>FAX</b>	
<b>E-MAIL</b>			
Is your firm: Individual _____ Partnership _____ Corporation _____			
If incorporated, under the laws of the State of _____ with principal place of business in _____			

### **PRINCIPALS IN FIRM AND YEARS EXPERIENCE: DEBT COLLECTION SERVICES INDUSTRY**

NAME	TITLE	PHONE	NO. OF YEARS

**FIRM HISTORY:** List firm history below, including any other business names used.

From	to	Firm Name	
From	to	Firm Name	
From	to	Firm Name	
From	to	Firm Name	

Has firm, under its current or former name(s) ever failed to complete a project, defaulted on a contract, or been engaged in litigation over a contract? \_\_\_\_ Yes \_\_\_\_ No. If yes, provide details of most recent occurrence on separate sheet(s) and attach to this form as instructed within the introduction of this form.

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### **VENDOR'S CAPABILITIES:**

**FIRM'S AVERAGE ANNUAL GROSS REVENUE \$ \_\_\_\_\_**

Percentage of this revenue by categories:

Debt Collection Services _____ %	Non-debt collection Services _____ %	Other Services _____ %
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**FINANCIAL CAPABILITIES****FINANCIAL INFORMATION SUMMARIZED BELOW WAS PREPARED BY:**

<b>ACCOUNTING FIRM</b>		Address	
City/State/Zip		E-Mail	
Prepared by (name):		Phone	

**FINANCIAL STATEMENT SUMMARY:**

Current Assets		Current Liabilities	
Fixed Assets		Net Worth	
Total Assets		Total Liab. & Net Worth	

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**BONDING REFERENCES:**

<b>AGENCY</b>		Address	
City/State/Zip		E-Mail	
Phone		Fax	
Agent's Name		Agent's Phone	
Name of Power of Attorney from Bond Company		Expiration Date	

<b>BONDING COMPANY</b>		Address	
City/State/Zip		Email	
Phone		Fax	
Name of Representative		Phone	

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**BANKING REFERENCES**

<b>BANK</b>		Address	
City/State/Zip		E-Mail	
Bank Contact Name		Phone	
Checking Acct. Numbers		Fax	
Loan Acct. Numbers			
CD/MM Acct. Numbers			

## **VENDOR'S EXPERIENCE RECORD**

LIST NO MORE THAN THREE (3) SUCCESSFUL PROJECTS THAT ARE AT LEAST 50% COMPLETE (*50% COMPLETE PROJECTS WILL BE COUNTED TOWARDS SUCCESSFUL PROJECTS*) OR HAVE BEEN COMPLETED WITHIN THE LAST FIVE (5) YEARS MEASURED BACKWARDS FROM THE ISSUE DATE OF THIS SOLICITATION, AND THAT BEST DEMONSTRATE CURRENT QUALIFICATIONS RELATED TO THE WORK INCLUDED WITHIN RFP ATTACHMENT 1: STATEMENT OF WORK.

**1.**

Project Name						
Project Location		Contract Amount	Beginning \$	Ending \$		
Project Owner Name & Type (Private, Gov't)		Address				
City		State		Zip		
Project Owner's Rep familiar with project		Phone		Fax		
Contract Start Date (Date of Notice to Proceed)		Contract Duration (Calendar Days)				
If Project is still in progress, provide percentage complete		If completed, date of completion				
If time extensions were added to the contract as a result of Vendor's responsibilities, provide a short explanation of each occurrence/extension.						
Project description, Vendor's types of services delivered under the project contract, and explanation of why project is comparable to this contract.						

**2.**

Project Name						
Project Location		Contract Amount	Beginning \$	Ending \$		
Project Owner Name & Type (Private, Gov't)		Address				
City		State		Zip		
Project Owner's Rep familiar with project		Phone		Fax		
Contract Start Date (Date of Notice to Proceed)		Contract Duration (Calendar Days)				
If Project is still in progress, provide percentage complete		If completed, date of completion				
If time extensions were added to the contract as a result of Vendor's responsibilities, provide a short explanation of each occurrence/extension.						
Project description, Vendor's types of services delivered under the project contract, and explanation of why project is comparable to this contract.						

