



RAILROAD COMMISSION OF TEXAS

REQUEST FOR QUALIFICATION SOLICITATION NO. 455-23-1020 STATEWIDE SITE REMEDIATION SERVICES

Sole Point of Contact:
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Solicitation Issued
August 29, 2023
Responses Due *NO LATER THAN*
2:00PM (CT) October 04, 2023
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ATTACHMENTS TO THIS SOLICITATION:

- Attachment 1: Statement of Services and Appendix A
- Attachment 2: Respondent’s Statements and Covenants
- Attachment 3: Respondent’s Qualifications Statement Form
- Attachment 4: HUB Subcontracting Plan (HSP) Form and Appendix A
- Attachment 5: Sample Capabilities & Equipment Specifications
- Attachment 6: Sample RRC Contract
- Attachment 7: Performance Evaluation Standards
- Attachment 8: Federal Forms
- Attachment 9: Sample Work Order
- Attachment 10: Federal Terms and Conditions
- Attachment 11: Guidance on Adhering to Federal Terms and Conditions

DEFINITIONS AND ACRONYMS

The following definitions and acronyms apply to this RFQ and any resulting Contract:

Addendum/Addenda: Modification to this RFQ, issued by RRC and posted to the Texas Comptroller of Public Accounts ESBD website (<https://www.txsmartbuy.com/esbd>) prior to the Response due date.

Changed Conditions: Subsurface or latent physical conditions differing materially from those indicated in the Contract or Work Order issued thereunder, 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 Response.

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 RFQ, of the respective parties to the agreement.

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

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](#) and/or on which RRC headquarters office is closed.

Electronic State Business Daily ("ESBD"): The designated website where state agencies, universities, and municipalities post formal solicitations (over \$25K), addenda to posted solicitations, and awards. The link to the ESBD is <http://www.txsmartbuy.com/esbd>

Fiscal Year ("FY"): RRC's FY begins September 1 of one year and concludes August 31 of the following year.

Historical Underutilized Business ("HUB"): As defined within Texas Government Code Chapter 2161.

Naturally Occurring Radioactive Materials ("NORM"): Naturally occurring radiative material (NORM) is material found in the environment that contains radioactive elements of natural origin. NORM primarily contains uranium and thorium (elements that also release radium and radon gas once they begin to decay) and potassium.

Naturally Occurring Radioactive Materials ("NORM") Certificate: Refers to the naturally occurring radioactive materials certification, demonstrating a Vendor's ability to handle such material at a potential cleanup site.

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

Occupational Safety and Health Administration ("OSHA"): OSHA is an agency of the United States Department of Labor to assure safe and healthful working conditions.

Railroad Commission of Texas ("RRC"): The Texas state agency responsible for issuance of this RFQ.

Request for Qualification (“RFQ”): Request for Qualifications; this solicitation document and all attachments, appendices and exhibits 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 RFQ document set.

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

Response: An expression of interest submitted by a Respondent to RRC as a result of this RFQ solicitation, and that contains the Respondent’s statement of qualifications and other information evidencing the Respondent’s qualifications to perform the services and work required under the Contract.

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

RRC Statewide Rules: The official rules of RRC and are found in 16 TAC Part 1, Chapters 1 through 20. The TAC and RRC Statewide Rules may be found on the Office of the Secretary of State website (<http://texreg.sos.state.tx.us/>).RRC Statewide Rules.

Scope Of Work (“SOW”): A section within the SOS or within a Work Order issued under the Contract and that provides detailed specifications of the services to be provided.

Site Remediation Services: Services including, but not limited to, remediation of oil and gas waste from abandoned tank batteries, spill sites, unauthorized dumping sites, reclamation and commercial treatment and disposal facilities, and gas processing facilities, and providing all goods and services related and incidental to the oil and gas waste site remediation services.

Solicitation and Contract Documents: Those documents identified as a component of the RFQ, 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 RFQ document set, and those documents identified as a component of the Contract agreement between RRC and the Respondent awarded a contract arising from the RFQ.

Statement Of Services (“SOS”): A broad description of activities, deliverables, and expectations applicable to work to be delivered under the resulting Contract or a Work Order issued thereunder.

Texas Administrative Code (“TAC”): A compilation of all state agency rules in Texas. There are 17 titles in the TAC. Each title represents a subject category and related agencies are assigned to the appropriate title.

Texas Government Code (“TGC”): Texas Government Code

Vendor: The individual or entity qualified, in RRC’s sole determination, to provide the goods and/or services sought by RRC pursuant to this RFQ and who is ultimately selected to carry out the requirements stipulated in this RFQ, and any resulting contract and work order issued under such contract.

Work Order (“WO”): A description of a specific job or project arising under the Contract and that includes details applicable to the location(s), goods, services, and incidentals of work to be performed.

PART I: NOTICE TO RESPONDENTS

1. Introduction.

In accordance with applicable provisions of Texas Government Code Chapters 2155 and 2156, the Railroad Commission of Texas extends this RFQ to qualified entities to submit a Response detailing the entity's qualifications to provide to RRC oil and gas waste site remediation services as further described herein and in accordance with all terms, conditions, and specifications contained within the Solicitation and Contract Documents. Responses to this RFQ No. 455-23-1020 shall be received by the Railroad Commission of Texas, Contract Management Section, 1701 N. Congress Avenue, Austin, TX 78701 no later than 2:00PM (CT), Wednesday, October 4, 2023.

1.1. Services, Generally. The RRC seeks oil and gas waste site remediation services to be performed within RRC Oil and Gas Division Districts throughout the state (see **RFQ Attachment 1 Statement of Services and Appendix A**), including, but not limited to, remediation of oil and gas waste from abandoned tank batteries, spill sites, unauthorized dumping sites, reclamation and commercial treatment and disposal facilities, and gas processing facilities, and providing all goods and services related and incidental to the oil and gas waste site remediation services (collectively, the "Site Remediation Services").

1.2. Background. Texas Natural Resources Code Chapter 91 provides that if oil and gas wastes or other substances or materials regulated by the RRC are causing or are likely to cause the pollution of surface or subsurface water, the RRC may conduct site investigations or environmental assessments or control or cleanup of the oil and gas wastes or other substances.

RRC does not have the personnel or the equipment required to perform Site Remediation Services. RRC relies on contracting with highly qualified, experienced Site Remediation Services companies authorized to perform such services in Texas and that can provide all work necessary to complete Site Remediation Services projects required under the Contract and Work Orders issued thereunder.

This RFQ is RRC's process to select highly qualified Site Remediation Services Vendors and enter into one or more indefinite delivery, indefinite quantity contracts for Site Remediation Services to be provided in each RRC Oil and Gas Division District, for the state of Texas. Selection of the most highly qualified Site Remediation Services providers shall be based upon demonstrated competence, detailed credentials, and other evaluation criteria further described within this RFQ. Contracts for the Site Remediation Services in which RRC has a recurring need shall be awarded to the most qualified Respondents expressing interest in delivering statewide Site Remediation Services.

For purposes of this RFQ, Site Remediation Services in which RRC has a recurring need may fall within the following general categories of Site Remediation Services:

- a. Routine oil and gas waste site remediation services;
- b. Complex oil and gas waste site remediation services;
- c. Federally funded oil and gas waste site remediation projects; and
- d. Emergency response oil and gas waste site remediation services.

Selected Respondent(s) shall be bound to the terms and conditions of this RFQ, and the RRC's Contract as finalized between the RRC and Respondent(s) (see **RFQ Attachment 6 Sample RRC Contract**), Respondent's response, any additional, specific terms and conditions applicable to a finalized, negotiated Work Order issued thereunder and shall comply with all applicable local, state, and federal statutes, rules, regulations, and ordinances, including but not limited to those related to licensing, certification, and permitting requirements.

RRC reserves the right to award more than one Contract from this RFQ or none at all. A Contract arising from this RFQ shall not be exclusive; RRC may obtain Site Remediation Services from other sources during the term of the Contract. A Contract shall have no defined monetary value and no guarantee that any Work Order will be issued thereunder. An award of a Contract arising from this RFQ or lack thereof shall not disqualify a Vendor from responding to a future RRC project-specific solicitation for Site Remediation Services.

- 1.3. **Performance Period.** Any Contract resulting from this RFQ shall include an original term beginning on the Contract effective date and ending on August 31st of the following year (“Original Term”) in accordance with RRC’s fiscal year. At RRC’s discretion, the Original Term may be extended for up to three (3) additional one-year optional renewal terms (“Renewal Terms”). Renewal Terms to any Contract shall be accomplished through a written amendment to the original Contract, fully executed prior to the 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. Renewal Terms shall run consecutively following the end of the Original Term.
- 1.4. **Minimum Qualifications.** To be eligible for consideration, Respondent must meet all minimum qualification requirements as outlined in the Solicitation and Contract Documents, including requirements stated within any part of this RFQ and the SOS. A Response must clearly demonstrate Respondent meets the following minimum qualifications:
 - 1.4.1. Respondent possesses the equipment, staff, and all other components necessary to perform the Site Remediation Services detailed within this Solicitation.
 - 1.4.2. Respondent at reasonable notice is prepared to mobilize staff and equipment to any site located within the State of Texas.
 - 1.4.3. Respondent has adequately trained its staff to perform site remediation services safely and effectively, and Respondent’s staff have or will be provided with appropriate safety equipment, including hard hats, reflective vests, and hydrogen sulfide monitors as applicable.
 - 1.4.4. Respondent possesses successful performance of Site Remediation Services similar in scope (as judged by RRC) to the Site Remediation Services described in **RFQ Attachment 1 Statement of Services and Appendix A**.
 - 1.4.5. Respondent is financially solvent and adequately capitalized, as judged by the RRC. ***Respondents that do not meet required qualification requirements may be determined to be non-responsive and subject to rejection.***
- 1.5. **Costs of Response Preparation.** All costs associated with the preparation and submission of a Response, including costs associated with the 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 RFQ shall be rejected as non-responsive.
- 1.6. **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 ([16 TAC §20.1](#)).

PART II: INSTRUCTIONS TO RESPONDENTS

2. General Response Instructions.

2.1. 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 RFQ, or as revised by Addenda, if any, to this RFQ. **RESPONSES RECEIVED AFTER THE DEADLINE DATE AND TIME WILL NOT BE CONSIDERED.**

2.1.1. Schedule of Events. *TABLE 1 Schedule of Events* provides dates applicable to this RFQ. At the sole discretion of RRC, *TABLE 1* may be revised through written Addenda 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 RFQ	<i>August 29, 2023</i>
Submission of HUB Subcontracting Plan (HSP) for RRC Courtesy Review	<i>September 18, 2023</i>
Deadline for Submission of Written Inquiries (no later than 3:00PM CT)	<i>September 18, 2023</i>
Response to Written Inquiries, if any (Addendum posted to ESBD)	<i>September 22, 2023</i>
Deadline for RRC HUB Subcontracting Plan (HSP) Courtesy Review Ends	<i>September 26, 2023</i>
Response Due Date (no later than 2:00PM CT)	<i>October 4, 2023</i>
Award Date (estimated only)	<i>November 6, 2023</i>

2.2. Response Labeling/Packaging. Responses shall be placed in an envelope/package and labeled in accordance with address labeling requirements set forth in RFQ Section 2.3. It is the Respondent's responsibility to properly label and deliver the Response to RRC by the specified date and time for this RFQ.

2.3. Response Delivery. Only hard copy submissions will be allowed. Any Response submitted by email or by facsimile will be rejected. It is the sole responsibility of the Respondent to select their preferred method of delivery from the delivery methods permitted herein. Failure to adhere to these requirements will cause the Respondent to be considered non-responsive and disqualified from award. Respondents must use the following address labeling information most applicable to the Respondent's chosen delivery method:

<p><u>US Postal Service:</u> RFQ No. 455-23-1020 Railroad Commission of Texas Contract Management Section Matthew Bowman, Contract Manager PO Box 12967 Austin, TX 78711-2967</p>	<p><u>Overnight or Hand Delivery:</u> RFQ No. 455-23-1020 Railroad Commission of Texas Contract Management Section Matthew Bowman, Contract Manager 1701 N. Congress Ave. Room:10.180C Austin, TX 78701</p>
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2.4. Prohibited Communications; Sole Point of Contact.

2.4.1. Upon issuance of this RFQ, RRC, its representative(s), and partners (if any) will not answer questions or otherwise discuss the contents of this RFQ with any potential Respondent or their representatives(s), except for the written inquiries submitted in accordance with Section 2.5. 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 Response.*

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 RFQ.

2.4.2. For information, including technical information, related to this **RFQ No. 455-23-1020** Site Remediation Services, and administration of any resulting Contract, RRC’s sole Point of Contact shall be Matthew Bowman, Contract Manager, whose contact information is:

Mailing Address	Email
Railroad Commission of Texas Contract Management Section Matthew Bowman, Contract Manager PO Box 12967 Austin, TX 78711-2967	Matthew.Bowman@RRC.Texas.gov
	Phone
	512-463-7087

2.5. Inquiries and Addenda.

2.5.1. Respondent solely is responsible for thoroughly understanding the RFQ 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 RFQ, or should the Respondent be in doubt as to the exact meaning of information within the RFQ, the 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 RFQ section 2.4.) RRC shall not be responsible for oral instructions or for misinterpretation of the Solicitation and Contract Documents.

2.5.2. Respondents submitting inquiries must reference the relevant RFQ page and section and should submit all questions by the inquiry deadline stated within **TABLE 1 Schedule of Events** of this RFQ. RRC reserves the right to amend answers prior to the Response submission deadline, and RRC reserves the right to respond to questions received after the deadline for submission of written questions. When issuing responses to questions submitted, RRC shall issue Addenda posted to the Texas Comptroller’s ESDB website.

2.5.3. Addenda issued, if any, shall be posted by RRC to the Texas Comptroller’s ESDB website (<http://www.txsmartbuy.com/esbd>). It is solely the responsibility of Respondents to check the Texas Comptroller’s ESDB website for any and all updates to the RFQ. A Respondent’s failure to check the Texas Comptroller’s ESDB website for updates shall not release Respondent from the requirements of Addenda or additional information published within any Addenda.

2.6. 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 to HUBs during a fiscal year. Historically Underutilized Businesses are strongly encouraged to respond to this RFQ.

- 2.6.1. 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, responses, 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 RFQ, therefore:
- 2.6.1.1. ALL RESPONDENTS, INCLUDING TEXAS CERTIFIED HUBS, MUST SUBMIT A COMPLETED HUB SUBCONTRACTING PLAN (“HSP”) FORM (SEE RFQ ATTACHMENT 4 HUB SUBCONTRACTING PLAN (HSP) FORM AND APPENDIX A) WITH THE RESPONSE FOR THE RESPONSE TO BE CONSIDERED RESPONSIVE. A RESPONDENT’S FAILURE TO INCLUDE A COMPLETED HSP FORM WILL BE DEEMED A MATERIAL FAILURE TO COMPLY WITH RFQ REQUIREMENTS AND SHALL RESULT IN RRC’S REJECTION OF THE RESPONSE AND RENDERING THE RESPONSE INELIGIBLE FOR AWARD OF A CONTRACT ARISING FROM THIS RFQ.**
- 2.6.1.2. RESPONDENTS MUST SUBMIT A COMPLETED HSP FORM ON THE HSP FORM INCLUDED AS RFQ ATTACHMENT 4 HUB SUBCONTRACTING PLAN (HSP) FORM AND APPENDIX A; NO ALTERNATE FORMS, INCLUDING ALTERNATE OR PRIOR VERSIONS OF HSP FORMS, WILL BE ACCEPTED.**
- 2.6.1.3. 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 Schedule of Events** of this RFQ. 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.
- 2.6.1.4. Good Faith Effort Required.** In accordance with 34 Texas Administrative Code §20.285(d), any person submitting a bid, response, offer, or other applicable expressions of interest in response to this RFQ shall submit a completed HUB Subcontracting Plan form demonstrating evidence of good faith effort in developing that plan. Good faith effort shall be in full conformance with all directions for demonstration and submission specified in the HSP form (see **RFQ Attachment 4 HUB Subcontracting Plan (HSP) Form and Appendix A**)
- 2.6.1.5. Probable HUB Subcontracting Opportunities.** RRC has identified potential areas of subcontracting opportunities which are listed within **TABLE 2 Potential HUB Subcontracting NIGP Codes** of this RFQ. Full commodity and service descriptions may be found on the Texas Comptroller’s website (<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 RFQ. It is solely the responsibility of a Respondent to determine what if any, subcontracting opportunities are most applicable to the Respondent’s business in the performance of work under a Contract arising from this RFQ. Respondent is not required to include within an HSP form any or all the commodities or services listed in **TABLE 2** of this RFQ below. Respondents should review the HSP form (see **RFQ Attachment 4 HUB Subcontracting Plan (HSP) Form and Appendix A**) for instructions applicable to the identification of specific commodities or services intended for subcontracting.

TABLE 2: Potential HUB Subcontracting NIGP Codes

NIGP Class	NIGP Item	Description (Commodities and Services)
150	12	Sack cement (Types I, II, or III)
790	20	Grass seeds
909	75	Site clean-up, post construction
962	39	Hauling services
971	82	Toilets, portable, rental or lease
977	73	Toilets and showers, portable, rental or lease
120	14	Barges
120	21	Boats 21 Feet and under
790	70	Topsoil and Fill Dirt
926	76	Radioactive Waste Disposal Services
926	29	Contaminated Groundwater Services, Including Discharge Pipe Installation
926	30	Contaminated Soil Services

2.6.1.6. HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report. Pursuant to 34 Texas Administrative Code §20.285(f)(1), as a condition of payment, a prime contractor 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 the start date of the Contract through the completion date of Contract, a prime contractor (Vendor) awarded a Contract arising from this RFQ shall monthly submit a HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report (see **RFQ Attachment 4 Appendix A HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report**) for each active Work Order prior to RRC’s approval of payment under the Contract.

2.6.1.7. RRC’s HUB Program Administration. For an 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: 737-308-1842; or email: hub@rrc.texas.gov.)

2.7. Response Requirements.

2.7.1. Required Number of Response Originals and Copies. Respondent must submit one (1) paper original, plus three (3) identical paper copies of the Response. Response shall be written only on 8 ½” X 11” white paper using double or 1.5 spacing, and 12-point or larger Times New Roman font. Responses shall be free of any extrinsic items and shall be bound in a three-ring binder. The one (1) clearly marked “original” must include an original ink signature on the Title Page (Tab A) (electronic signatures will not be accepted), 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. Respondent must also submit one (1) electronic copy of the Response on a USB Flash Drive; the Response file must be readable using Adobe Acrobat Reader DC®, and a USB Flash Drive shall not be encrypted. USB(s) must be labeled with Respondent’s name. Response shall be saved in a zip file and the file folder shall contain individual PDF files for each required tab.

Response shall include all required attachments and certifications. The RRC will not accept attachments and certifications submitted after the deadline. Failure to provide all required information in the required format shall make the response non-responsive and thus disqualified from consideration. The RRC may reject a proposal that fails to include the required contents.

2.7.2. 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 Response and other information submitted to RRC by Respondent are subject to release as public information by RRC. A Response 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 Response 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 Response is protected from disclosure because it contains some proprietary information is not acceptable and will make the entire Response 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 Response that are considered by the Respondent to be proprietary or confidential must be clearly labeled as described above. Any information which 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 Response.

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 deliver to RRC two PDF documents containing the following information:

One (1) USB Flash Drive, with PDF document containing complete copies of all of Respondent’s submissions pursuant to this RFQ. Respondent must label this PDF document **“Complete Response Documents, [Respondent’s Name], RRC RFQ No. 455-23-1020. CONTAINS CONFIDENTIAL INFORMATION.”**

One (1) USB Flash Drive, 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 RFQ No. 455-23-1020.”**

- 2.8. Exception to Provisions.** Respondent is strictly prohibited from taking blanket exception to the entire RFQ; a Response that includes blanket exception to the entire RFQ or that does not include proposed alternative language to exceptions taken, may be disqualified from Contract award. Respondent is specifically prohibited from taking exception to any of the terms and conditions in Part III of this Solicitation or the Statements and Covenants in Attachment 2 of the same. Furthermore, any exception may be considered negatively during the evaluation and scoring process or may result in a contract not being awarded to Respondent.
- 2.9. Organization of Response.** All Responses shall have all pages numbered and be organized in a manner that directly corresponds with the identified tabs set forth within this RFQ section. Responses 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 determining Respondent's qualifications and ability to deliver all goods and services in accordance with this RFQ, including the specifications stated within the SOS, and all terms and conditions of the Contract. Respondent shall submit a Response that includes, at a minimum, the following:
- 2.9.1. Title Page (Tab A).** The Response title page must include:
- a. RRC's RFQ number: **RFQ No. 455-23-1020**;
 - b. Respondent's name and physical address;
 - c. Respondent's Vendor Identification 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 Response.
- 2.9.2. Executive Summary (Tab B).** Respondent's executive summary should include a clear, comprehensive summary of Respondent's qualifications and experience applicable to the requirements of this RFQ, and shall identify Site Remediation Services Respondent can deliver within the Site Remediation Services categories described in this RFQ. Respondent's Executive Summary should include, at a minimum, the following:
- a. Summary of Respondent's qualifications, including licenses and/or certifications if applicable and/or required by this RFQ, and a statement of Respondent's ability to meet or exceed required minimum qualifications;
 - b. Summary of Respondent's experience in the delivery of same or substantially similar services as those required under this RFQ, and a statement of Respondent's ability to meet or exceed required minimum experience;
 - c. Identification of Services categories Respondent can and is willing to deliver from among the following categories:
 - Routine oil and gas waste site remediation services;
 - Complex oil and gas waste site remediation services;
 - Federally funded oil and gas waste site remediation services; and
 - Emergency response oil and gas waste site remediation services;
 - Removal and safe disposal of hazardous materials, including NORM;
 - d. Listing of all Respondent's physical office/yard locations from which Respondent intends to mobilize one or more crews to deliver Site Remediation Services; and
 - e. Clear, concise, detailed explanation of Respondent's exceptions taken, if any, to the terms and/or conditions of this RFQ.

- 2.9.3. Experience and Qualifications (Tab C).** Tab C shall include elaboration of, and details related to, projects identified within Respondent's Qualifications Statement form contained within Tab F Respondent's Submittals.

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 Site Remediation Services required under a contract arising from this RFQ.

Respondent shall include projects that represent delivery of Site Remediation Services similar in scope to that of the work described within RFQ Attachment 1 Statement of Services and Appendix A, and that demonstrate Respondent's ability to meet or exceed the minimum qualifications and experience required under this RFQ.

- 2.9.4. Respondent's Approach to Performing Work Under the Contract (TAB D).** Contents of Tab D shall include elaboration of, and details related to, Respondent's approach to performance of Site Remediation Services described within **RFQ Attachment 1 Statement of Services and Appendix A**. Respondent's approach shall demonstrate Respondent's experience, expertise, and ability to plan, execute, and complete oil and gas waste site remediation projects within one or more of the following categories:

- a. Routine oil and gas waste site remediation services that are:
 - Non-complex (e.g., dig/or;
 - Small to medium size (under \$500,000.00) and/or;
 - Non-phased, short duration (less than 1-year total performance period);
- b. Complex oil and gas waste site remediation services that are
 - Over \$500,000, and
 - Single-phase requiring multiple techniques of remediation and/or long duration (more than 1-year total performance period), or
 - Multi-phase requiring a single technique, or multiple techniques, of remediation and/or 6 months or more total performance period, or
 - Difficult or environmentally sensitive site conditions;
- c. Federally funded oil and gas waste site remediation services; and
- d. Emergency response oil and gas waste site remediation services.

Respondent is solely responsible for providing sufficient details to assure RRC's evaluation committee members can determine Respondent's understanding of the RFQ, the Statement of Services, and specifications applicable to performance of the Site Remediation Services. In this section of the Response, **Respondent is encouraged to address, at a minimum, the following criteria:**

- a. Respondent's approach to planning, executing, and completing oil and gas waste site remediation projects routine in nature ("dig and haul" projects);
- b. Respondent's approach to planning, executing, and completing oil and gas waste site remediation projects that included one or more of the following: difficult site conditions, complex techniques, long durations (12 months or longer per project), multi-phases, emergency cleanups, activities in areas designated as "environmentally sensitive", or other "non-routine" site remediation activities;
- c. The location of any and all yards, satellite facilities, or staging locations, available to Respondent's personnel for mobilization purposes.

- 2.9.5. Respondent’s Capabilities & Equipment (TAB E).** A Response shall include a detailed list of Respondent’s owned, leased, or available, equipment used in the performance of Site Remediation Services (see *RFQ Attachment 5 Sample Capabilities & Equipment Specifications*).

TAB E of a Response shall be prepared in substantial form and format to *RFQ Attachment 5 Sample Capabilities & Equipment Specifications*, include a cover page listing all capabilities, personnel, and equipment. Each piece of equipment listed must be accompanied by a statement of specifications prepared by the Respondent or by a manufacturer specification sheet. NORM Certifications must also be included in this section as applicable.

RESPONDENT SHOULD NOTE: THIS SECTION OF THE RESPONSE SHALL BE CONSIDERED IN DETERMINING RESPONDENT’S QUALIFICATIONS AND ABILITY TO PROVIDE REQUESTED SERVICES AND MAY BE USED AS A DETERMINING FACTOR IN WORK ORDERS ISSUED TO A VENDOR UNDER A CONTRACT RESULTING FROM THIS RFQ. Therefore, Respondent is strongly encouraged to provide a complete list of Site Remediation Services equipment Respondent owns, leases or has access to, as well as provide a statement of specifications, or manufacturer specification sheets, for each piece of equipment listed.

- 2.9.6. Respondent’s Submittals (TAB F).**

- 2.9.6.1. Required RRC RFQ Attachments.** Response TAB F shall include properly completed Required RRC RFQ Attachments identified within this section. Failure to include each and all the Required RRC RFQ Attachments shall result in the Response being deemed nonresponsive to the RFQ and disqualified from consideration of Contract award. The Required RRC RFQ Attachments applicable to this solicitation include:

- a. **RFQ Attachment 2:** Respondent’s Statements and Covenants
- b. **RFQ Attachment 3:** Respondent’s Qualifications Statement Form
- c. **RFQ Attachment 4:** HUB Subcontracting Plan (HSP) Form

In addition to the Required RRC RFQ Attachments, a Respondent shall include within the “Respondent’s Submittals” section any additional statements, including any statements arising from section 2.9. through 2.10. of this RFQ, or such other information Respondent deems necessary, valuable, and appropriate to fully inform RRC of Respondent’s qualifications, expertise, and superiority in selection as a Vendor for Contract award.

- 2.9.6.2. Mandatory Disclosures.** Each Response shall include within *Tab F Respondent’s Submittals* Respondent’s statements addressing the following disclosures:

- 2.9.6.2.1. Changes in Ownership Conditions.** Respondent shall include a statement certifying Respondent will notify RRC of:

- a. Any change in ownership during the period prior to Contract award, and
- b. Any change in ownership during the term of the Contract or any extension or renewal period(s) thereof.

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 and/or termination of the Contract.

- 2.9.6.2.2. 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 Response 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 the jurisdiction of legal action or contract

dispute, the reason for penalties or liquidated damages, and penalties or liquidated damages amount for each incident.

2.9.6.2.3. Other. In addition to the disclosures stated above, Respondent shall include any disclosures necessary to conform with **RFQ Attachment 2 Respondent’s Statements and Covenants**. Respondent is strongly encouraged to carefully and thoroughly review each statement and covenant within RFQ Attachment 2 to determine the applicability of disclosures and to ensure Respondent’s Response includes all mandatory disclosure statements applicable to Respondent including, but not limited to, conflicts or potential conflicts of interest (see **RFQ Attachment 2 Respondent’s Statements and Covenants Item 5**).

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

TABLE 3. RRC RFQ Attachments

Attachment Number	Name	Return with Response?
Attachment 1	Statement of Services and Appendix A	No
Attachment 2	Respondent’s Statements and Covenants	Yes (TAB F)
Attachment 3	Respondent’s Qualifications Statement Form	Yes (TAB F)
Attachment 4	HUB Subcontracting Plan (HSP) Form and Appendix A	Yes (TAB F)
Attachment 5	Sample Capabilities & Equipment Specifications	No
Attachment 6	Sample RRC Contract	No
Attachment 7	Performance Evaluation Standards	No
Attachment 8	Federal Forms	No
Attachment 9	Sample Work Order	No
Attachment 10	Federal Terms and Conditions	No
Attachment 11	Guidance on Adhering to Federal Terms and Conditions	No

2.11. Response Evaluation and Contract Award.

RRC intends to award one or more Contract(s) for Site Remediation Services, throughout the state of Texas. To determine highly qualified providers, Responses first shall be evaluated to determine pass/fail of criteria demonstrating responsiveness to this RFQ. Responses deemed responsive shall advance to weighted criteria evaluation and scoring.

2.11.1. Responsiveness. Each Response shall be evaluated to determine responsiveness to this RFQ.

Determination of responsiveness shall include, but may not limited to, pass/fail determination of a Response in:

- a. Compliance with RFQ Section 1.5. Costs of Response Preparation;
- b. Compliance with RFQ Section 2.1. Strict Adherence to Submission Deadline;
- c. Compliance with RFQ Section 2.6. Historically Underutilized Businesses Requirements (including all subsections);
- d. Compliance with RFQ Section 2.9 Organization of Response (including all subsections); and
- e. Compliance with RFQ Part III Terms and Conditions.

A Respondent’s failure to comply with one or more requirements of the RFQ may result in the Response being deemed non-responsive and thereby disqualified from further consideration of the award of a Contract. The list within this subsection is intended for general guidance only and is not intended as an exhaustive list of responsiveness criteria related to this RFQ. It is Respondent’s sole

responsibility to thoroughly review the Solicitation and Contract Documents of this RFQ, including all attachments and addenda issued, if any, to ensure an understanding of requirements for responsiveness. All determinations of responsiveness to this RFQ shall be final.

2.11.2. Weighted Criteria. Responses that are deemed responsive shall undergo evaluation of weighted criteria and scoring to determine highly qualified Respondents based upon demonstrated competence and detailed credentials. Weighted criteria evaluation shall apply the best value standard for the purchase of goods or services as set forth in Texas Government Code §2155.074. Factors that may be considered include:

- a. Qualifications of Respondent, Respondent’s personnel, and/or Respondent’s subcontractors;
- b. Respondent’s ability to perform Site Remediation Services required under the Contract and to promptly and timely provide Site Remediation Services without delay or interference;
- c. Indicators of Respondent’s probable performance under the Contract; indicators may include but not be limited to Respondent’s past performance on RRC projects and work for other state agencies, Respondent’s financial resources, and Respondent’s experience or demonstrated capability and responsibility in delivery of same or substantially similar services;
- d. Respondent’s compliance with RFQ Response submission requirements; and
- e. Respondent’s acceptance of terms and conditions.

The criteria and respective weight to be used in determining the best value for the State are indicated in **TABLE 4** of this RFQ.

TABLE 4 Weighted Criteria

Criteria	Weight
Respondents Approach to RFQ	20%
Qualifications	80%
Total Percentage Points	100%

2.11.3. Respondents Approach to RFQ: Evaluation and scoring shall include, but not limited to, overall organization and presentation of Response, demonstration of understanding of RFQ requirements, and contents in **Tab D Respondent’s Approach to Performing Work Under the Contract** in accordance with requirements of **RFQ Attachment 1 Statement of Services and Appendix A** and all terms and conditions of all Solicitation and Contract Documents.

2.11.4. Respondent’s Qualifications. Evaluation and scoring shall include, but not be limited to, contents in Response **Tab B Executive Summary** including Respondent’s ability to meet and exceed minimum qualifications stated in this RFQ, contents in Response **Tab C Experience and Qualifications** that demonstrate Respondent’s experience and success in delivery of same or substantially similar services as those required under this RFQ, contents in Response **Tab F Respondent’s Submittals** that demonstrate Respondent’s ability to provide various Site Remediation Services, as well as access to quantity, type and standard of equipment used in performance of Site Remediation Services, and Respondent’s past performance as evidenced by Texas CPA Vendor Performance Tracking System score (if any) and/or response to RRC inquiries to other entities, including but not limited to Respondent’s references.

2.11.5. Past Performance. A Respondent’s past performance on a State contract, if any, shall be assessed 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/](http://comptroller.texas.gov/);
- 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 canceled for non-performance in the previous 12 months.

To evaluate and score Respondent's past performance, RRC may also make inquiries with other entities including Respondent's references within **RFQ Attachment 3 Respondent's Qualifications Statement Form** and/or 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 any other 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.

- 2.11.6. Contract Negotiations.** RRC reserves the option to negotiate with one or more Respondents deemed highly qualified to provide the Site Remediation Services sought by RRC. Negotiation elements may include, but shall not be limited to Site Remediation Services categories, RRC Oil and Gas Division Districts throughout the state of Texas included in a Contract award, and terms and conditions. RRC reserves the right to continue negotiations until the best value for RRC and the State has been achieved as determined in RRC's sole discretion.
- 2.11.7. RRC Contact(s) Following Award.** RRC contact(s) for the day-to-day administration of the Contract shall be determined following the 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.
- 2.11.8. Reservation of Rights.** In addition to any other rights specified elsewhere in this RFQ:
 - a. RRC reserves the right to reject a response that does not fully comply with the instructions and criteria outlined in this RFQ.
 - b. RRC reserves the right to reject any or all Responses and call for new Responses 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 Response 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. **General Terms and Conditions.** The terms and conditions herein shall be fully incorporated into and constitute part of the RFQ and any resulting Contract. Respondent/Vendor shall comply, and Respondent/Vendor shall require all subcontractors of all tiers to comply with the terms and conditions of the Contract. In the absence of express exclusion in whole or in part from the Response, all terms and conditions are deemed incorporated therein.
- 3.1. **Compliance with RFQ and Contract.** By submitting a response, acknowledging and accepting the Contract, or delivering any services under the Contract, Respondent/Vendor acknowledges, accepts, and agrees to all terms, conditions, specifications, provisions, statements, and guidelines of the Contract, including, but not limited to, the RFQ. All parts of the RFQ are fully incorporated into and constitute part of the Contract for all purposes intended. RRC, in its sole discretion, may disqualify a Response from consideration if RRC determines a Response is non-responsive and/or non-compliant, in whole or in part, with the requirements set forth in this RFQ.
- 3.2. **Misunderstanding or Lack of Information.** Respondents must be thoroughly informed concerning all relevant facts, data, site conditions, and estimates required for the purpose of assembling a Response and concerning all difficulties that may be encountered in managing or operating a project under the Contract or a Work Order issued thereunder.
 - 3.2.1. No plea of ignorance of existing site conditions or difficulties that may be encountered during the performance of a Work Order issued 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 to a finalized, negotiated Work Order.
 - 3.2.2. By submitting a Response, each Respondent acknowledges and agrees that it fully understands and shall abide by the terms and conditions of the RFQ, and that the 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.
- 3.3. **Ambiguity, Conflict, Exclusionary Specification, or Omission.** If Respondent discovers any ambiguity, conflict, discrepancy, exclusionary specifications, omission, or other error in the RFQ, Respondent must immediately notify in writing RRC's point of contact for the RFQ. If Respondent fails to notify RRC's point of contact for the RFQ of any error, ambiguity, conflict, discrepancy, exclusionary specification, or omission, Respondent's submittal of a Response 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.
- 3.4. **Right to Amend, Modify, or Withdraw the RFQ.** RRC reserves the right to alter, amend, or modify any provisions of the RFQ or to rescind, revoke, or withdraw the RFQ, 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.
- 3.5. **No Alterations or Withdrawals of Response after Deadline.** Responses may not be altered or amended after the Response due date and time specified in the RFQ. Any alterations made before the Response due date and time must be initialed by Respondent or Respondent's authorized agent. Responses submitted may not be withdrawn after submission deadline. However, upon receipt of Respondent's written request to withdraw their Response, RRC may, but not must, in its sole discretion approve the request to withdraw a Response.
- 3.6. **Attachments.** Any terms and conditions attached to a Response will not be considered unless specifically referred to in the Response. 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 Response.