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### **VENDOR'S EXPERIENCE RECORD (CONTINUED)**

**3.**

Project Name				
Project Location		Contract Amount	Beginning \$	Ending \$
Project Owner Name & Type (Private, Gov't)		Address		
City		State	Zip	
Project Owner's Rep familiar with project		Phone	Fax	
Contract Start Date (Date of Notice to Proceed)		Contract Duration (Calendar Days)		
If Project is still in progress, provide percentage complete		If completed, date of completion		
If time extensions were added to the contract as a result of Vendor's responsibilities, provide a short explanation of each occurrence/extension.				
Project description, Vendor's types of services delivered under the project contract, and explanation of why project is comparable to this contract.				

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### **VENDOR'S DESIGNATED SUPERVISOR'S INFORMATION:**

NAME	CURRENT TITLE	NO. YEARS EMPLOYED BY VENDOR	NO. YEARS TOTAL EXPERIENCE*

\*Include only experience within oil/gas well plugging services industry.

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**VENDOR'S DESIGNATED SUPERVISOR'S EXPERIENCE RECORD:**

LIST NO MORE THAN THREE (3) SUCCESSFUL PROJECTS THAT ARE AT LEAST 50% COMPLETE (*50% COMPLETE PROJECTS WILL BE COUNTED TOWARDS SUCCESSFUL PROJECTS*) OR HAVE BEEN COMPLETED WITHIN THE LAST FIVE (5) YEARS MEASURED BACKWARDS FROM THE ISSUE DATE OF THIS SOLICITATION, AND THAT BEST DEMONSTRATE **VENDOR'S DESIGNATED SUPERVISOR'S** KNOWLEDGE AND MANAGEMENT EXPERIENCE RELATED TO PROJECTS OF SIMILAR SCOPE AND SIZE AS THE WORK INCLUDED WITHIN RFP ATTACHMENT 1: STATEMENT OF WORK. INFORMATION PROVIDED IN THIS SECTION SHOULD INCLUDE ONLY THAT WHICH IS RELATED TO VENDOR'S DESIGNATED SUPERVISOR.

**1.**

Project Name	Designated Supervisor's Title on Project:			
Project Location	Contract Amount	Beginning \$	Ending \$	
Project Owner Name & Type (Private, Gov't)	Address			
City	State		Zip	
Project Owner's Rep familiar with project	Phone		Fax	
Contract Start Date (Date of Notice to Proceed)	Contract Duration (Calendar Days)			
If Project is still in progress, provide percentage complete	If completed, date of completion			
Project description; Project Manager's responsibilities under the project contract, and explanation of why project is comparable to this contract.				

**2.**

Project Name	Designated Supervisor's Title on Project:			
Project Location	Contract Amount	Beginning \$	Ending \$	
Project Owner Name & Type (Private, Gov't)	Address			
City	State		Zip	
Project Owner's Rep familiar with project	Phone		Fax	
Contract Start Date (Date of Notice to Proceed)	Contract Duration (Calendar Days)			
If Project is still in progress, provide percentage complete	If completed, date of completion			
Project description; Project Manager's responsibilities under the project contract, and explanation of why project is comparable to this contract.				

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### **VENDOR'S DESIGNATED SUPERVISOR'S EXPERIENCE RECORD: (CONTINUED)**

**3.**

Project Name	Designated Supervisor's Title on Project:		
Project Location	Contract Amount	Beginning \$	Ending \$
Project Owner Name & Type (Private, Gov't)	Address		
City	State	Zip	
Project Owner's Rep familiar with project	Phone	Fax	
Contract Start Date (Date of Notice to Proceed)	Contract Duration (Calendar Days)		
If Project is still in progress, provide percentage complete	If completed, date of completion		
Project description; Project Manager's responsibilities under the project contract, and explanation of why project is comparable to this contract.			

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### **VENDOR'S HUB AND PREVIOUS RRC CONTRACTING EXPERIENCE:**

Please indicate if Vendor is a **Texas Certified** Historically Underutilized Business (HUB):  YES  NO

If yes, please indicate gender and ethnicity: Gender:  Male  Female

Ethnicity: \_\_\_\_\_ (*Asian Pacific Islander, Black American, Hispanic American, Native American, American Woman, or Service-Disabled Veteran*)

Has Vendor ever performed prior work under contract or subcontract with RRC?  YES  NO

If yes, list the most recent project contract number(s) and name(s):\_\_\_\_\_

I hereby certify that all information provided above and attached is true and correct. Furthermore, I hereby authorize you to contact the references listed above and authorize release of information from such references to Railroad Commission of Texas. I hereby certify that my firm is not debarred or suspended from performing work for the U.S.A. or the State of Texas.