- 3.7. Binding Effect of Response.** Unless otherwise agreed in writing and signed by RRC, Respondent agrees to and is bound by the information and documentation provided with the Response. Upon award of Contract, negotiated prices shall remain fixed and guaranteed for the entire Contract period.
- 3.8. 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.
- 3.9. Rejection of Response and Cancellation of RFQ.** Issuance of this RFQ 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 RFQ. RRC maintains sole right and discretion to reject any or all Responses and to cancel the RFQ 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 Response will not constitute a modification of the RFQ and will not preclude RRC from asserting all rights against Vendor for failure to fully comply with all terms and conditions of the RFQ.
- 3.10. Respondent Costs.** Respondent shall bear all costs and expenses associated with the preparation and submission of a Response, including costs associated with travel to and attendance of pre-Response site visits, and submission of all required documents and all required copies of documents.
- 3.11. Respondent Identification.** Prior to the award of the Contract, Vendor must provide the Vendor's Texas Identification Number (TIN) issued by the Texas Comptroller of Public Accounts.
- 3.12. Contract Award, Copyright, Reissuance.** A response to the RFQ is an offer to contract with the State of Texas through RRC based upon the specifications, terms, and conditions contained in the RFQ. The Response shall not become a contract with RRC unless, until, and to the extent, RRC issues a fully executed Contract and Notice of Award to a successful Vendor. RRC in its sole discretion reserves the right to reject any or all Responses, all or any part of any Response, 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 Responses are unacceptable and are subject to disqualification as nonresponsive; in addition, RRC reserves the right to disqualify any Response that asserts any copyright on any RRC forms designated by the RFQ as a form required to be submitted with Respondent's Response.

Prior to the 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 RFQ or issues another RFQ for the goods and/or services described in this RFQ.

- 3.13. Limitation on Authority, No Other Obligations.** Respondent/Vendor shall 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.
- 3.14. No Other Benefits.** Vendor has no exclusive rights or benefits other than those set forth within the Contract.
- 3.15. 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, Work Orders and, Change Notices (if any), the RFQ (including addenda, if any), and the Response.
- 3.16. Order of Precedence; Prohibited Exceptions.**
- 3.16.1. Order of Precedence.** In the event of a conflict between the RFQ 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, Purchase Orders, Work Orders, and Change Notices (if any).
 - b. The RFQ and Addenda (if any), and
 - c. Vendor's Response.
- 3.16.2. Prohibited Exceptions.** Unless expressly accepted in writing by RRC, the following exceptions within any Respondent's Response 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.

- 3.17. Statement of Services, Performance.** Vendor shall provide the requested Site Remediation Services in the manner described in this RFQ. In the event of Vendor's failure to conform to all requirements of this RFQ, 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.
- 3.18. Response to Work Order Mandatory.** Vendor shall submit a response for each work order that RRC issues. Failure to respond to a work order is a breach of contract.
- 3.19. 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 any Work Order issued thereunder and in the execution of the work. Vendor acknowledges and accepts all time limits will be strictly construed and rigidly enforced.
- 3.20. Changes and Changed Conditions.**
- 3.20.1.** RRC's Authorized Representative may, in writing, order changes in the work within the general scope of the Contract or Work Order issued thereunder.
- 3.20.2.** In the 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 authorization to continue with work.
- 3.20.3.** 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.
- 3.20.4.** It is recognized and agreed to by RRC and Vendor that information provided within the RFQ, 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 satisfaction of RRC. 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 RFQ, and addenda, if any, or any changes in or supplementation to same or to a Work Order issued 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.

3.21. Contract Completion and Liquidated Damages.

3.21.1. Performance Period. The performance period for work under a Work Order arising under the Contract shall commence on the date stated within the Work Order issued from RRC to the Vendor, and all work under the Work Order shall be completed not later than the specified period within the Work Order.

3.21.2. Liquidated Damages Value. RRC has determined that the completion of the work under a Work Order arising under the Contract is critical to the removal of the threat of pollution in Texas. Vendor's failure to complete any work within the required time specified on the Work Order will or may cause damage to RRC and operations related to Site Remediation Services efforts. Since exact damages are difficult to determine or forecast, ***the sum of Two Hundred Dollars (\$200.00) per calendar day per incomplete Work Order*** is hereby established by the Parties as a reasonable estimate of just compensation to RRC for failure of Vendor to complete work specified by the date set forth in writing within the Work Order or a written, authorized extension thereto. In the event RRC deems liquidated damages are necessary and appropriate, the total sum of liquidated damages shall be deducted from the money due or to become due to Vendor, not as a penalty, but as liquidated damages and added expense including administrative and any resampling cost(s). Inspection costs for each and every calendar day the work or any portion thereof remains incomplete after the expiration of the performance period set forth within the Work Order issued from RRC to Vendor or a written, authorized extension thereto.

3.21.3. Calculation of Liquidated Damages. Charges for liquidated damages will begin accumulating on the first calendar day following the final completion date set forth within the Work Order or Purchase Order issued from RRC to Vendor or a written, authorized extension thereto, and continue until the date of actual, final completion as established by RRC. Final completion of the Contract will not be issued until all required work under the Contract has been verified by RRC's Authorized Representative as complete.

3.22. Assignments and Subcontractors. Respondent/Vendor shall not assign its rights, or delegate the performance of Vendor's duties, under the Contract without prior written approval of RRC. Any attempted assignment in violation of this provision is void and without effect.

3.22.1. 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.

3.22.2. Subcontractors providing service under the Contract shall meet the same requirements and level of experience as required of the Vendor.

3.22.3. 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 ***RFQ Attachment 4 HUB Subcontracting Plan Form (HSP)***).
- 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.

3.23. 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 work. When submitting request by email, Vendor shall include as attachments to the email 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. 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 the RRC designated Contract Manager. Each Vendor’s invoice shall reflect a single Contract and all and only services related thereto which have been delivered, inspected, tested, evaluated, and accepted by RRC within the Contract performance period concluding on the invoice date.

3.23.1. Compliance with Texas Government Code Chapter 2251 required. A Vendor awarded a Contract arising from this RFQ, 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.

3.23.2. Invoice requirements.

Vendor’s invoice must clearly reflect the following:

- a. RRC Contract Number, Work Order, and Purchase Order number (as applicable);
- b. RRC bill to information;
- c. Vendor name;
- d. Vendor address;
- e. Vendor remit payment to information;
- f. Texas Vendor Identification Number assigned by Texas Comptroller of Public Accounts;
- g. Invoice date;
- h. Invoice number (may not be duplicate invoice number from prior invoice submitted);
- i. Date(s) of delivery of services and/or goods; and
- j. Description of services, to include (per site):
 - Operator name
 - Lease/site name
 - County
 - State Managed Cleanup Code number
 - Price
 - Invoice total.
- k. 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. Vendors will have five (5) business days to correct and resubmit non-conforming invoices after which administrative surcharges will begin accruing as set forth below.

- I. Vendor's invoices are due on the third day of the next month following the date on which all goods or services are provided pursuant to a work order. For mailed invoices, the postmark date will be considered the date on which RRC receives the invoice. Late invoices will accrue an administrative surcharge of fifty dollars (\$50.00) per week. This administrative surcharge is not a penalty but an estimated cost of delays in processing delayed invoices. The administrative surcharges due for late invoices shall be capped at three-hundred dollars (\$300.00) or the amount due to be paid on the invoice, whichever is less. Administrative surcharges will be deducted from sums due pursuant to the invoice, but RRC in its sole discretion may elect not to deduct this surcharge for good cause shown. Election by RRC not to deduct the surcharge shall not be construed as a general waiver of the administrative surcharge for future invoices.
- 3.23.3. Authorization of Payment.** Prior to authorizing payment to Vendor, RRC shall evaluate Vendor's performance in accordance with Contract requirements.
- 3.23.4. Non-Reimbursable Items.** RRC will not reimburse for travel, meals, lodging, or other related expenses unless specifically provided for under the Contract and pre-approved in writing by both the RRC Authorized Representative and RRC Contract Manager assigned to the Contract. 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/texttravel/rates/current.php>.
Vendors shall note: RRC shall **not** reimburse for travel, meals, lodging, or other related expenses that may be reasonably anticipated as part of the Contract or a Work Order issued thereunder. Vendors shall **not** be reimbursed for travel, meals, lodging, or other related expenses that are reasonable and ordinary in the course of providing Site Remediation Services.
- 3.23.5. 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.
- 3.23.6. 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.
- 3.24. 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.

3.25. Indemnification.

3.25.1. 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.

3.25.2. 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.

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.

3.26. Infringement: Patent, Trademark, Copyright, and Other Intellectual Property.

- 3.26.1. 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, SERVICE MARK, 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 SERVICE 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 THE 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.
- 3.26.2. 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.
- 3.26.3. 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.

- 3.27. 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.
- 3.28. 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 of a Contract.** 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.
- 3.28.1.** 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.
- 3.28.2.** 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.
- 3.28.3.** 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.
- 3.28.4.** Respondent's Response 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). The proof of insurance shall state whether the relevant policy is a claims-made or an occurrence policy. If the proof of insurance only lists an aggregate amount without a
- 3.28.5. Minimum Contractually Required Insurance Types and Coverage:**

TABLE 5: INSURANCE REQUIREMENTS

Insurance Type	Each Occurrence/Aggregate Limits
<u>Workers' Compensation</u> <u>Required for all Contracts awarded</u>	Within statutory limits/Texas Workers' Compensation Act.
<u>Employer's Liability</u> Bodily Injury by Accident Bodily Injury by Disease <u>Required for all Contracts awarded</u>	\$1,000,000 Each Accident \$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. <u>Required for all Contracts awarded</u>	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>Automobile Liability</u> Must include liability arising out of any auto and be on business auto form. <u>Required for all Contracts awarded</u>	\$1,000,000 Combined Single Limit (for each accident)
<u>Commercial Umbrella</u> <u>Excess Liability</u> <u>When required by Work Order</u>	\$1,000,000 Each Occurrence/\$1,000,000 General Aggregate \$1,000,000 Each Occurrence/Person

3.28.6. 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.

3.29. 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:

3.29.1. 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.

3.29.2. 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 RFQ 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.

3.29.3. 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.

- 3.30. 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.
- 3.31. Independent Vendor.** Vendor shall serve as an independent Vendor in providing services under the 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.
- 3.32. Force Majeure.** Any delays in or failure of performance by either party, except in respect of the obligation of payments under the RFQ 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, epidemics, 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.
- 3.33. 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.
- 3.34. 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.

- 3.35. Compliance with Other Laws.** Respondent shall comply with all laws, regulations, requirements and guidelines applicable to a 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.
- 3.36. 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.
- 3.37. Legal Notices.** Any legal notice required or permitted to be delivered under the RFQ 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.
- 3.38. Governing Law and Venue.** The RFQ 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 RFQ 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.**
- 3.39. 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.
- 3.40. 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.

- 3.41. Disaster Recovery Plan.** Upon request of RRC, Respondent shall provide to RRC the descriptions of Respondent's business continuity and disaster recovery plans.
- 3.42. Public Disclosure.** Respondent shall not use RRC's name, logo, or other likeness in any press release, marketing material, or other announcement without prior written approval of RRC. RRC does not, and shall not, endorse any Respondent, vendor, commodity, or service. 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 RFQ, the Response, or the services to which they relate with RRC's prior written consent, and then only in accordance with explicit written instructions from RRC.
- 3.43. 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 RFQ and Contract expressly states a mutual intent to amend a specific article, section, item, term, or condition of the RFQ and/or Contract, general conflicts in language between any attachment and the RFQ and Contract shall be construed in favor of the terms and conditions of the RFQ and Contract. Unless expressly authorized by the terms of this Contract, no modification, renewal, extension, or amendment to the RFQ 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.
- 3.44. Severability.** If any provision contained in this RFQ and the Contract is held to be unenforceable by a court of law or equity, the RFQ 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.
- 3.45. Counterparts.** The Contract issued pursuant to this RFQ 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.
- 3.46. Respondent's Statements and Covenants Required.** Respondents must sign and return the *Respondent's Statements and Covenants* form (see **RFQ Attachment 2 Respondent's Statements and Covenants**) which shall be part of Respondent's Response 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 Response being deemed nonresponsive and ineligible for Contract award.
- 3.47. Supplemental Terms and Conditions Applicable to RFQ No. 455-23-1020.**
- 3.47.1. Federal Funds.** Work Orders issued under a Contract arising from this RFQ may be funded with federal dollars, including grant dollars. Respondents shall note the following:
- 3.47.1.1. Federal Forms.** A Work Order issued under a Contract arising from this RFQ maybe funded with federal dollars, including but not limited to grant dollars. A Work Order funded with federal dollars shall require, as applicable, completion of required federal forms and compliance with federal statutes, rules, and regulations.

- 3.47.1.2. Flow down terms and conditions.** Work Orders issued under a contract arising from this RFQ may be funded by grant dollars received by RRC from agreements between RRC and the U.S. government. Such agreements shall have certain applicable federally funded contract provisions (“Flow Down Terms and Conditions”) that will be required to be made part of any agreement, Work Order, or Purchase Order issued by RRC for work funded using federal dollars. By submitting a response to this RFQ, Respondent acknowledges understanding that in order to receive a Work Order funded by federal dollars, Respondent shall be provided opportunity to review any applicable agreement and any applicable Flow Down Terms and Conditions prior to negotiation of the Work Order and, if accepting of the applicable Flow Down Terms and Conditions, Vendor shall fully comply with the requirements thereof.
- 3.47.2. Possessory Rights of Material and Equipment.** Pursuant to certain provisions of Texas Natural Resources Code Chapter 91, upon entering into a contract to clean up a site or facility upon which equipment or hydrocarbons are stored, the State of Texas shall have first lien, superior to all preexisting and subsequent liens and security interests, on hydrocarbons stored at a site or facility and in any equipment that is located at the site or facility. A Vendor awarded a Contract under this RFQ shall not obtain possessory rights, lien rights, salvage rights, or title to such hydrocarbons or equipment except by formal, written process and agreement in accordance with Texas Natural Resources Code Chapter 89 and any other applicable statute, law, or rule.
- 3.47.3. Electrical Items.** All electrical items, if required to perform Work under this contract, shall meet all applicable OSHA standards and regulations and bear the appropriate listing from Underwriters Laboratory (UL), Factory Mutual Resource Corporation (FMRC), or National Electrical Manufacturers’ Association (NEMA).
- 3.47.4. Prohibited Use of State Property.** Respondent is prohibited from using State Property for any purpose other than performing Site Remediation Services authorized under the Contract. 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.
- 3.47.5. Vendor’s Identification of Key Personnel.** Upon request of RRC and prior to start of any work related to such request, Vendor shall provide to the requesting RRC Authorized Representative a list of Vendor’s personnel, including subcontractors, who shall be assigned to a project management, and/or operations management role and/or such other assignments to critical activities (“Key Personnel Roles”). Vendor’s list shall include, at a minimum, identification of Vendor’s senior staff within the following types of roles: Project Manager, Site Manager, Operations Manager.
- 3.47.5.1.** 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 Work Order without prior written approval of the RRC Authorized Representative.
- 3.47.5.2.** Vendor solely shall be responsible for ensuring, throughout Contract Term, that Vendor’s personnel, including subcontractors, that are assigned to a Key Personnel Role, shall meet all minimum qualifications, certifications, licenses, and experience required by the Solicitation and Contract Documents and federal, state, and local laws, rules, regulations, and ordinances.
- 3.47.5.3.** 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 and at no additional cost to RRC.

3.47.6. Enhanced Contract Monitoring. RRC has determined any contract resulting from this RFQ may require enhanced monitoring for performance and compliance with the Contract terms and conditions. Vendor receiving a Contract award resulting from this RFQ shall be subject to applicable performance evaluation standards described within **RFQ Attachment 7 Performance Evaluations Standards.**

ATTACHMENTS

Attachment 1: Statement of Services and Appendix A

Attachment 2: Respondent's Statements and Covenants

Attachment 3: Respondent's Qualifications Statement Form

Attachment 4: HUB Subcontracting Plan (HSP) Form and Appendix A

Attachment 5: Sample Capabilities & Equipment Specifications

Attachment 6: Sample RRC Contract

Attachment 7: Performance Evaluation Standards

Attachment 8: Federal Forms

Attachment 9: Sample Work Order

Attachment 10: Federal Terms and Conditions

Attachment 11: Guidance on Adhering to Federal Terms and Conditions

Statement of Services

1. Introduction.

Vendor shall provide all labor, materials, equipment, tools, incidentals, authorizations, and services necessary to deliver statewide site remediation and cleanup services for oil and gas waste sites. All work under the Contract shall be performed in accordance with applicable federal, state, and local statutes, laws, ordinances, regulations, and rules, including RRC Statewide Rules, the specifications within this SOS and any Work Order issued under the Contract, and all terms and conditions of the Contract.

2. Background.

Texas Natural Resources Code Chapter 91 provides that if oil and gas wastes or other substances or materials regulated by the RRC are causing or are likely to cause the pollution of surface or subsurface water, the RRC may conduct site investigations or environmental assessments or control or cleanup of the oil and gas wastes or other substances or materials (collectively, "Site Remediation Services").

RRC does not have the personnel, or the equipment required to perform Site Remediation Services; therefore, RRC intends to contract with one or more highly qualified, experienced Site Remediation Services providers with demonstrated expertise in Site Remediation Services and in RRC's sole discretion are deemed highly capable of completing all work required under a Contract arising from **RFQ No. 455-23-1020** and any Work Order issued thereunder.

3. Scope of Services.

3.1. General Site Remediation Services Requirements.

Using industry best practices and methods approved by RRC and in accordance with all applicable federal, state, and local statutes, laws, ordinances, regulations, and rules, including RRC Statewide Rules, Vendor shall remediate oil and gas waste from abandoned tank batteries, spill sites, unauthorized dumping sites, reclamation and commercial treatment and disposal facilities, gas processing facilities, and as directed by RRC. General specifications related to Site Remediation Services to be provided by Vendor under the Contract and any Work Order issued thereunder may include, but is not limited to, the following:

3.1.1. Site Work.

3.1.1.1. For purposes of investigating the presence/absence of oil and gas wastes and, as applicable, the extent and degree of pollution caused by the oil and gas wastes, Vendor may be required to collect environmental samples during soil excavation or other Site Remediation Services.

3.1.1.2. Using the most appropriate techniques of site cleanup and remediation to accomplish the objectives and goals specified within the Work Order, and as approved by RRC prior to initiating performance, Vendor shall remediate soil, sediment, and groundwater impacted by oil and gas waste. Site cleanup and remediation techniques may include but are not limited to:

- a. Offsite disposal: e.g., "dig and haul"; vacuum extraction, pumping, separation, haul off site, and dispose at disposal facilities permitted and/or otherwise authorized to receive oil and gas wastes; and
- b. Onsite disposal: only when expressly authorized by RRC, e.g., ex-situ or in-situ biotreatment; ex-situ or in-situ physical/chemical treatment; recycling; and, stabilization and capping/re-seeding.

- 3.1.1.3. When required by Work Order, Vendor shall fully delineate soil, sediment, and groundwater impacted by oil and gas wastes.
- 3.1.1.4. When required by Work Order, Vendor shall install waste or salvageable product recovery systems, containment or tank systems, and such other site remediation systems deemed necessary, at RRC's sole discretion, to fully and completely deliver the Site Remediation Services.
- 3.1.1.5. Vendor shall remove all oil and gas waste and oil and gas waste residue from any and all tanks, vessels, receptacles, etc. storing or having stored oil and gas wastes.
 - a. When required by Work Order, after removal of all oil and gas waste and waste residue from tanks, vessels, receptacles, etc., Vendor shall render the tanks, vessels, receptacles, etc. useless and abandon or bury such equipment onsite, in accordance with Work Order specifications or as directed by RRC Authorized Representative.
 - b. When required by Work Order, after removal of all oil and gas waste and waste residue from tanks, vessels, receptacles, etc., Vendor shall stockpile the tanks, vessels, receptacles, etc. and associated debris, in accordance with Work Order specifications.
 - c. When required by Work Order, after removal of all oil and gas waste and waste residue from tanks, vessels, receptacles, etc., Vendor shall transport and dispose the tanks, vessels, receptacles, etc. offsite in accordance with applicable laws, regulations, and ordinances.
- 3.1.1.6. Vendor shall dismantle and stockpile all associated piping and connections buried less than three (3) feet in depth. Vendor shall transport and dispose of the stockpiled piping and connections as directed by RRC.
 - a. All exposed, open-ended piping shall be cut three (3) feet below ground surface by Vendor; and
 - b. Prior to backfilling over pipe, Vendor shall cap open-ended pipe as directed by RRC
- 3.1.1.7. Vendor shall remove and neatly stockpile all onsite miscellaneous debris and vegetation as specified by the RRC Authorized Representative.
- 3.1.1.8. Vendor shall stockpile scrap metal and municipal waste on site if not otherwise directed by Work Order and/or RRC Authorized Representative.
- 3.1.1.9. Vendor shall segregate wastes as necessary to meet all waste characterization requirements of each facility used for disposal and/or recycling of each type of waste.
- 3.1.1.10. Vendor shall transport and dispose of all waste, including but not limited to oil and gas wastes, at facilities permitted and/or authorized to receive such waste.
- 3.1.1.11. Vendor shall repair and maintain lease roads as directed by RRC.
- 3.1.1.12. Vendor shall regrade and restore areas affected by cleanup/remediation operations as directed by RRC.
 - a. Revegetate as needed
 - b. Erosion control measures will be installed if needed
- 3.1.2. **Transportation and Disposal of Oil and Gas Waste.**

RRC IS NOT THE GENERATOR OF ANY WASTE REMOVED FROM THE SITE DURING OR AS A RESULT OF PERFORMANCE OF WORK UNDER THE CONTRACT OR ANY WORK ORDER ISSUED THEREUNDER. Most waste Vendor will treat, extract, transport, and dispose of will be oil and gas waste exempt from Resource Conservation and Recovery Act (RCRA) Subtitle C regulations. *Any waste that is nonexempt from RCRA Subtitle C regulation shall be noted on individual Work Orders and/or reported to the RRC Authorized Representative if discovered during performance of Site Remediation Services.*

- 3.1.2.1.** When hauling oil and gas waste, Vendor and Vendor's subcontractors, if any, shall comply with all requirements of RRC Statewide Rules applicable to oil and gas waste haulers.
- 3.1.2.2.** Prior to loading, transporting, and disposing of any oil and gas waste, Vendor shall confirm that all wastes are segregated in a manner approved by the RRC Authorized Representative.
- 3.1.2.3.** Vendor and Vendor's subcontractors, if any, shall transport all waste, including oil and gas waste, using only vehicles that are in good mechanical condition, leak-free, and in compliance with all applicable federal, state, and local regulations and requirements.
 - a.** In Vendor's performance of work under the Contract or any Work Order issued thereunder, RRC reserves the right to inspect any of Vendor's and Vendor's subcontractors' waste transportation vehicles for compliance with this section and any applicable RRC Statewide Rules.
 - b.** In the event that any of Vendor's or Vendor's subcontractors' waste transportation vehicles fail an RRC inspection under this section, Vendor shall immediately cease use of the vehicle in performance of work under the Contract or any Work Order issued thereunder and/or immediately direct Vendor's subcontractor to immediately cease use of the vehicle in performance of work under the Contract or any Work Order issued thereunder.
 - Under this clause, concurrent with the removal of any of Vendor's or Vendor's subcontractors' vehicles from the project, each removed vehicle shall be replaced with another waste transportation vehicle of equivalent or greater capacity and capable of meeting requirements of this section, without delay or disruption to the schedule and with no additional cost to RRC.
 - Under this clause, Vendor and/or Vendor's subcontractor shall not resume use of a vehicle that has failed RRC inspection unless and until the vehicle has passed a subsequent RRC inspection.
- 3.1.2.4.** In compliance with RRC Statewide Rules, any person who transports oil and gas waste for hire off a lease, unit, or other oil or gas property by any method other than by pipeline must be permitted to haul oil and gas waste. A permit to haul oil and gas waste is also known as an Oil and Gas Waste Hauler Permit (WHP). These permits are issued by the RRC. All Vendors, Vendor's subcontractors, and vehicles transporting oil and gas waste as part of performance of work under the Contract or any Work Order issued thereunder shall possess a valid RRC-issued WHP.
- 3.1.2.5.** In strict accordance with RRC Statewide Rules, all oil and gas waste, rinse water, contact water, contact stormwater, environmental media, and/or other waste removed from a site shall be disposed of by Vendor only at a facility permitted to dispose of such materials.
- 3.1.2.6.** Vendor shall be responsible for the careful selection of an appropriate disposal facility to be used by Vendor and Vendor's subcontractors, if any, during the performance of work under the Contract and any Work Order issued thereunder. Vendor shall be responsible for obtaining any required approval for the Vendor's access to and use of any disposal site.
 - a.** Vendor shall use discretion in the selection of the permitted waste disposal facility, and said facility must be reputable and to Vendor's best knowledge environmentally responsible.
 - b.** Fees for the transportation and disposal of oil and gas waste, rinse water, contact water, contact stormwater, other environmental media, and/or other waste charged by a disposal facility shall be approved by RRC only if the use of the disposal facility is determined to be the best value to the State.
 - c.** Best value to the State for a permitted waste disposal facility shall be determined by proximity to the project site and charges applicable to transportation and disposal of waste not included in final, negotiated prices applicable to the Work Order.
 - d.** Vendor shall be solely responsible for excess fees applicable to transportation and disposal of waste at any Vendor-selected permitted waste disposal facility not resulting in the best value to the State.

- 3.1.2.7.** Vendor solely shall be responsible for waste manifest forms and run tickets. Vendor shall not delegate to any subcontractor Vendor's duties and responsibilities stated within this Section.
- a.** Vendor shall provide all waste manifest forms and/or run tickets; RRC shall not provide waste manifest forms or run tickets.
 - b.** Prior to any waste leaving a project site, Vendor and RRC's Authorized Representative shall agree on the type of waste and quantity thereof to be transported. On each waste manifest form and/or run ticket, the agreed type of waste and quantity thereof shall be officially and completely recorded and documented in accordance with all applicable rules and regulations.
 - c.** For any class of waste transported from the site, Vendor shall complete all required and applicable sections (including sections requiring initials and/or signatures) on all required waste manifest forms, including but not limited to any Uniform Hazardous Waste Manifest and Petroleum Substance Waste Affidavit.
 - d.** Vendor shall ensure all persons required to sign the waste manifest form, including but not limited to, waste transportation personnel and disposal facility personnel, sign applicable and/or required sections, if any, on each waste manifest form.
- 3.1.2.8.** Vendor shall be responsible for obtaining any required approval for Vendor's access to and use of any permitted waste disposal site.
- 3.1.2.9.** Vendor shall be responsible for prompt payment of all waste transportation and disposal fees.
- 3.1.2.10.** When submitting invoices to RRC's Authorized Representative, Vendor shall include with each invoice all supporting documentation applicable to Vendor's charges to RRC, if any, including all supporting documentation for waste transportation and disposal fees.

3.2. Work Order Process

Respondents awarded a Contract arising from this RFQ shall be subject to RRC's Work Order process for work required under the Contract. RRC's Work Order process shall include RRC first selecting the most highly qualified Vendor of RRC's pre-qualified Vendors providing the Site Remediation Services required under a Work Order and then attempting to negotiate the Work Order with that Vendor at a fair and reasonable price using the following process:

- 3.2.1.** RRC shall submit to Vendor a Work Order request which shall include a scope of work to be performed at one or more sites specified within the Work Order (See **RFQ Attachment 9 Sample Work Order**).
- 3.2.1.1.** A Work Order request may include Site Remediation Services to be delivered for either one site or multiple sites similar in scope of work and/or proximal in location.
 - 3.2.1.2.** Each Work Order request shall include available information related to Site Remediation Services requirements, GPS coordinates and/or driving instructions for each site, and a map indicating the location of each site for Site Remediation Services to be delivered under the Work Order.
- 3.2.2.** Within the number of days specified within a Work Order request, Vendor shall complete and return the information requested by RRC, including applicable pricing for all work required to deliver all Site Remediation Services specified within the Work Order request.
- 3.2.2.1.** Vendor's failure to return to RRC the information requested within the required days specified within the Work Order request may result in RRC retracting the Work Order request from Vendor and submitting to another Vendor some or all Site Remediation Services specified within the Work Order request.
- 3.2.3.** RRC shall review the Vendor's response to the Work Order request to determine whether the response is fair and reasonable, negotiating if necessary any unacceptable terms, conditions, and

pricing of the Work Order until the RRC and Vendor enter into written acceptance of the Work Order or formally end negotiations between RRC and the Vendor for that Work Order.

3.2.4. Upon RRC's and Vendor's written acceptance of a Work Order, RRC shall issue a written NTP for Site Remediation Services to be delivered in accordance with the Work Order.

3.2.4.1. Vendor shall not commence work under a Work Order prior to receipt of RRC's written NTP to Vendor for the Work Order.

3.2.4.2. Upon receipt of RRC's written NTP, Vendor shall promptly commence performance of the Services in accordance with the Work Order and work schedule specified therein.

3.2.4.3. Vendor shall perform all work with sufficient diligence to ensure timely completion of all Site Remediation Services to be delivered under the Work Order.

3.3. Work Schedule.

TIME IS OF THE ESSENCE AND IS AN ESSENTIAL ELEMENT OF THE CONTRACT.

3.3.1. Within the time specified within RRC's written NTP, Vendor shall mobilize all necessary equipment, materials, and personnel to one or more sites in accordance with the Work Order specifications. The Vendor shall remain on the job until the RRC Authorized Representative has deemed all Site Remediation Services required to have been completed on all sites specified in the Work Order.

3.3.1.1. At least 24 hours prior to the scheduled move-in date applicable to a Work Order, Vendor may submit to the RRC Authorized Representative a written request for an extension to the move-in date.

3.3.1.2. It is the sole discretion of RRC to approve any requested extension to a move-in date. Nevertheless, an extension will not be unreasonably withheld in the event of *force majeure*.

3.3.1.3. RRC shall issue approved extensions in writing.

3.3.1.4. Only extensions authorized by RRC in writing shall be honored by RRC as acceptable delay to the move-in date.

3.3.1.5. Should Vendor fail to move in by the designated deadline, RRC reserves the right to unilaterally revoke the Work Order and/or terminate the Contract. In the event of Work Order revocation and/or Contract termination under this provision, RRC may award the Work Order and/or Contract to the next qualified Vendor offering the best value to the state as determined by RRC.

3.3.2. Vendor shall diligently conduct work during daylight hours, daily, Monday through Friday, weather permitting. Any alterations to the work schedule shall be submitted in writing by Vendor to RRC and must be approved in writing by RRC's Authorized Representative prior to Vendor's change in the work schedule.

3.3.2.1. At RRC's discretion, Saturdays and Sundays may be approved as workdays.

3.3.2.2. Vendor shall not perform any work without the authorization of RRC's onsite Authorized Representative. Any work performed by Vendor without prior written authorization from the RRC's Authorized Representative or without the presence of an RRC onsite Authorized Representative shall be deemed undertaken and performed at Vendor's risk of rejection of work and/or subject to Vendor's sole responsibility for all costs associated with work necessary to repair or improve work rejected by RRC.

3.3.3. Vendor shall prepare and submit a daily work report to RRC's onsite Authorized Representative at the end of each workday or prior to start of the subsequent workday.

3.3.3.1. Failure to submit daily reports may result in termination of Contract.

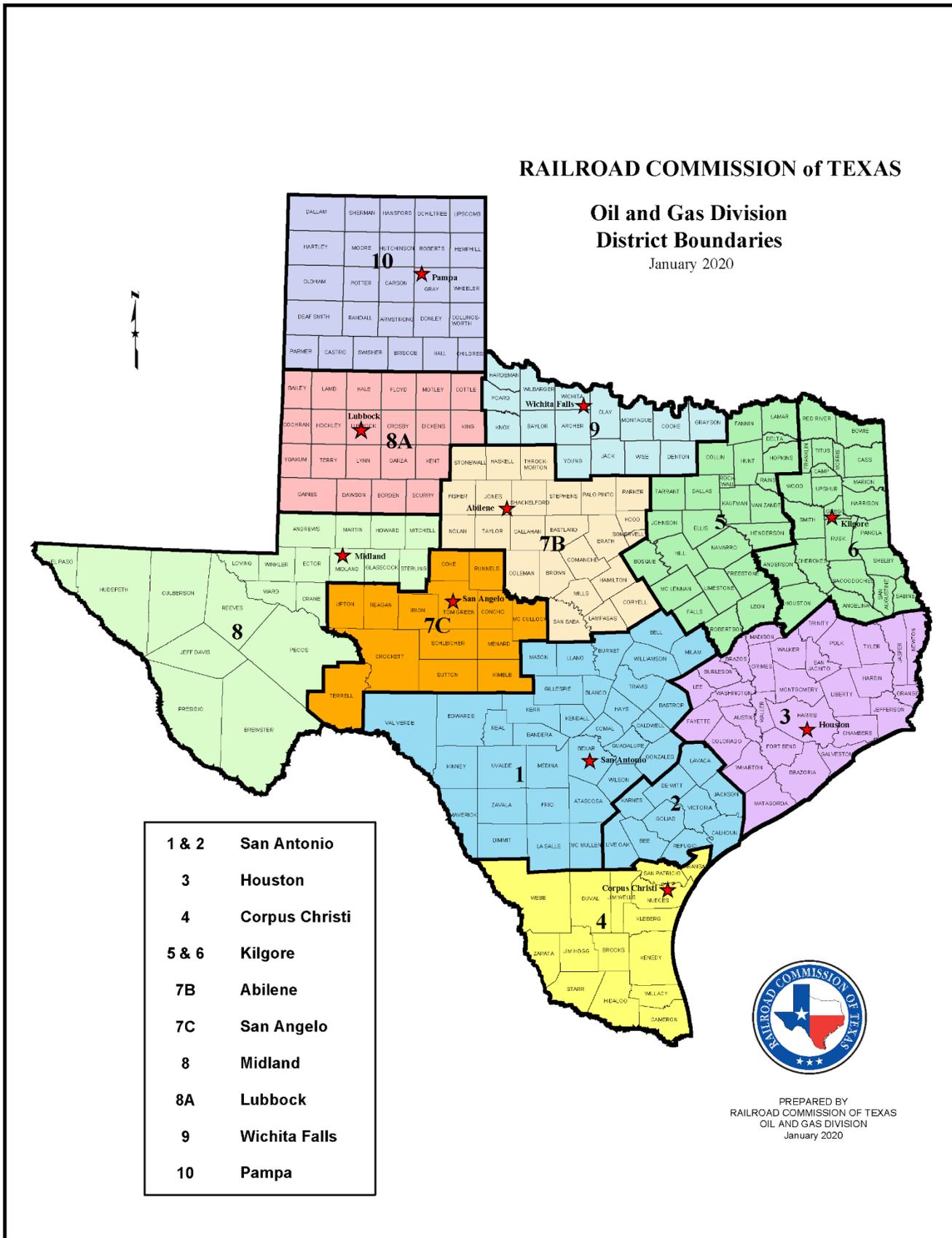
3.3.3.2. The daily work report shall be in a format designated by RRC's Authorized Representative and shall include, but is not limited to, the following information:

a. A brief description of assessment, cleanup, and remediation services delivered by Vendor that day;

b. As applicable, itemized costs attributable to assessment, cleanup, and remediation services provided that day and a total cost of all services delivered that day;