---

Respondent Name

---

Signature of Owner or Officer

---

Title of Person Signing

---

Date

## **HUB SUBCONTRACTING PLAN FORM**



# HUB Subcontracting Plan (HSP)

## QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - Yes, I will be subcontracting portions of the contract.
  - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
  - Section 2 c. - Yes
  - Section 4 - Affirmation
  - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract\* in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - Yes, I will be subcontracting portions of the contract.
  - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
  - Section 2 c. - No
  - Section 2 d. - Yes
  - Section 4 - Affirmation
  - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract\* in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - Yes, I will be subcontracting portions of the contract.
  - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
  - Section 2 c. - No
  - Section 2 d. - No
  - Section 4 - Affirmation
  - GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:
  - Section 1 - Respondent and Requisition Information
  - Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
  - Section 3 - Self Performing Justification
  - Section 4 - Affirmation

**\*Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



# HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

**NOTE:** Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.284 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

## **-- Agency Special Instructions/Additional Requirements --**

*In accordance with 34 TAC §20.285(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent does not have a continuous contract\* in place for more than five (5) years shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

HUB Goal for this solicitation is 26.0%.

In accordance with Texas government Code Chapter 2161, Subchapter F 2161.252(b) a proposal that does not contain a HUB Subcontracting Plan (HSP) is non-responsive; and in accordance with Texas Administrative Code 20.285(b)(3), Responses that do not include a completed HUB Subcontracting Plan shall be rejected without further evaluation.

HUB Subcontracting Opportunities:

946-33 Collection Services, Financial Debit

For questions or assistance in completing your HSP, please contact:

Michael Herman at: michael.herman@rrc.texas.gov

## **SECTION 1: RESPONDENT AND REQUISITION INFORMATION**

- a. Respondent (Company) Name: \_\_\_\_\_ State of Texas VID #: \_\_\_\_\_  
Point of Contact: \_\_\_\_\_ Phone #: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_ Fax #: \_\_\_\_\_
- b. Is your company a State of Texas certified HUB?  - Yes  - No
- c. Requisition #: 455-20-1018 Bid Open Date: \_\_\_\_\_  
(mm/dd/yyyy)

Enter your company's name here: \_\_\_\_\_

Requisition #: 455-20-1018

**SECTION 2: RESPONDENT's SUBCONTRACTING INTENTIONS**

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

- a.** Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- Yes, I will be subcontracting portions of the contract. (If Yes, complete Item b of this SECTION and continue to Item c of this SECTION.)  
 - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If No, continue to SECTION 3 and SECTION 4.)

- b.** List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
	Aggregate percentages of the contract expected to be subcontracted:	%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>).

- c.** Check the appropriate box (Yes or No) that indicates whether you will be using only Texas certified HUBs to perform all of the subcontracting opportunities you listed in SECTION 2, Item b.

- Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)  
 - No (If No, continue to Item d, of this SECTION.)

- d.** Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract with Texas certified HUBs with which you do not have a continuous contract\* in place with for more than five (5) years, meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- Yes (If Yes, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)  
 - No (If No, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed.)

**\*Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: \_\_\_\_\_

Requisition #: 455-20-1018

**SECTION 2: RESPONDENT's SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)**

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract*</u> in place for <u>more than five (5) years.</u>	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years.</u>	
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

**\*Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: \_\_\_\_\_

Requisition #: 455-20-1018

**SECTION 3: SELF PERFORMING JUSTIFICATION** (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

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#### **SECTION 4: AFFIRMATION**

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature	Printed Name	Title	Date (mm/dd/yyyy)
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#### **Reminder:**

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

## ***HSP Good Faith Effort - Method A (Attachment A)***

Rev. 2/17

Enter your company's name here:

Requisition #: 455-20-1018

**IMPORTANT:** If you responded “Yes” to **SECTION 2, Items c or d** of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method A (Attachment A)” for each of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-a.pdf>

## **SECTION A-1: SUBCONTRACTING OPPORTUNITY**

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: \_\_\_\_\_ Description: \_\_\_\_\_

## **SECTION A-2: SUBCONTRACTOR SELECTION**

List the subcontractor(s) you selected to perform the subcontracting opportunity you listed above in SECTION A-1. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmblsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

**REMINDER:** As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

# HSP Good Faith Effort - Method B (Attachment B)

Rev. 2/17

Enter your company's name here: \_\_\_\_\_ Requisition #: 455-20-1018 \_\_\_\_\_

**IMPORTANT:** If you responded "No" to SECTION 2, Items c and d of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

## SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: \_\_\_\_\_ Description: \_\_\_\_\_

## SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in SECTION B-1, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If Yes, continue to SECTION B-4.)  
 - No / Not Applicable (If No or Not Applicable, continue to SECTION B-3 and SECTION B-4.)

## SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you MUST comply with items a, b, c and d, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmlsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.
- b. List the three (3) Texas certified HUBs you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID (Do not enter Social Security Numbers.)	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to two (2) or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

- d. List two (2) trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

# HSP Good Faith Effort - Method B (Attachment B) Cont.

Rev. 2/17

Enter your company's name here: \_\_\_\_\_

Requisition #: 455-20-1018

## SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in **SECTION 2, Item b**, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: \_\_\_\_\_ Description: \_\_\_\_\_

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmblsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

**REMINDER:** As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.



# HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in Section B has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.285 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code §20.282(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in Section C, Item 2, reply no later than the date and time identified in Section C, Item 1. Submit your response to the point-of-contact referenced in Section A.

## SECTION A: PRIME CONTRACTOR'S INFORMATION

Company Name: \_\_\_\_\_  
Point-of-Contact: \_\_\_\_\_  
E-mail Address: \_\_\_\_\_

State of Texas VID #: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
Fax #: \_\_\_\_\_

## SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: \_\_\_\_\_  
Point-of-Contact: \_\_\_\_\_  
Requisition #: 455-20-1018

Phone #: \_\_\_\_\_  
Bid Open Date: \_\_\_\_\_  
(mm/dd/yyyy)

## SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION

### 1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2,

we must receive your bid response no later than \_\_\_\_\_ on \_\_\_\_\_.  
Central Time Date (mm/dd/yyyy)

*In accordance with 34 TAC §20.285, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Admininistrative Code, §20.282(19)(C).*

*(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)*

### 2. Subcontracting Opportunity Scope of Work:

### 3. Required Qualifications:

- Not Applicable

### 4. Bonding/Insurance Requirements:

- Not Applicable

### 5. Location to review plans/specifications:

- Not Applicable

**1 RAILROAD COMMISSION OF TEXAS  
2 SAMPLE CONTRACT NO. 455-20-SAMPLE FOR  
3 DEBT COLLECTION SERVICES**

**THIS AGREEMENT** (“Contract”) is made and entered into by the State of Texas, through the **RAILROAD COMMISSION OF TEXAS** (“RRC”), a state agency located at 1701 N. Congress Avenue, Austin, Texas 78701 and **VENDOR LEGAL NAME** (“Vendor”), located at VENDOR PHYSICAL ADDRESS (individually “Party”; collectively “Parties”).

**WITNESSETH**

**WHEREAS**, Texas Government Code § 2107.001, defines the term “obligation” to include a debt, judgment, claim, account, fee, fine, tax, penalty, interest, loan, charge, or grant. An ongoing assessment of fees and penalties collected by the RRC reflects that a number of these obligations are delinquent or will be delinquent during the fiscal year billing cycle, and RRC intends to purchase certain goods and/or have performed certain services, namely debt collection services. and other related services; and

**WHEREAS**, in accordance with applicable provisions of Texas Government Code Chapters 2155 and 2156, RRC has selected Vendor to provide the desired debt collection services referenced within RRC’s Request For Proposal No. 455-20-1018 (“RFP No. 455-20-1018”), and Vendor has agreed to provide the desired debt collection services referenced within RFP No. 455-20-1018, subject to the terms and conditions hereinafter set forth; and

**WHEREAS**, all terms and conditions of RFP No. 455-20-1018, including but not limited to insurance, bonding requirements, and specifications within the Statement of Work, constitute part of this Contract No. **455-20-SAMPLE**.