- c. A listing of each of Vendor's subcontractors used that day;
 - d. The type and volume of all waste removed, if any, from the site that day and a listing of each of Vendor's disposal and/or recycling facilities receiving waste from the project that day and the types and volumes of waste disposed at each facility; and
 - e. A listing of each service provider's names for each of Vendor's waste haulers used that day and each of their respective RRC WHP number(s).
- 3.3.3.3.** Failure of Vendor to comply with requirements of the RRC Authorized Representative under this section may result in Vendor performance being deemed unsatisfactory and/or insufficient to ensure completion of the work under the Contract or Work Order within the time specified in the Contract or Work Order. In such an event, RRC may terminate Vendor's right to proceed with the work, or any separable part of the work, in accordance with Contract terms and conditions.
- 3.4. Vendor Responsibilities.**
- 3.4.1.** Vendor shall determine and provide all labor, materials, equipment, tools, incidentals, and services, including coordination and supervision of Vendor's staff and subcontractors and all staff and subcontractor work activities, necessary to access site locations and perform Site Remediation Services in accordance with all terms, conditions, and specifications of the Contract and any Work Order issued thereunder.
- 3.4.1.1.** In the event a Work Order issued under the Contract requires Site Remediation Services at two or more work sites, prior to the Vendor commencing any work for that Work Order, Vendor, and the RRC Authorized Representative shall collaborate on a written work plan to include the order of delivery of Site Remediation Services and the order of sites to receive such services.
- 3.4.1.2.** Vendor's right of entry and access to sites shall be coordinated by RRC.
- 3.4.2.** Vendor shall conduct and deliver Site Remediation Services in accordance with procedures approved by the RRC and in accordance with applicable RRC Statewide Rules.
- 3.4.3.** Vendor shall obtain written approval of the RRC Authorized Representative prior to making or commencing with any changes to an approved Work Order's Site Remediation Services work plan or procedure.
- 3.4.4.** Vendor shall schedule and manage resources to ensure safe and efficient prosecution of all Site Remediation Services.
- 3.4.5.** Vendor shall maintain all appropriate training, licenses, permits, certifications, and registrations applicable to the performance of work and delivery of Site Remediation Services throughout the lifetime of the Contract.
- 3.4.6.** Vendor shall conduct daily onsite safety meetings prior to Vendor commencing work. Vendor's safety meetings shall include, at a minimum, a review of safety protocols and procedures applicable to the day's work and a discussion of the Vendor's work plan for the project(s) that day.
- 3.4.7.** Vendor shall maintain a safe work environment and ensure Vendor's staff and subcontractors comply with all applicable safety laws, rules, policies, and standards including but not limited to those put forth by the U.S. Department of Labor Occupational Safety and Health Administration ("OSHA").
- 3.4.7.1.** Vendor shall ensure all Vendor's personnel, including Vendor's subcontractors, observe prudent safety practices, including but not limited to the use of gloves, foot protection, eye protection, hearing protection, head protection, safety vests, and other personal protective equipment appropriate to the workplace and hazards of the project and in accordance with OSHA and industry accepted standards.
- 3.4.7.2.** Vendor's onsite safety practices shall include, at a minimum, the following:
- a. When a negotiated Work Order requires excavation, Vendor shall comply with all laws, rules, and ordinances applicable to damage prevention of underground utilities and underground pipelines.

APPENDIX A: RRC OIL & GAS DIVISION DISTRICTS MAP



APPENDIX A:
TABLE 1: RRC OIL & GAS DISTRICTS LIST OF COUNTIES

DISTRICTS 1 & 2 / SAN ANTONIO					
ATASCOSA – 1	BANDERA – 1	BASTROP – 1	BELL – 1	BEXAR – 1	BLANCO – 1
BURNET – 1	CALDWELL – 1	COMAL – 1	DIMITT – 1	EDWARDS – 1	FRIO – 1
GILLESPIE – 1	GONZALES – 1	GUADALUPE – 1	HAYS – 1	KENDALL – 1	KERR – 1
KINNEY – 1	LA SALLE – 1	LLANO – 1	McMULLEN – 1	MASON – 1	MAVERICK – 1
MEDINA – 1	MILAM – 1	REAL – 1	TRAVIS – 1	UVALDE – 1	VAL VERDE – 1
WILLIAMSO – 1 N	WILSON – 1	ZAVALA – 1	BEE – 2	CALHOUN – 2	DE WITT – 2
GOLIAD – 2	JACKSON – 2	KARNES – 2	LAVACA – 2	LIVE OAK – 2	REFUGIO – 2
VICTORIA – 2					
DISTRICT 3 / HOUSTON					
AUSTIN	BRAZORIA	BRAZOS	BURLESON	CHAMBERS	COLORADO
FAYETTE	FORT BEND	GALVESTON	GRIMES	HARDIN	HARRIS
JASPER	JEFFERSON	LEE	LIBERTY	MADISON	MATAGORDA
MONTGOMERY	NEWTON	ORANGE	POLK	SAN JACINTO	TRINITY
TYLER	WALKER	WALLER	WASHINGTON	WHARTON	
DISTRICT 4 / CORPUS CHRISTI					
ARANSAS	BROOKS	CAMERON	DUVAL	HIDALGO	JIM HOGG
JIM WELLS	KENEDY	KLEBERG	NUECES	SAN PATRICIO	STARR
WEBB	WILLACY	ZAPATA			
DISTRICTS 5 & 6 / KILGORE					
BOSQUE – 5	COLLIN – 5	DALLAS – 5	DELTA – 5	ELLIS – 5	FALLS – 5
FANNIN – 5	FREESTONE – 5	HENDERSON – 5	HILL – 5	HOPKINS – 5	HUNT – 5
JOHNSON – 5	KAUFMAN – 5	LAMAR – 5	LEON – 5	LIMESTONE – 5	McLENNAN – 5
NAVARRO – 5	RAINS – 5	ROBERTSON – 5	ROCKWALL – 5	TARRANT – 5	VAN ZANDT – 5
ANDERSON – 6	ANGELINA – 6	BOWIE – 6	CAMP – 6	CASS – 6	CHEROKEE – 6
FRANKLIN – 6	GREGG – 6	HARRISON – 6	HOUSTON – 6	MARION – 6	MORRIS – 6
NACOGDOCHES – 6	PANOLA – 6	RED RIVER – 6	RUSK – 6	SABINE – 6	SAN AUGUSTIN – 6
SHELBY – 6	SMITH – 6	TITUS – 6	UPSHUR – 6	WOOD – 6	
DISTRICT 7B / ABILENE					
BROWN	CALLAHAN	COLEMAN	COMANCHE	CORYELL	EASTLAND
ERATH	FISHER	HAMILTON	HASKELL	HOOD	JONES
LAMPASAS	MILLS	NOLAN	PALO PINTO	PARKER	SAN SABA
SHACKELFORD	SOMERVILLE	STEPHENS	STONEWALL	TAYLOR	THROCKMORTON
DISTRICT 7C / SAN ANGELO					
COKE	CONCHO	CROCKETT	IRION	KIMBLE	McCULLOCH
MENARD	REAGAN	RUNNELS	SCHLEICHER	SUTTON	TERRELL
TOM GREEN	UPTON				
DISTRICT 8 / MIDLAND					
ANDREWS	BREWSTER	CRANE	CULBERSON	ECTOR	EL PASO
GLASSCOCK	HOWARD	HUDSPETH	JEFF DAVIS	LOVING	MARTIN
MIDLAND	MITCHELL	PECOS	PRESIDIO	REEVES	STERLING
WARD	WINKLER				
DISTRICT 8A / LUBBOCK					
BAILEY	BORDEN	COCHRAN	COTTLE	CROSBY	DAWSON
DICKENS	FLOYD	GAINES	GARZA	HALE	HOCKLEY
KENT	KING	LAMB	LUBBOCK	LYNN	MOTLEY
SCURRY	TERRY	YOAKUM			
DISTRICT 9 / WICHITA FALLS					
ARCHER	BAYLOR	CLAY	COOKE	DENTON	FOARD
GRAYSON	HARDEMAN	JACK	KNOX	MONTAGUE	WICHITA
WILBARGER	WISE	YOUNG			
DISTRICT 10 / PAMPA					
ARMSTRONG	BRISCOE	CARSON	CASTRO	CHILDRESS	COLLINGSWORTH
DALLAM	DEAF SMITH	DONLEY	DONLEY	GRAY	HALL
HANSFORD	HARTLEY	HEMPHILL	HUTCHINSON	LIPSCOMB	MOORE
OCHILTREE	OLDHAM	PARMER	POTTER	RANDALL	ROBERTS
SHERMAN	SWISHER	WHEELER			

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 **RFQ No. 455-23-1020** apply to Respondent and all of Respondent's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or who otherwise are interested in the RFQ 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 Response, and notwithstanding any disclaimers in Respondent's Response and notwithstanding any other provision of the RFQ 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 RFQ, and that its prices will remain firm for acceptance for a minimum of one hundred eighty (180) calendar days from deadline for submission of Response or issuance of Work Order.
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 RFQ.
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,

Respondent's Statements and Covenants

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 Response to any competitor or any other person engaged in the same line of business as Respondent.

Respondent assigns to RRC all of Respondent's rights, title and interest in and to all claims and causes of action Respondent may have under the antitrust laws of Texas or the United States for overcharges associated with this RFQ or any resulting contract.

11. By submitting a Response, Respondent represents and warrants that the individual submitting this *Respondent's Statements and Covenants* and the documents made part of the Response 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 Response.

12. Respondent certifies that if a Texas address is shown as the address of Respondent within the Response, 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 Response and any Contract resulting from the Response to this RFQ 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(j), 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 in the Response.

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

Respondent's Statements and Covenants

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 §2271.002, Respondent certifies that either (i) it meets an exemption criterion under Texas Government Code §2271.002; 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.
18. Pursuant to Texas Government Code §2272.003, Respondent certifies that either (i) it meets an exemption criterion under Texas Government Code §2272.002; 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.
19. Pursuant to Texas Government Code §2274.002, Respondent certifies that it (i) does not boycott energy companies; and (ii) will not boycott energy companies during the term of the contract.
20. Pursuant to Texas Government Code §2274.002, Respondent certifies that it (i) does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and (ii) will not discriminate during the term of the contract against a firearm entity or firearm trade association.
21. 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.
22. 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.
23. If Respondent is submitting a Response for the purchase or lease of computer equipment, then Respondent certifies its compliance with Texas Health and Safety Code Chapter 361, Subchapter Y, and Texas Commission on Environmental Quality rules in 30 TAC Chapter 328.
24. 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 §2054.519. 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.
25. Respondent represents and warrants that within the five (5) calendar years immediately preceding the submission of the Response, 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 Response, that

Respondent's Statements and Covenants

would or could impair Respondent's performance under any contract resulting from this RFQ, relate to the solicited or similar goods or services, or otherwise be relevant to RRC's consideration of the Response. 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 Response 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 RFQ, relate to the solicited or similar goods or services, or otherwise be relevant to RRC's consideration of the Response. 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 RFQ.

26. 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.
27. 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 subcontractors, identified in the Response 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 Response.
28. Respondent has read and agrees to all terms and conditions of this RFQ, unless Respondent specifically takes an exception and proposes an alternative provision in Respondent's Response (see RFQ section 2.8 Exception to Provisions.)
29. Pursuant to Texas Government Code §572.069, Respondent warrants and certifies Respondent will not employ any former state officer or employee, including an RRC officer or employee, who in any manner participated in a procurement process or contract negotiations for RRC involving Respondent within two (2) years after the date that the contract is signed or the procurement is terminated or withdrawn. This certification only applies to former state officers and employees whose state service or employment ceased on or after September 1, 2015.

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 Response or termination of the Contract.

30. Respondent represents and warrants that if selected for award of a Contract arising from this RFQ, prior to submitting the signed Contract to RRC, Vendor shall comply with Texas Government Code §2252.908, relating to Disclosure of Interested Parties, by accessing the Texas

Respondent's Statements and Covenants

Ethics Commission ("TEC") portal (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".

31. 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:
- a) All persons employed by Respondent to perform duties within Texas; and
 - b) 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.

32. 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.

33. 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.

34. Pursuant to 34 Texas Administrative Code §20.306, if applicable to the RFQ, 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 and services from economically depressed or blighted areas |

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Products of persons with mental or physical disabilities

Contractors that meet or exceed air quality standards

Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel

Recycled or Reused Computer Equipment of Other

35. 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 Response is not ineligible to receive the Contract and acknowledges that the Contract may be terminated, and payment withheld if this certification is inaccurate.
36. 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.
37. 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.
38. 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. Vendor 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.
39. 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.
40. 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 Respondent's 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.

Respondent's Statements and Covenants

41. 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.
42. Respondent represents and warrants that all statements and information prepared and submitted in this document and the Response are current, complete, true, and accurate. Submitting a Response 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 the submitted Response and the resulting Contract.

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	

RESPONDENT'S QUALIFICATIONS STATEMENT

THIS FORM MUST BE FULLY COMPLETED AND INCLUDED WITH RESPONSE SUBMITTALS. Failure to answer any question or provide the requested information may result in the Response being deemed non-responsive. Complete all blocks; if a question or information request is not applicable to Respondent, 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 ½ paper with Respondent's letterhead, and include reference to specific page number, item, and section of this Qualifications Statement applicable to the information.

COMPANY			
ADDRESS			
PHONE		FAX	
E-MAIL			
Company is organized as: Individual Partnership Corporation			
If incorporated, under the laws of the State of _____ with principal place of business in _____			

PRINCIPALS IN COMPANY AND YEARS EXPERIENCE: OIL/GAS WASTE SITE REMEDIATION SERVICES

NAME	TITLE	PHONE	NO. OF YEARS

COMPANY HISTORY: List company existence below, including any other business names used.

From	to	Firm Name	

Has company, 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.

RESPONDENT'S CAPABILITIES:

COMPANY'S AVERAGE ANNUAL GROSS REVENUE \$ _____

Percentage of this revenue by categories:

O&G Waste Site Remediation Services _____ %	Other Oil & Gas Industry Services _____ %	Other Services _____ %
---	---	------------------------

RESPONDENT'S QUALIFICATIONS STATEMENT

FINANCIAL CAPABILITIES:

FINANCIAL INFORMATION SUMMARIZED BELOW WAS PREPARED BY:

Accounting Firm or Respondent's Staff		Address	
City/State/Zip		E-Mail	
Prepared by (name, title):		Phone	

FINANCIAL STATEMENT SUMMARY:

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

BONDING REFERENCES: Bonding reference section required to be considered for any Work Orders in excess of \$100,000

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

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

BANKING REFERENCE

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

RESPONDENT'S QUALIFICATIONS STATEMENT

RESPONDENT'S EXPERIENCE RECORD:

PROVIDE THREE (3) SUCCESSFUL **NON-RRC** PROJECTS THAT ARE 100% COMPLETE AND HAVE BEEN COMPLETED WITHIN THE LAST FIVE (5) YEARS MEASURED BACKWARDS FROM THE ISSUE DATE OF THIS RFQ, AND THAT BEST DEMONSTRATE CURRENT QUALIFICATIONS RELATED TO THE WORK DESCRIBED WITHIN **RFQ ATTACHMENT 1: STATEMENT OF SERVICES**.

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	Email	
Contract Start Date (Date of Notice to Proceed)		Contract Duration (Calendar Days)		
If time extensions were added to the contract as a result of Respondent's responsibilities, provide a short explanation of each occurrence/extension.				
Describe Project, Respondent's types of services delivered under the project, and explanation of project comparability to RFQ work.				

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	Email	
Contract Start Date (Date of Notice to Proceed)		Contract Duration (Calendar Days)		
If time extensions were added to the contract as a result of Respondent's responsibilities, provide a short explanation of each occurrence/extension.				
Describe Project, Respondent's types of services delivered under the project, and explanation of project comparability to RFQ work.				

RESPONDENT'S QUALIFICATIONS STATEMENT

RESPONDENT'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		Email	
Contract Start Date (Date of Notice to Proceed)		Contract Duration (Calendar Days)			
If time extensions were added to the contract as a result of Respondent's responsibilities, provide a short explanation of each occurrence/extension.					
Describe Project, Respondent's types of services delivered under the project, and explanation of project comparability to RFQ work.					

RESPONDENT'S HUB STATUS*:

*HUB status information is not a factor considered for contract award but is collected for purposes of RRC's analysis in determining and achieving agency HUB goals.

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

If yes, please indicate:

- Gender: Male Female; AND,
- Qualification as member of one or more of the following groups accordance with 34 TAC §20.282(19)(C):
 Asian Pacific American *Black American* *Hispanic American*
 Native American *American Woman* *Service-Disabled Veteran*

RESPONDENT'S PREVIOUS RRC WORK EXPERIENCE:

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

If yes, list the most recent contract number(s) and name(s): _____

RESPONDENT'S CERTIFICATION AND CONSENT STATEMENT:

By signature below, I certify all information provided within this Qualifications Statement and any supplemental or attached documents is true and correct, and I authorize the Railroad Commission of Texas to contact the references provided within this Qualifications Statement and authorize release of information from such references to the Railroad Commission 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.

Subcontracting Opportunities:

- 150 12 Sack cement (Types I, II, or III)
- 790 20 Grass seeds
- 909 75 Site clean-up, post construction
- 962 39 Hauling services
- 971 82 Toilets, portable, rental or lease
- 977 73 Toilets and showers, portable, rental or lease
- 120 14 Barges
- 120 21 Boats 21 Feet and under
- 790 70 Topsoil and Fill Dirt
- 926 76 Radioactive Waste Disposal Services
- 926 29 Contaminated Groundwater Services, Including Discharge Pipe Installation
- 926 30 Contaminated Soil Services

As a courtesy, we will conduct a pre-screening of your DRAFT HSP prior to the Proposal Submission Deadline date. Your DRAFT HSP only, must be submitted to the HUB Coordinator via email: hub@rrc.texas.gov.

See dates in Section 2.1.1Table 1: Schedule of Events

When submitting DRAFT HSP for review allow time to comply with 7 working day HUB notification requirement for Attachment B.

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 #: 455-23-1020 Bid Open Date: _____
 (mm/dd/yyyy)

Enter your company's name here: _____ Requisition #: 455-23-1020

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 do not have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to Non-HUBs.
1		TBD %	TBD %	TBD %
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 #: 455-23-1020 _____

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 do not have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to non-HUBs.
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 #: 455-23-1020

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.

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 <small>(mm/dd/yyyy)</small>
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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 B (Attachment B)

Rev. 2/17

Enter your company's name here: _____	Requisition #: <u>455-23-1020</u>
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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/hub-forms/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/tpasscmbsearch/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 <small>(Do not enter Social Security Numbers.)</small>	Date Notice Sent <small>(mm/dd/yyyy)</small>	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 <small>(mm/dd/yyyy)</small>	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.

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Enter your company's name here: _____ Requisition #: 455-23-1020

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/passcmbsearch/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		\$ TBD	TBD %
	<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: _____	State of Texas VID #: _____
Point-of-Contact: _____	Phone #: _____
E-mail Address: _____	Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION	
Agency Name: _____	Phone #: _____
Point-of-Contact: _____	Bid Open Date: _____
Requisition #: <u>455-23-1020</u>	(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)	
<p><i>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 Administrative Code, §20.282(19)(C).</i></p> <p><i>(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.)</i></p>	

2. Subcontracting Opportunity Scope of Work:	

3. Required Qualifications:	<input type="checkbox"/> - Not Applicable
------------------------------------	---

4. Bonding/Insurance Requirements:	<input type="checkbox"/> - Not Applicable
---	---

5. Location to review plans/specifications:	<input type="checkbox"/> - Not Applicable
--	---

HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report



HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report

This form must be completed and submitted to the contracting agency each month to document compliance with your HSP.

Contract/Requisition Number: _____ Date of Award: _____ Object Code: _____
(mm/dd/yyyy) (Agency Use Only)

Contracting Agency/University Name: **Railroad Commission of Texas**

Contract Administrator Name: _____

Contractor (Company) Name: _____ State of Texas VID #: _____

Point of Contact: _____ Phone #: _____

Reporting (Month) Period: _____ Total Amount Paid this Reporting Period to Contractor: \$ _____

Report HUB and Non-HUB subcontractor information

*Note: Texas certified HUB status can be verified on line at: <https://mycpa.cpa.state.tx.us/tpasscmlsearch/index.jsp>

Subcontractor's Name	*Texas certified HUB? <small>(Yes or No)</small>	Subcontractor's VID or HUB Certificate Number <small>(Required if Texas certified HUB)</small>	Total Contract \$ Amount from HSP with Subcontractor	Total \$ Amount Paid This Reporting Period to Subcontractor	Total Contract \$ Amount Paid to Date to Subcontractor	Object Code <small>(Agency Use Only)</small>
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
			\$	\$	\$	
TOTALS:			\$	\$	\$	

Signature: _____ Title: _____ Date: _____

CAPABILITIES & EQUIPMENT SPECIFICATIONS (SAMPLE)

Please list the oil and gas waste site remediation services that your company can provide: Oil and Gas Waste Site Remediation Services Provided		
Item	Description	Comments as applicable
1	Contact/Rinsate Water	
2	Produced Water	
3	BS&W (Basic Sediment and Water)	
4	Crude Oil impacted soils, pit and tank bottoms	
5	Washout Fees	For Waste Hauling Equipment, such as Vac trk.
6	NORM BS&W	Requires contractor or sub to have an active NORM License issued by DSHS. Disposal Facility must be RRC Permitted to accept NORM Waste.
7	NORM impacted soils, pit and tank bottoms	
8	NORM equipment	
9	Drums and Contents/Haz/NonHaz/RCRA/Non-RCRA	
10	Scrap Metal	

Please provide a list of available personnel including all certifications and qualifications:

Available Personnel		
Item	Description	Quantity / Comments
1	Supervisor	
2	NORM Licensed Co. - RSO (Radiation Safety Officer)	See NORM Comments above. RSO oversees decon of tanks and equip, properly manages NORM waste and prepares NORM Report.
3	Equipment Operator	
4	Roustabouts	
5	Environmental Technician	Assessment, Drum Sampling,
6	Heavy Equipment Haul Truck Driver	

Please provide the make/model (quantity); ## psi with ## gal tank; model w/ trailer (size); and capacity for each item, as applicable below:

Equipment for Routine Site Remediation Projects		
Item	Description	Comments
1	130 Bbl Vacuum Truck w/driver	
2	80 Bbl Bobtail w/driver	

CAPABILITIES & EQUIPMENT SPECIFICATIONS (SAMPLE)

3	12 CY Dump Truck w/driver	
4	4 WD Rubber Tired Backhoe (min. Case 580 or equivalent)	
5	Trackhoe (Cat 315 or equivalent) with Thumb and Shearer	
6	Dozer (Cat D-4 or equivalent)	
7	Haul Truck for 4, 5 or 6 above	
8	Haul Trailer for 4, 5 or 6 above	
9	Supervisor Truck	
10	Crew Truck w/Common Tools	
11	60 Bbl Wash Truck	
12	Trailer Mounted Hot/ Cold 3500PSI Pressure Washer with 500 Gallon Tank	
13	Steamer	
14	H2S Monitor and Tech, supplied air/cascade system w/SCBA	
15	Weed Eater	
16	Chain Saw	
17	Torch Cutting equipment	

Equipment for Complex Site Remediation Projects

Item	Description	Comments
1	Super Sucker	
2	Trackhoe (Cat 320 or equivalent) extend a hoe	
3	Trackhoe (Cat 330 or equivalent) extend a hoe	
4	Dozer (Cat D-5 or equivalent)	
5	Dozer (Cat D-6 or equivalent)	
6	3 CY Front End Loader	
7	Mini Excavator	
8	Track Skid Steer	
9	35 Ton Crane	
10	Office Trailer with AC/minimum 2 rooms/ 4 chairs	
11	Generator for Office Trailer	
12	Port a Potties	
13	Smooth Drum Roller	
14	Low Boy trailer with Truck and Driver	
15	Hydro Cutter	
16	Winch Truck	
17	Man Lift	
18	20 CY Dump Truck w/Driver	
19	20 CY End Dump w/Driver	
20	20 CY Belly Dump w/Driver	
21	Frac Tank	
22	Haul Truck and Trailer for Frac Tank	

CAPABILITIES & EQUIPMENT SPECIFICATIONS (SAMPLE)

23	20 CY Roll Off Box	
24	Haul Truck and Trailer for Roll Off Box	
25	Barges	
Equipment and Material for Emergency Site Remediation Projects		
Item	Description	Comments
1	Emergency Response Trailer	That contains, at a minimum, hard boom, absorbent boom, absorbent pads, waders, and Disposal Tyvek Suits.
2	Motor Boats and Jon Boats	
3	Oil Skimmer	
4	Trash pump	
5	4" PVC pipe	
6	Air Blower	
7	Poly Drums	
8	Mules	

For all other equipment listed on the Equipment List, see manufacturer's spec sheets, attached.

Railroad Commission of Texas
Sample Contract No. 455-23-Sample for
Oil & Gas Waste Site Remediation 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 Chapter 2155 and Texas Natural Resources Code Chapter 91 provide for RRC’s authority to procure goods and services in connection remediation of oil and gas waste, and RRC intends to purchase certain goods and/or have performed certain services, namely oil and gas waste site remediation services; and

WHEREAS, in accordance with applicable provisions of Texas Government Code Chapters 2155 and 2156, RRC has selected Vendor to provide the desired oil and gas waste site remediation services referenced within RRC’s Request For Qualifications No. 455-23-1020 (“RFQ No. 455-23-1020”), and Vendor has agreed to provide the desired oil and gas waste site remediation services referenced within RFQ No. 455-23-1020, subject to the terms and conditions hereinafter set forth

WHEREAS, all terms and conditions of RFQ No. 455-23-1020, including but not limited to insurance, and specifications within the Statement of Services, constitute part of this Contract No. **455-23-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), oil and gas waste site remediation services (“Services”), including all labor, qualified personnel, management, coordination, equipment, materials, insurance, 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. 455-23-SAMPLE;
- b.** Exhibit A, RFQ No. 455-23-1020, including all associated attachments, appendices, exhibits, and addenda; and

Railroad Commission of Texas
Sample Contract No. 455-23-Sample for
Oil & Gas Waste Site Remediation Services

- c. Exhibit B, Vendor's Response, dated Month dd, yyyy ("Vendor's Response").

1.02. INCORPORATED BY REFERENCE. All elements listed in 1.03.a. through 1.03.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. 455-23-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. **455-23-SAMPLE**; then
- b. Exhibit A, **RFQ No. 455-23-1020**, including all associated attachments, appendices, and addenda; then
- c. Exhibit B, Vendor's Response.

II. TERM.

2.01. CONTRACT AWARD.

- a. The original term of this Contract shall be from date of the last Party's signature, and shall continue through August 31, 2023 ("Original Term"), unless terminated earlier as provided in **RFQ No. 455-23-1020**, section 3.28., 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. RRC reserves the right to renew the Contract for three (3) additional one (1)-year renewal terms.

- 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

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Oil & Gas Waste Site Remediation Services

- 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 **RFQ No. 455-23-1020**.
- 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 Response in response to **RFQ No. 455-23-1020**. 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 Services (**RFQ No. 455-23-1020 ATTACHMENT I**) describes the intended scope and character of work. The Parties agree it is Vendor's responsibility to review and understand requirements of the Statement of Services and to provide all goods and 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,

Railroad Commission of Texas
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Oil & Gas Waste Site Remediation Services

- 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 any Work Order issued thereunder, and (ii) in compliance with all applicable federal, state, and local statutes, laws, ordinances, regulations, codes, and rules 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 Services 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 and/or services in accordance with the terms and conditions of **RFQ No. 455-23-1020**.
 - g. Vendor agrees to furnish efficient business administration and superintendence and to use Vendor's best efforts to fulfill the Contract and Work Order 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 and Work Orders issued thereunder. Changes of Vendor's key personnel identified in Vendor's Response 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 aspects of Vendor's goods and/or services delivery and shall be available as required for the benefit of each 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 RFQ No. 455-23-1020.

IV. FUNDING.

- 4.01. STATE FUNDING.** It is understood that all obligations of RRC hereunder are subject to the

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Oil & Gas Waste Site Remediation Services

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. 455-23-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 **RFQ No. 455-23-1020** 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 RFQ No. 455-23-1020 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. 455-23-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

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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

VENDOR NAME

By: _____
Wei Wang
Executive Director

By: _____
Printed Name
Title:

Date of Execution: _____

Date of Execution: _____

RRC use only below this line.

Division Director: _____ Date:

Assistant Executive Director: _____ Date:

Director of Operations: _____ Date:

Office of General Counsel: _____ Date:

PERFORMANCE EVALUATION STANDARDS

In accordance with Texas Government Code Chapter 2261, RRC has determined any Contract resulting from this RFQ may require enhanced monitoring for performance and compliance with the Contract terms and conditions. Enhanced monitoring may include, but is not limited to frequency of site visits, Vendor meetings, and documentation requirements deemed necessary by RRC to assess progress of the Vendor toward meeting the identified goals and outcomes established in response to assessments of unsatisfactory performance. The performance evaluation standards herein shall be applied during routine and/or enhanced monitoring of Vendors and work performed under the Contract. Performance evaluations resulting in deficiencies shall be considered in determining, in RRC's sole discretion, the appropriate corrective actions to be implemented to cure Vendor's deficiencies. Significant or repeat performance evaluation score deficiencies may result in termination of the Contract in accordance with provisions of Part III of the RFQ.

- **Services Performed:** this standard is defined as the Vendors' daily execution of Site Remediation Services. This includes supervision, planning, progress, and coordination of site remediation activities to ensure effective utilization of resources. Vendor shall be evaluated daily and shall receive between zero (0) and thirty (30) points per day. Points shall be deducted in increments of three (3) points or more for each Vendor-controlled deficiency that results in unsatisfactory progress. Thirty (30) points shall be awarded if all Site Remediation Services are performed as specified within the applicable Work Order.
- **Equipment:** this standard is defined as equipment, including any subcontractor equipment, necessary to complete daily tasks and properly perform Site Remediation Services required under a Work Order in accordance with specifications and terms and conditions of the Contract and the applicable Work Order. Vendor shall be evaluated on the performance of equipment including subcontractor's equipment. Vendor shall receive between zero (0) and thirty (30) points each day. Points shall be deducted in increments of (3) points for each hour of downtime attributable to equipment failures within the Vendor's control.
- **Downtime:** this standard is defined any interruption in service due to equipment failure or otherwise within the Vendor's control. Vendor shall be daily evaluated on hours of downtime as a percentage of a full workday (i.e., 8-10 hours), and shall receive that percentage of points between zero (0) and twenty-five (25).
- **Personnel:** this standard considers Vendor's providing of fully trained personnel, including subcontractors' personnel, in accordance with specifications and terms and conditions of the Contract and the applicable Work Order. Vendor shall be daily evaluated and scored on Vendor's ability to maintain a fully trained crew that performs in accordance with the Contract and applicable Work Order at all times. Vendor shall receive up to fifteen (15) points for this standard. Three (3) points or more shall be daily deducted for each deficiency.
- **Safety:** this standard considers Vendor's maintenance of a documented safety program and Vendor's compliance with the safety program, OSHA, and established industry safety practices. Ten (10) points shall be deducted from Vendor's final performance rating for absence of a documented safety program and/or a lost time accident as a result of failure to comply with Vendor's safety program, OSHA, and/or established industry safety practices. This is a one-time point assessment issued at Contract completion.
- **Availability:** this standard considers Vendor's compliance with mobilization date specified within RRC's Notice to Proceed issued to Vendor. Vendor's failure to complete mobilization no later than the established deadline within the Notice to Proceed shall result in a ten (10) points deduction issued at Contract completion.
- **Vendor's financial resources to deliver goods and services:** this standard is defined, in part, as Vendor's in-field demonstration of financial capability to timely deliver to the work site all goods and services necessary to comply with all Contract terms and conditions, including those related to performance period, and Work Order specifications. Vendor's failure to timely deliver any and all goods and services in accordance with Contract terms and conditions and Work Order specifications shall result in a ten (10) point deduction issued at Contract Completion.

FEDERAL FORMS: FEDERALLY FUNDED WORK ORDERS

A Work Order issued under a Contract arising from this RFQ may, but not shall, be funded with federal dollars, including but not limited to grant dollars. A Work Order funded with federal dollars shall require, as applicable, completion of required federal forms, compliance with federal statutes, rules, and regulations, and agreement to and compliance with any applicable flow-down terms and conditions from a contract between RRC and a U.S. federal agency.

The federal forms listed below shall apply to only federally funded Work Orders. These forms are noted for information purposes only and shall not be returned with Respondent's Response to this RFQ, however:

To be eligible for consideration as a Vendor for a federally funded Work Order request, a Respondent must be able to complete, return and comply with these federal forms.

- SBA Form 1624 (12/92) – 2 pages
- Standard Form 424B – 2 pages
- Standard Form LLL – 1 page

RAILROAD COMMISSION OF TEXAS

Site Remediation
 WORK ORDER (SAMPLE)

Site Information:

CU No.: _____ Req No: _____
 Operator: _____
 Site: _____
 Field: _____
 County: _____

Job Specific Information:

Person Contacted: _____ Contact Phone: _____

Disposal Information:

List the name and phone number of permitted disposal facilities to be utilized for each waste type. Must be agreed to by the Commission representative. If a disposal facility is not permitted by RRC, a copy of the permit stating the facility can accept the waste must be provided.