**NOW, THEREFORE**, RRC and Vendor, for and in consideration of the mutual promises, obligations, and benefits hereof, contract as follows:

**I. CONTRACT DOCUMENTS.**

**1.01. SERVICES REQUIRED.** In accordance with the terms and conditions of the Contract, including all Contract Documents incorporated by reference, Vendor shall deliver throughout the term of the Contract including renewal or extension periods (if any), debt collection services (“Services”), including all labor, qualified personnel, management, coordination, equipment, materials, insurance, bonding, and incidentals to fulfill all requirements and deliver all goods and/or services required under the Contract in accordance with applicable method protocols, industry/trade best practices, and all rules, regulations, and laws related thereto. “Contract Documents” include:

- a. This Contract No. **455-20-SAMPLE**;
- b. Exhibit A, RFP No. 455-20-1018, including all associated attachments, appendices, exhibits, and addenda; and
- c. Exhibit B, Vendor’s Proposal, dated Month dd, yyyy (“Vendor’s Proposal”).

**1.02. INCORPORATED BY REFERENCE.** All elements listed in 1.01.a. through 1.01.c. are attached hereto and hereby incorporated by reference and constitute part of the Contract as if fully set forth herein.

**1.03. ORDER OF PRECEDENCE.** For purposes of interpretation of the Contract and in the event of conflict within the Contract Documents, this **Contract No. 455-20-SAMPLE** shall take precedence over the other Contract Documents. Any inconsistency among the Contract Documents shall be resolved applying the order of priority as listed below:

- a. This Contract No. **455-20-SAMPLE**; then

- b. Exhibit A, RFP No. 455-20-1018, including all associated attachments, appendices, and addenda; then
- c. Exhibit B, Vendor's Proposal.

## II. TERM.

### 2.01. CONTRACT AWARD.

- a. The original term of this Contract shall be from date of the last Party's signature to the Contract and shall continue for **NUMBER OF DAYS TO COMPLETE WORK** ("Original Term"), unless terminated earlier as provided in **RFP No. 455-20-1018**, Part III, and/or section 2.02. set forth below.

This Contract is non-renewable and may be extended only through written amendment to the Contract, fully executed prior to expiration of the Contract term in effect prior to execution of the applicable amendment to the Contract.

- b. Notwithstanding the termination or expiration of this Contract, any provisions regarding indemnification, confidentiality, dispute resolution, intellectual property rights, audit rights, limitation of liability, limitation of distribution, and warranties shall survive the termination or expiration dates of this Contract.

### 2.02. TERMINATION.

- a. **Termination for Cause.** RRC may terminate this Contract immediately for cause by providing written notice to Vendor of such termination if Vendor fails to execute the work properly, performs work in an unsatisfactory manner, or fails to perform any provision of the Contract. In the event of abandonment or default, Vendor will be responsible for paying damages to RRC, including but not limited to, the cost to re-solicit this Contract and any consequential damages to the State of Texas or RRC resulting from Vendor's non-performance. Notwithstanding the foregoing, Vendor shall not be liable for damages that Vendor could not reasonably foresee on entry into this Contract. In the event of termination for cause, Vendor will not be eligible for consideration in the re-solicitation, if any, and may not be considered in future solicitations for the same type of work unless the scope of work is significantly changed.
- b. **Termination for Convenience.** RRC may, at its sole option and discretion, terminate this Contract at any time, for any reason whatsoever, in whole or in part, by giving written notice ("Notice of Termination") to Vendor at least thirty (30) days prior to the effective date of termination or reduction in the scope of work. In the event of termination by RRC under this subsection, Vendor shall be governed by the terms and conditions, and shall perform the acts outlined in section 2.02.c., below.
- c. **Implementation of Termination.** Vendor shall terminate all work under the Contract to the extent and on the date specified in the Notice of Termination and until such date shall, to the extent stated in the Notice of Termination, do such work as may be necessary and be compensated only for such work as may be necessary, as determined by RRC to preserve the work in progress. In the event of termination by RRC, RRC shall pay Vendor for all work satisfactorily performed up to the effective date of termination.

### 2.03. NO LIABILITY UPON TERMINATION.

If this Contract is terminated for any reason, RRC and the State of Texas shall not be liable to Vendor for any damages, claims, losses, or any other amounts arising from or related to any such termination absent an award of damages pursuant to Texas Government Code Chapter 2260.

## III. CONSIDERATION AND SERVICES.

### 3.01. CONTRACT LIMIT, FEES AND EXPENSES.

The total amount of fees to be paid under this Contract through the Original Term and extension terms, if any, (collectively, "Contract Term") shall not exceed **CONTRACT AMOUNT IN WORDS (\$#,###,###.##)**.