Waste	Disposal Facility		Phone No.
	Name	Location	
Produced/Rain Water			
BS&W			
NORM BS&W			
Tank/Pit bottoms / Soil			
NORM Tank/Pit bottoms / Soil			

Waste Haulers Information:

List the Waste Haulers to be utilized and WHP

Waste	Location	Phone No.	WHP

Dispatch Locations:

Equip/Personnel	Location		Estimated Hours		
	Mob From	Demob To	Mob	Demob	Per
Vacuum Truck					truck/day
Dump Truck					truck/day
Wash Truck					truck/day
Backhoe					lot
Bulldozer					lot
Trackhoe					lot

Tractor/Tiller					lot
Backhoe Haul Truck					truck/day
Trkhoe/Dozer Haul Trk					truck/day
Gang Truck w/Poles					truck/day
Supervisor					day
Roustabout					man/day
Equip Operator					man/day
Haul Trk Driver Backhoe					man/day

Ratesheet Reimbursable Mob/Demob

0					
0					
0					
0					
0					

RAILROAD COMMISSION OF TEXAS
WORK ORDER (SAMPLE)

Cleanup Code:

Operator:

Site:

Estimated Cost:

Disposal

Description	Total Qty	Units	Unit Cost	Unit Total		Total
Produced/Rain Water	0	bbls		0.00		0.00
BS&W	0	bbls		0.00		0.00
NORM BS&W	0	bbls		0.00		0.00
Tank/Pit Bottoms Soil	0	yrd		0.00		0.00
NORM Tank/Pit Bottoms Soil	0	yrd		0.00		0.00

Equipment

Fuel Surcharge: 0

Description	# M/Ds	M/D Time	Oper Time	Total Time	Unit Cost	Unit Total	FSC	Total
Vacuum Truck (min 130 bbl)		0		0		0.00	0.00	0.00
Dump Truck (min 12 yd)		0		0		0.00	0.00	0.00
High Pressure Washer				0		0.00		0.00
Wash Truck (min 40 bbl)		0		0		0.00	0.00	0.00
Backhoe (min Case 580 or equivalent)		0		0		0.00	0.00	0.00
Bulldozer (min Cat D4 or equivalent)		0		0		0.00	0.00	0.00
Trackhoe (min Cat 315 or equivalent)		0		0		0.00	0.00	0.00
Tractor/Tiller		0		0		0.00	0.00	0.00
Backhoe Haul Truck (does not include driver)		0		0		0.00	0.00	0.00
Trackhoe/Dozer Haul Trk (includes driver)		0		0		0.00	0.00	0.00
Gang Truck w/Poles		0		0		0.00		0.00

Personnel

Description	# M/Ds	M/D Time	Oper Time	Total Hrs.	Unit Cost	Total
Supervisor w/Tool Truck		0		0		0.00
Roustabout(s)		0		0		0.00
Equipment Operator		0		0		0.00
Haul Truck Driver - Backhoe		0		0		0.00

Reimbursable

Description	Rate/3rd	# M/Ds	M/D Time	Oper Time	Total Qty	Unit	Unit Cost	Unit Total		Total
	Rate		0		0			0.00		0.00
	Rate		0		0			0.00		0.00
	Rate		0		0			0.00		0.00
	Rate		0		0			0.00		0.00
	Rate		0		0			0.00		0.00
	3rd							0.00		0.00
	3rd							0.00		0.00
	3rd							0.00		0.00
	3rd							0.00		0.00
	3rd							0.00		0.00

Total Estimate	\$ -
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Location:

Known Site Data:

Volume Info:

Vessel / Pit / Affected Area	Capacity / Size	Volume						Condition		
		Water (bbls)	BS&W (bbls)		Bottoms (cy)		Soil (cy)		Ladder	Vessel
			NOW	NORM	NOW	NORM	NOW	NORM		
Total Waste:										

Work Scope:

- ◆ Conduct a tailgate safety meeting and discuss work plan for the day. If work plan changes during the day conduct another tailgate safety meeting.
- ◆ Contractor shall locate and mark the locations of all pipelines and utility lines at the site prior to undertaking any work. Work shall be accomplished without damage to such pipelines and utility lines.
- ◆ Contractor must make notification to Texas811 and Lone Star 811 call centers before tilling, excavating or digging. Contractor may be asked to provide proof of notification.
- ◆ Confirm waste types are segregated in a manner agreeable to the Commission Representative.
- ◆ Repair and maintain the lease road and areas affected by cleanup operations. Remove and neatly stockpile onsite all miscellaneous debris and vegetation as specified by Commission Representative.
- ◆ Dismantle and stockpile all associated piping and connections buried less than 3' in depth. Stockpile scrap metal and municipal waste onsite. Cap open-ended piping.
- ◆ Remove all waste and clean the aboveground vessels. Transport and dispose of waste at facilities permitted to receive such waste.
- ◆ Remediate the basic sediment/crude oil impacted soil by mixing and tilling in place if less than 12" in depth. If the basic sediment/crude oil impacted soil area is deeper than 12" the soil shall be excavated and
- ◆ Assist RRC representative with collection of samples as necessary.

Date
Division Director/Executive Director NAME
TITLE, DIVISION
RAILROAD COMMISSION OF TEXAS

Agreed to by (Contractor Signature) Date
CONTACT PERSON
VENDOR NAME
VENDOR PHONE

Date
Approved by (Team Lead Signature)
ART CORREA
PROJECT MANAGER, STATE MANAGED CLEANUP
RAILROAD COMMISSION OF TEXAS

Date
Approved by (Management Signature)
PETER G. POPE, P.G.
MANAGER, SITE REMEDIATION
RAILROAD COMMISSION OF TEXAS

Date
Requested by (DOCC Signature)
DOCC NAME
RAILROAD COMMISSION OF TEXAS
DOCC PHONE

Date
Reviewed by (TC Initials)
MICHAEL G. LECKIE, P.E.
TECHNICAL COORDINATOR
RAILROAD COMMISSION OF TEXAS

Additional Terms and Conditions

Infrastructure Investment & Jobs Act Site Remediation Work

Involving Department of Interior Grant Funds

Part I: Federal Compliance Notice & Disclaimer

1. Awarded Vendor (“Vendor”) pursuant to Solicitation No. 455-23-1020 is advised that work under this Contract pursuant to the federal site remediation program, (“Site Remediation Program”) may be paid for in whole or in part using federal grant money from the Department of the Interior (“DOI”) as authorized in the Infrastructure Investment and Jobs Act (cited hereafter as “IIJA”; [Public Law 117-58](#)). Vendor shall comply with [DOI Standard Award Terms and Conditions](#) as applicable and as amended by DOI from time to time, as well as all additional terms and conditions as set forth in this Attachment 10 (“Federal Terms and Conditions”).
2. The Railroad Commission of Texas (“RRC”) through its authorized representative(s) shall notify Vendor in writing of whether DOI grant funds will be utilized for a particular work order or project. By proceeding with Orphan Well Program work after notice by RRC that DOI grant funds will be utilized for that work, Vendor agrees to comply with all governing terms and conditions then in effect, including those identified in this Attachment 10 with Exhibits A-E and supplemental terms and conditions attached to any applicable work order.
3. Vendor accepts that the Federal Terms and Conditions may change from time to time, in which case, RRC shall notify Vendor as soon as possible.
4. **DOI, DOL, OR ANY APPLICABLE FEDERAL FUNDING AGENCY, REGARDLESS OF PRIVACY OF CONTRACT, SHALL BE TREATED AS A THIRD-PARTY BENEFICIARY FOR PURPOSES OF ENFORCING PARTS 4 & 5 (THE DAVIS-BACON ACT AND THE BUILD AMERICA BUY AMERICA PROVISIONS) OF THESE FEDERAL TERMS AND CONDITIONS. VENDOR SHALL CAREFULLY READ AND ADHERE TO PARTS 4-5 OF THESE FEDERAL TERMS AND CONDITIONS. NOTWITHSTANDING ANY LIMITATION OF LIABILITY CLAUSE, DOI, DOL, OR ANY APPLICABLE FEDERAL FUNDING AGENCY, MAY RECOVER ANY DAMAGES AGAINST VENDOR PERMITTED BY LAW WITHOUT LIMITATION OR QUALIFICATION.**
5. Vendor agrees that payment under this Contract utilizing DOI grant money is used, is expressly contingent on compliance with these additional terms and conditions as set forth in this Attachment 10 and federal law.
6. Vendor certifies that it or its authorized representative(s) have fully read Attachment 10 prior to receiving any applicable payment by means of DOI grant funds, and Vendor understands that no plea of ignorance will be accepted.

7. Vendor shall supply to RRC, DOI, or Department of Labor at its own expense any information requested by any of these agencies as necessary to comply with or verify compliance with the terms of any applicable DOI grant or other federal law.
8. Vendor shall cooperate with RRC, DOI, OSMRE, and Department of Labor to verify compliance with these additional terms and conditions, and any other applicable laws or regulations.
9. ***VENDOR CERTIFIES THAT THESE ADDITIONAL TERMS AND CONDITIONS AS SET FORTH IN THIS ATTACHMENT 10 SHALL BE BINDING COVENANTS UPON ITS SUBCONTRACTOR(S) AT ALL LEVELS, IF ANY, AND THESE TERMS AND CONDITIONS SHALL BE AGREED TO IN WRITING BY SAID SUBCONTRACTOR(S) PRIOR TO ANY WORK BEING PERFORMED, AND THESE WRITTEN AGREEMENTS SHALL BE MADE AVAILABLE TO RRC, DOI, OR DEPARTMENT OF LABOR UPON REQUEST.***
10. Vendor consents that its employees, agents, and subcontractors may be subject to compliance verification interviews with or without notice, and interviewees may not be compelled or coerced to disclose the details of these interviews. Failure to cooperate with these interviews may result in suspension of a work order issued to Vendor.

Part 2: Lobbying, Debarment & Whistleblower Protection Certifications

11. Vendor agrees to the terms of the lobbying certification in Exhibit A and shall sign and return this certification to RRC prior to performing any AML work utilizing DOI grant funds.
12. If Vendor receives in excess of \$100,000 in payments by reason of DOI grant money and funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the award of a federal contract, federal loan, federal cooperative agreement, or extension, continuation, renewal amendment, or modification of any of the foregoing, Vendor shall submit a Form SF-LLL (Disclosure of Lobbying Activities) to RRC. Vendor shall file an updated Form SF-LLL at the end of every calendar quarter in which the information in the Disclosure of Lobbying Activities materially changes. This form is copied and reproduced in Exhibit B to this document. Please visit [43 C.F.R. Part 18.110](#) for more information.

13. Vendor certifies that it is not debarred, suspended, disqualified, or otherwise excluded from participation in any activities involving federal financial or nonfinancial assistance and benefits. Furthermore, Vendor shall only provide services under this Contract in accordance with this certification. If this certification is no longer true, Vendor shall cease work under the Contract, notify RRC immediately, and refund any money paid to Vendor by reason of federal grant monies for work performed after the Vendor became disbarred, suspended, disqualified, or otherwise excluded from participation in activities as described in this section.
14. Vendor certifies that it shall at all times comply with [41 U.S.C. Part 4712](#) pertaining to whistleblowers who report misuse or mismanagement of federal grant money as applicable. **VENDOR SHALL ENSURE THAT THE FEDERAL WHISTLEBLOWER PROTECTIONS OF THIS STATUTE, INCLUDING THE RIGHT TO FILE A COMPLAINT FOR SUSPECTED WASTE OR MISMANAGEMENT OF FEDERAL FUNDS WITHOUT RETALIATION, ARE COMMUNICATED IN WRITING IN THE PREDOMINANT LANGUAGE OF THE WORKPLACE TO ALL PERSONNEL.**
15. Vendor certifies that it shall at all times comply with [Section 743 of Division E Title VII of Pub. L. 113-235](#) which prohibits the payment of federal money to entities that require certain internal confidentiality agreements of their employees.

Part 3: Civil Rights & Environmental Protection Certifications

16. Vendor certifies compliance with the applicable provisions of the Civil Rights Act of 1964, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, as well as any federal regulations implementing the foregoing statutes.
17. Vendor certifies that it shall comply with [Executive Order No. 11,246](#) on Equal Employment Opportunity as well as [41 C.F.R. Part 60-1.4\(b\)](#) implementing the same.

Part 4: Davis-Bacon Act Certifications

18. Vendor certifies that it shall comply with all applicable provisions of the Davis-Bacon Act, including all implementing regulations such as 29 C.F.R. Parts 1, 3, and 5, and [29 C.F.R. Section 5.5](#) incorporated into this Contract by reference, and shall pay all laborers and mechanics the prevailing rates of the locality where work is being performed in accordance with Subchapter IV of Chapter 31 of Title 40, U.S.C. The terms of 29 C.F.R. Section 5.5 are copied and reproduced in Exhibit E to this document. The applicable wage determinations establishing the prevailing wages to be paid all laborers and mechanics employed on federal worksites are incorporated by reference in Exhibit D to this document. Please note that Exhibit D is intentionally left blank at the solicitation stage, but this will be completed and incorporated by reference at the contract award stage when the counties where services are to be performed by Vendor are known. Vendor must abide by all applicable wage determinations. **DOL AND DOI SHALL HAVE THE RIGHT TO SUE AS A THIRD-PARTY BENEFICIARY TO ENFORCE THE DAVIS-BACON ACT AND TO RECOVER ALL LOSSES ATTRIBUTABLE TO THE VIOLATION OF DAVIS-BACON ACT, INCLUDING ATTORNEY'S FEES AND COURT COSTS, AND THE DAVIS-BACON ACT PROVISIONS HEREIN SHALL NOT BE MODIFIED OR WAIVED WITHOUT THE CONSENT OF DOI AND DOL.**
19. **VENDOR CERTIFIES THAT IT CAN AND SHALL PAY ALL LABORERS OR MECHANICS, AS DEFINED IN THE DAVIS-BACON ACT, WEEKLY FOR SERVICES PERFORMED ON WORKSITES RECEIVING FEDERAL FUNDING. FAILURE TO PAY LABORERS OR MECHANICS WEEKLY IS A SERIOUS BREACH OF CONTRACT THAT MAY RESULT IN CONTRACT TERMINATION.**
20. Vendor shall install a WH-1321 Davis-Bacon Act poster in both English and Spanish in accordance with DOL specifications in a prominent location on every federally-funded worksite. Applicable wage determinations and conformances shall likewise be posted in an open, prominent, accessible location. The complete poster must be no smaller than 11 x 17 inches. A copy of this poster can be found at the following link: <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/fedprojc.pdf>.
21. Vendor certifies that all subcontractors shall comply with the Davis-Bacon Act and these Federal Terms and Conditions on this subject. Vendor agrees to monitor subcontractors and to withhold payment from subcontractors as needed to ensure that laborers or mechanics employed on a federal worksite are paid weekly at least the federal prevailing wage plus overtime as applicable. Vendor shall within three (3) business days report non-compliant subcontractors to RRC, and Vendor shall promptly remove non-compliant subcontractors. Vendor agrees that non-compliance of subcontractors shall be considered in evaluating Vendor's overall performance and may in extreme circumstances such as

frequent or egregious violations of the Davis-Bacon Act constitute a material breach of contract by Vendor.

22. **VENDOR CERTIFIES THAT IT SHALL COOPERATE WITH RRC IN COMPLETING REQUIRED WAGE CERTIFICATIONS, WHICH SHALL BE DUE WEEKLY**, and shall make use of any compliance software (currently eComply) supplied by RRC for this purpose. Cooperation includes, but it not limited to assisting federal and state auditors with compliance monitoring activities, maintaining organized Davis-Bacon documentation for at least three (3) years, and filling out and submitting conformances in cases in which a job classification is not covered by an applicable wage determination.
23. **VENDOR SHALL REGISTER ANY SUBCONTRACTORS IN ECOMPLY (OR OTHER COMPLIANCE SOFTWARE AS DIRECTED BY RRC) THAT PROVIDE THE SERVICES OF LABORERS OR MECHANICS, AS DEFINED IN THE DAVIS-BACON ACT**, with the exception of sole proprietors who do not employ laborers or mechanics on the worksite, prior to these sub-contractors performing work on any site. Limited exceptions may apply for emergencies, but RRC must be consulted first.
24. Vendor agrees that any purchase order issued under this Contract may incorporate by reference as additional terms any applicable wage determinations for the county or counties in which work is to be performed.
25. Vendor certifies that it shall comply with the [Copeland Anti-Kickback Act](#), including 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable.
26. Vendor certifies its compliance with the [Contract Work Hours and Safety Standards Act](#), including but not limited to 40 U.S.C. Sections 3702 and 3704, as well as any federal regulations implementing the foregoing such as 29 C.F.R. Part 5.

Part 5: Buy America & Miscellaneous Certifications

27. Vendor certifies that it shall comply with Section 70914 of the [IIJA](#) (“Build America Buy America Act” or “BABA”) providing that all iron, steel, manufactured goods, and construction materials purchased and consumed pursuant to a federal works project on public property or publicly accessible property be made in the United States; notwithstanding the foregoing, as specified in Section 70917 of the IIJA, this Contract provision does not apply to purchases of cement, cementitious materials, aggregates such as stone, sand, gravel, or aggregate binding agents or additives and inputs of construction material. Vendor warrants having read and understood the requirements of BABA and that Vendor will maintain appropriate documentation for three (3) years to show that applicable

purchased goods have been made in the United States prior to affixing them to qualifying infrastructure. If necessary, Vendor shall cooperate with RRC and DOI to obtain a BABA waiver. **DOI SHALL HAVE THE RIGHT TO SUE AS A THIRD-PARTY BENEFICIARY TO ENFORCE BABA AND TO RECOVER ALL LOSSES ATTRIBUTABLE TO THE VIOLATION OF BABA, INCLUDING ATTORNEY'S FEES AND COURT COSTS, AND THE BABA PROVISIONS HEREIN SHALL NOT BE MODIFIED OR WAIVED WITHOUT THE CONSENT OF DOI.**

28. **VENDOR IS EXPLICITLY ADVISED THAT CONSTRUCTION OF GROUNDWATER MONITORING WELLS MUST COMPLY WITH BABA IF THE WELL IS COMPLETED ON PUBLICLY OWNED OR PUBLICLY ACCESSIBLE LAND.**
29. Vendor shall sign and submit to RRC the BABA certification in Exhibit C before work begins pursuant to any purchase order governed by these Terms and Conditions.
30. Vendor certifies its continued compliance with the False Claims Act during the term of this Contract; Vendor shall not make any false claim, statement, or certification to obtain any federal money, benefit, or other remuneration under this Contract.
31. To the extent applicable, Vendor shall abide by federal rules and regulations while performing well plugging work on federal lands or installations.
32. To the extent applicable, 2 CFR Part 200 Appendix II is incorporated by reference.
33. Vendor agrees that these additional terms and conditions may be amended if necessary to comply with RRC's grant agreement with DOI, and refusal to assent to said amendment(s) may prevent Vendor's continued participation in Orphan Well Program activities financed by DOI grant funds.
34. For every applicable purchase of goods covered under BABA, Vendor shall maintain adequate sourcing documentation for three (3) years to show the goods were in fact compliant with BABA.

Guidelines for Adhering to Federal Terms and Conditions

Instructions: During the term of the Contract, Vendor(s) must adhere to the Federal Terms and Conditions incorporated by reference in *Attachment 10* of Solicitation No. 455-23-1020 on file with the Railroad Commission of Texas (“*Attachment 10*”) as a pre-requisite to performing any work funded by federal grant money. Work pursuant to Solicitation No. 455-23-1020 (the “Solicitation”) may be funded in whole or in part by federal grant money. It is possible that no state money will be available for contractors that are unable or unwilling to follow the Federal Terms and Conditions in Attachment 10.

Particular care must be given to strictly complying with the Davis-Bacon Act at all levels (a violation of the Davis-Bacon Act at any level by any contractor or subcontractor is a violation at all levels unless immediate and decisive action is taken to remedy the violation(s)). **Strict adherence to these guidelines is required and will help ensure that Vendor(s) stay in compliance to avoid breaches of contract.**

.....

Davis-Bacon Act Requirements Applicable to All

Weekly Payroll: All laborers or mechanics as those terms are defined in the Davis-Bacon Act, including laborers or mechanics employed by subcontractors, must be paid no less than once per week. The general subcontractor must withhold payment from any subcontractor if necessary to ensure that laborers or mechanics are paid timely.