### **3.02. SERVICES.**

- a. Vendor shall provide the goods and services necessary and reasonably inferable to complete the work required by and described in **RFP No. 455-20-1018**.
- b. Vendor's services shall include all disciplines agreed upon between the Parties and all related usual and customary consultant and other services necessary and reasonably inferable to complete the work in accordance with RRC's specifications and the terms and conditions of this Contract.
- c. Additional goods and services are those services which shall be provided ONLY if authorized or confirmed in writing by RRC, and which are in addition to the goods and services contained within the scope and content of RRC's specifications and Vendor's Proposal in response to **RFP No. 455-20-1018**. In the event additional goods and services are proposed by Vendor, Vendor shall not proceed therewith except only after Vendor's receipt of RRC's written acceptance of the additional services proposed.
- d. The Statement of Work (RFP No. 455-20-1018 Attachment 1) describes the intended project scope and character. The Parties agree it is Vendor's responsibility to review and understand requirements of the Statement of Work and to provide deliverables, including information resources services, to achieve those objectives.
- e. Vendor agrees and acknowledges that RRC is entering into this Contract in reliance on Vendor's represented professional abilities with respect to performing the services, duties, and obligations under this Contract. Vendor, and Vendor's consultants and subcontractors (if any) shall perform all services pursuant to this contract diligently and shall endeavor to further the interest of RRC in accordance with RRC's requirements and procedures and the standards of care and performance as described herein. Vendor agrees to use its best efforts to perform the Services (i) in accordance with the usual and customary professional standards of care, skill and diligence consistent with industry best practices for vendors that provide services for projects that are similar in size, scope, and budget to that within this Contract, and (ii) in compliance with all applicable national, federal, state, municipal, and State of Texas laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction. There are no obligations, commitments, or impediments of any kind known to Vendor that will limit or prevent performance by Vendor of the services required under the Statement of Work and the Contract. Vendor hereby agrees to correct, at its own cost, any of its services, and the services of its consultants and subcontractors (if any) that do not meet this standard of care.
- f. Vendor's services shall be reasonably accurate and free from any material errors or omissions. Neither acceptance nor approval of Vendor's services by RRC shall relieve Vendor of any of its duties or release it from any liability, it being understood that RRC is, at all times, relying upon Vendor for its skill and knowledge in performing Vendor's services. RRC shall have the right to reject any of Vendor's goods/services in accordance with the terms and conditions of **RFP No. 455-20-1018**.
- g. Vendor agrees to furnish efficient business administration and superintendence and to use Vendor's best efforts to fulfill the Contract requirements in an expeditious and economical manner consistent with the interest of RRC and Vendor's professional skill and care.
- h. Vendor shall allocate adequate time, personnel and resources as necessary to deliver goods and/or perform services and work under the Contract. Changes of Vendor's key personnel identified in Vendor's Proposal shall not be made without prior written approval of RRC. Vendor's day-to-day project team will be led by Vendor's Project Manager unless otherwise directed by RRC or prevented by factors beyond the control of Vendor. Vendor's Project Manager shall act on behalf of Vendor with respect to all phases of Vendor's goods and/or services delivery and shall be available as required for the benefit of the project and RRC.

### **3.03. PAYMENTS TO VENDOR.**

- a. Payments to Vendor will be made in accordance with the terms and conditions of the Contract, and within thirty (30) days from receipt of a complete, correct, and approved invoice or statement of payment in accordance with Texas Government Code Chapter 2251, Texas Prompt Payment Act. An

invoice is considered received on the date it is date stamped by RRC. Vendor shall be paid for completion of work accepted and approved by RRC.

- b. Vendor shall invoice RRC for work performed and accepted by RRC. Vendor shall submit invoices as specified in RFP No. 455-20-1018.

#### **IV. FUNDING.**

**4.01. STATE FUNDING.** It is understood that all obligations of RRC hereunder are subject to the availability of state funds, federal grant(s) and/or other federal funds. If such funds are not appropriated or become unavailable, this Contract may be terminated. In such event, the Parties shall be discharged from further obligations, subject to the equitable settlement of their respective interests accrued up to the date of termination.

#### **V. VENDOR PERSONNEL.**

**5.01. REQUIRED QUALIFICATIONS.** At all times during the term of the Contract, Vendor shall have available, under direct employment and supervision and/or subcontract agreement fully incorporating the terms and conditions of the Contract Documents, the required qualified and properly licensed (as applicable) personnel to properly fulfill all the terms and conditions of the Contract.

#### **VI. NOTICES.**

**6.01. LEGAL NOTICES.**

- a. Any legal notice required or permitted to be delivered under this Contract shall be deemed delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to RRC or Vendor at the address set forth below:

For RRC:

Railroad Commission of Texas  
Administration Division – Contract Management  
P.O. Box 12967  
Austin, Texas 78711-2967  
Attention: Randall D. Collins, COO  
Phone: 512-463-5982  
Email: Randall.Collins@rrc.texas.gov

For Vendor:

Vendor Legal Name  
Full mailing address  
  
Attention: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

- b. Legal notice given in any other manner shall be deemed effective only if, and when, received by the Party. Either Party may change its address for notice by written notice to the other Party as provided herein.

#### **VII. MISCELLANEOUS PROVISIONS.**

**7.01. GOVERNING LAW AND VENUE.** This Contract shall be governed by and construed in accordance with the laws of the State of Texas without regard to conflicts of law provisions. The venue of any suit brought under this Contract is fixed in any court of competent jurisdiction in Travis County, Texas unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the RRC. Vendor irrevocably waives any objection, including any objection to personal jurisdiction or proper venue or

based on the grounds of forum non conveniens, which it may now or hereafter have to the filing of any action or proceeding in such jurisdiction in respect of this Contract or any document related hereto. **Nothing in this Section shall be construed as a waiver of sovereign immunity by RRC.**

**7.02. SEVERABILITY.** If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this **Contract No. 455-20-SAMPLE** shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

**7.03. PROPER AUTHORITY.** The Parties hereto represent and warrant that the person executing this Contract on behalf of each Party has full power and authority to enter into this Contract. Vendor acknowledges Contract is effective for the period specified in the Contract. Any services performed by Vendor before this Contract is effective or after it ceases to be effective are performed at the sole risk of Vendor.

**7.04. SOVEREIGN IMMUNITY.** The Parties expressly agree that nothing contained in **RFP No. 455-20-1018** or this Contract is in any way intended to constitute a waiver by the State of Texas or RRC of any immunities from suit or from liability that the State of Texas or RRC may have by operation of law. Further, the Parties agree that nothing contained in RFP No. 455-20-1018 or this Contract will in any manner be construed as a waiver of sovereign immunity or official immunity by RRC, its employees, or the State of Texas.

**7.05. FALSE STATEMENTS; BREACH OF REPRESENTATIONS.** By signature to this Contract, Vendor makes all the representations, warranties, guarantees, certifications and affirmations included in this Contract. If Vendor signs this Contract with a false statement or it is subsequently determined that Vendor has violated any of the representations, warranties, guarantees, certifications or affirmations included in this Contract, Vendor shall be in default under this Contract, and RRC may terminate or void this Contract for cause and pursue other remedies available to RRC under this Contract and applicable law.

**7.06. ENTIRE CONTRACT AND MODIFICATION.** This **Contract No. 455-20-SAMPLE** and all Contract Documents referenced in Section 1.01. herein constitute the entire agreement of the Parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless otherwise expressly authorized by the terms of this Contract, no modification, renewal, extension or amendment to this Contract shall be binding upon the Parties unless the same is in writing and signed by the respective Parties hereto.

**EXECUTION SIGNATURES.** The Parties agree the Contract and any written Amendments thereto necessary for the consummation of the transaction contemplated by the Contract may be accepted, executed or agreed to through the use of an electronic signature in accordance with the Electronic Signatures in Global and National Commerce Act ("E-Sign Act"), Title 15, United States Code, Sections 7001 et seq., the Uniform Electronic Transaction Act ("UETA") and any applicable state law. Any document accepted, executed, or agreed to in conformity with such laws will be binding on each Party as if it were physically executed. The Parties to this Contract have electronically executed this Contract which shall be deemed an original. By the signatures below, each signatory represents and warrants that they have the authority to enter into this Contract on behalf of the respective Parties.

**RAILROAD COMMISSION OF TEXAS**

By: \_\_\_\_\_  
Wei Wang,  
Executive Director

Date of Execution: \_\_\_\_\_

**VENDOR NAME**

By: \_\_\_\_\_  
Printed Name:  
Title:

Date of Execution: \_\_\_\_\_

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RRC use only below this line.

Div. Director: \_\_\_\_\_

CM Director: \_\_\_\_\_

OGC: \_\_\_\_\_