Wage Certification Submittals: Wage certifications must be submitted to RRC once per weekly pay period in eComply. For example, if work is performed on Week 1, wage certifications for wages paid by reason of Week 1 must be filed during Week 2 and so on. For purposes of these guidelines, a week is a one calendar week. These wage certifications must be signed by a high-level officer in the company who can verify the facts stated therein under penalty of perjury and other sanctions such as the False Claims Act.

Conformances: Vendor(s) shall complete conformance application forms (SF-1444) for any work classifications not covered by an applicable wage determination. Work may proceed while awaiting a final determination of the conformance by Department of Labor. Conformance

application forms shall be submitted to and reviewed by RRC. RRC will be in charge of filing the conformance applications.

Davis-Bacon Act Poster Requirements: The poster below must be displayed in a prominent location at every federally-funded worksite in both English and Spanish according to the size requirements listed on Department of Labor’s website. RRC shall provide the contact information to fill in the box below on the poster:

EMPLOYEE RIGHTS

UNDER THE DAVIS-BACON ACT

FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

PREVAILING WAGES	You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.
OVERTIME	You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.
ENFORCEMENT	Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.
APPRENTICES	Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.
PROPER PAY	If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

or contact the U.S. Department of Labor's Wage and Hour Division.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

1-866-487-9243
TTY: 1-877-889-5627
www.dol.gov/whd

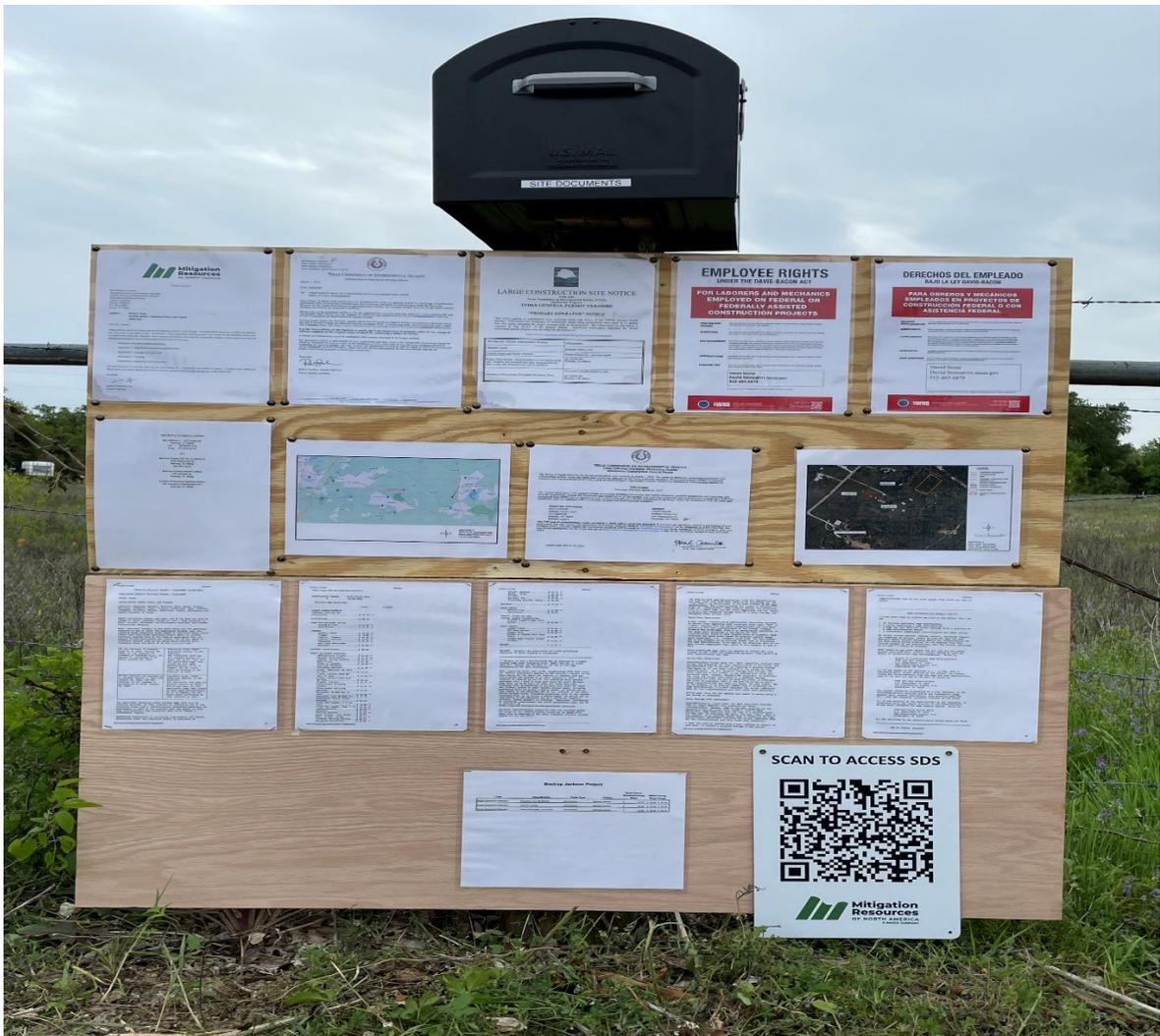


WH3201 REV 10/17

Davis-Bacon Act Audits: From time to time, representatives of RRC or Department of Labor may conduct confidential site interviews of workers to verify compliance with the Davis-

Bacon Act. Workers shall not be retaliated against or harassed for participating in these interviews, and Vendor(s) may not ask interviewees any questions about these site interviews. Vendor's employees and any subcontractor's employees shall cooperate and answer interview questions without any coaching by management.

Posting Requirements Generally: The Davis-Bacon Act posters (in English and Spanish), applicable wage determinations, and conformance documents listing the federal prevailing wages shall be displayed in a prominent location on every federally-funded worksite. Signage should not be obscured or hidden. One example of compliant signage meeting these requirements is provided in the pictures below.



Bastrop Jackson Project

Craft	Classification	Trade Type	Project	Davis Bacon Required Hourly Wage	MRNA Hourly Wage Range
Power Equipment Operator	Excavator over 50,000 lbs	Journeyman	Bastrop Jackson	\$ 17.71	\$ 45.00 - \$ 85.00
Power Equipment Operator	Crawler Tractor	Journeyman	Bastrop Jackson	\$ 15.67	\$ 45.00 - \$ 85.00
Power Equipment Operator	Front End Loader, 3 cy or less	Journeyman	Bastrop Jackson	\$ 13.04	\$ 45.00 - \$ 85.00



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"General Decision Number: TX20230007 01/06/2023

Superseded General Decision Number: TX20220007

State: Texas

Construction Types: Heavy and Highway

Counties: Atascosa, Bandera, Bastrop, Bell, Bexar, Brazos, Burleson, Caldwell, Comal, Coryell, Guadalupe, Hays, Kendall, Lampasas, McLennan, Medina, Robertson, Travis, Williamson and Wilson Counties in Texas.

HEAVY (excluding tunnels and dams, not to be used for work on Sewage or Water Treatment Plants or Lift / Pump Stations in Bell, Coryell, McLennan and Williamson Counties) and HIGHWAY Construction Projects

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<p>Executive Order 14026 generally applies to the contract. The contractor must pay all covered workers at least \$16.20 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2023.</p>
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<p>Executive Order 13658 generally applies to the contract. The contractor must pay all covered workers at least \$12.15 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2023.</p>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at

<https://sam.gov/wage-determination/TX20230007/0>

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<http://www.dol.gov>

Modification Number
0

SUTX2011-006 08/1

CEMENT MASON/CONCRETE FINISHER (Paving and Structures).....

ELECTRICIAN.....

FORM BUILDER/FORM ST Paving & Curb... Structures.....

LABORER
 Asphalt Raker...
 Flagger.....
 Laborer, Common
 Laborer, Utility
 Pipelayer.....
 Work Zone Barri
 Servicer.....

PAINTER (Structures).

POWER EQUIPMENT OPERA

Agricultural Tra
 Asphalt Distribut
 Asphalt Paving M
 Boom Truck.....
 Broom or Sweeper
 Concrete Pavement
 Finishing Machine
 Crane, Hydraulic
 or less.....
 Crane, Lattice Bo
 tons or less.....
 Crane, Lattice Bo
 80 tons.....
 Crawler Tractor..
 Directional Drill
 Locator.....
 Directional Drilli
 Operator.....
 Excavator 50,000 l
 Less.....
 Excavator over 50,
 Foundation Drill,
 Mounted.....
 Front End Loaders,
 Less.....
 Front End Loaders,
 Loader/Backhoe....
 Mechanic.....
 Milling Machine....
 Motor Grader, Fine
 Motor Grader, Rough
 Pavement Marking Ma
 Reclaimer/Pulverizer

<https://sam.gov/wage-determination/TX>

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<http://www.dol.gov/whd/govcontracts>.

Modification Number 0 Publication Date 01/06/2023

SUTX2011-006 08/03/2011

Rates Fringes

CEMENT MASON/CONCRETE FINISHER (Paving and Structures).....	\$ 12.56 **
ELECTRICIAN.....	\$ 26.35
FORM BUILDER/FORM SETTER Paving & Curb.....	\$ 12.94 **
Structures.....	\$ 12.87 **
LABORER	
Asphalt Raker.....	\$ 12.12 **
Flagger.....	\$ 9.45 **
Laborer, Common.....	\$ 10.50 **
Laborer, Utility.....	\$ 12.27 **
Pipelayer.....	\$ 12.79 **
Work Zone Barricade Servicer.....	\$ 11.85 **
PAINTER (Structures).....	\$ 18.34
POWER EQUIPMENT OPERATOR:	
Agricultural Tractor.....	\$ 12.69 **
Asphalt Distributor.....	\$ 15.55 **
Asphalt Paving Machine.....	\$ 14.36 **
Boom Truck.....	\$ 18.36
Broom or Sweeper.....	\$ 11.04 **
Concrete Pavement Finishing Machine.....	\$ 15.48 **
Crane, Hydraulic 80 tons or less.....	\$ 18.36
Crane, Lattice Boom 80 tons or less.....	\$ 15.87 **
Crane, Lattice Boom over 80 tons.....	\$ 19.38
Crawler Tractor.....	\$ 15.67 **
Directional Drilling Locator.....	\$ 11.67 **
Directional Drilling Operator.....	\$ 17.24
Excavator 50,000 lbs or Less.....	\$ 12.88 **
Excavator over 50,000 lbs...\$	17.71
Foundation Drill, Truck Mounted.....	\$ 16.93
Front End Loader, 3 CY or Less.....	\$ 13.04 **
Front End Loader, Over 3 CY.\$	13.21 **
Loader/Backhoe.....	\$ 14.12 **
Mechanic.....	\$ 17.10
Milling Machine.....	\$ 14.18 **
Motor Grader, Fine Grade....\$	18.51
Motor Grader, Rough.....	\$ 14.63 **
Pavement Marking Machine....\$	19.17
Reclaimer/Pulverizer.....	\$ 12.88 **

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<https://sam.gov/wage-determination/TX20230007/0>

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<https://sam>

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Roller, Asphalt.....	\$ 12.78	**
Roller, Other.....	\$ 10.50	**
Scraper.....	\$ 12.27	**
Spreader Box.....	\$ 14.04	**
Trenching Machine, Heavy....	\$ 18.48	
Servicer.....	\$ 14.51	**
Steel Worker		
Reinforcing.....	\$ 14.00	**
Structural.....	\$ 19.29	
TRAFFIC SIGNALIZATION:		
Traffic Signal Installation		
Traffic Signal/Light Pole		
Worker.....	\$ 16.00	**
TRUCK DRIVER		
Lowboy-Float.....	\$ 15.66	**
Off Road Hauler.....	\$ 11.88	**
Single Axle.....	\$ 11.79	**
Single or Tandem Axle Dump		
Truck.....	\$ 11.68	**
Tandem Axle Tractor w/Semi		
Trailer.....	\$ 12.81	**
WELDER.....	\$ 15.97	**

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

=====
** Workers in this classification may be entitled to a higher
minimum wage under Executive Order 14026 (\$16.20) or 13658
(\$12.15). Please see the Note at the top of the wage
determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave
for Federal Contractors applies to all contracts subject to the
Davis-Bacon Act for which the contract is awarded (and any
solicitation was issued) on or after January 1, 2017. If this
contract is covered by the EO, the contractor must provide
employees with 1 hour of paid sick leave for every 30 hours
they work, up to 56 hours of paid sick leave each year.
Employees must be permitted to use paid sick leave for their
own illness, injury or other health-related needs, including
preventive care; to assist a family member (or person who is
like family to the employee) who is ill, injured, or has other
health-related needs, including preventive care; or for reasons
resulting from, or to assist a family member (or person who is
like family to the employee) who is a victim of, domestic
violence, sexual assault, or stalking. Additional information
on contractor requirements and worker protections under the EO
is available at
<https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after
award only as provided in the labor standards contract clauses
(29CFR 5.5 (a) (1) (ii)).

<https://sam.gov/wage-determination/TX20230007/0>

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negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION

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<https://sam.gov/wage-determination/TX20230007/0>

Guidelines for Employing Subcontractors

Subcontractor Supervision: Vendor(s) shall not employ subcontractors that are unable to comply with *Attachment 10*. Subcontractors must strictly adhere to all federal terms and conditions, which Vendor(s) shall monitor. If Vendor(s) become aware of non-compliance, the subcontractor shall promptly correct the non-compliance or be dismissed.

Requirement of Written Subcontract: All subcontractors must enter into a written contract with Vendor(s) prior to performing services under the Solicitation. In an emergency situation involving imminent risk to human life, health, safety or welfare, a subcontractor may be employed that has not signed a prior written subcontract.

Form of Written Subcontract: No particular set of words is required in the written subcontract, but at minimum, the subcontract shall incorporate by reference the federal terms and conditions in *Attachment 10* along with exhibits, *Attachment 8* and this *Attachment 11*. This subcontract shall be signed by someone with authority to sign for the subcontractor. The written subcontract with all incorporated attachments and exhibits must be in a substantially form to the sample subcontract below:

Sample Subcontract

I, **[fill in name of undersigned]** acting as duly authorized representative of **[fill in entity name]** certify that **[fill in entity name]** shall comply with the appended Federal Terms and Conditions, Exhibits A-E, and the Guidelines for Adhering to Federal Terms and Conditions (collectively, “the Federal Terms and Conditions”) while performing services for **[fill in general contractor name]** on worksites funded in whole or in part by federal grant or cooperative agreement money. These Federal Terms and Conditions shall constitute a binding covenant upon any of **[fill in entity name]**’s subcontractors, successors, or assigns, and as such, these terms shall be incorporated in writing into any subcontracts in substantially the same form as this Subcontract. By affixing my signature below, I certify that I have read and understand the Federal Terms and Conditions and upon written notice by **[fill in general contractor name]** that a site is funded by federal grant or cooperative agreement funds, **[fill in entity name]** and any of **[fill in entity name]**’s contractors

will be expected to comply with the Federal Terms and Conditions, including but not limited to the Davis-Bacon Act and its weekly payroll and wage certification requirements.

Name [print]

Signature

Company Name

Subcontractor Registration in eComply: Prior to a subcontractor performing work under this Solicitation No. 455-23-1020 , a subcontractor must register in eComply. Subcontractors that employ laborers or mechanics on a site funded by federal grant money must register in eComply and submit weekly wage certifications. This provision does not apply to sole proprietors that do not employ laborers or mechanics.

Invoicing

Invoices for services performed other than invoices by a subcontractor must be submitted to RRC on a monthly basis to avoid incurring administrative late fees.

**Exhibit A:
Certification Regarding Lobbying**

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents of all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Organization: _____

Street address: _____

City, State, Zip: _____

CERTIFIED BY: (type or print)

TITLE:

(signature)

(date)

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

<p>1. Type of Federal Action: a. contract _____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance</p>	<p>2. Status of Federal Action: a. bid/offer/application _____ b. initial award c. post-award</p>	<p>3. Report Type: a. initial filing _____ b. material change</p> <p>For material change only: Year _____ quarter _____ Date of last report _____</p>
<p>4. Name and Address of Reporting Entity: _____ Prime _____ Subawardee Tier _____, if Known:</p> <p>Congressional District, if known:</p>	<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</p> <p>Congressional District, if known:</p>	
<p>6. Federal Department/Agency:</p>	<p>7. Federal Program Name/Description:</p> <p>CFDA Number, <i>if applicable</i>: _____</p>	
<p>8. Federal Action Number, if known:</p>	<p>9. Award Amount, if known:</p> <p>\$ _____</p>	
<p>10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i></p>	<p>b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i></p>	
<p>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</p>	<p>Signature: _____</p> <p>Print Name: _____</p> <p>Title: _____</p> <p>Telephone No.: _____ Date: _____</p>	
<p>Federal Use Only</p>	<p>Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)</p>	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

Exhibit C:
Certificate of Compliance with Buy America Act Requirements

Vendor certifies that it shall comply with Section 70914 of the [IIJA](#) (“Build America Buy America Act” or “BABA”) providing that all iron, steel, manufactured goods, and construction materials purchased and consumed pursuant to a federal works project be made in the United States; notwithstanding the foregoing, as specified in Section 70917 of the IIJA, this Contract provision does not apply to purchases of cement, cementitious materials, aggregates such as stone, sand, gravel, or aggregate binding agents or additives and inputs of construction material. Vendor warrants having read and understood the requirements of BABA and that Vendor will maintain appropriate documentation for three (3) years to show that applicable purchased goods have been made in the United States prior to affixing them to qualifying infrastructure. If necessary, Vendor shall cooperate with RRC and DOI to obtain a BABA waiver.

By signing below, the signatory affirms the certification above under penalty of perjury and that the signatory has the authority to represent Vendor.

Date: _____

Name (Print): _____

Signature: _____

Title: _____

Vendor Company: _____

Exhibit D
Wage Determinations

.....

Intentionally left blank. This Exhibit will be filled in at contract award stage.

.....

Exhibit E:
Mandatory Contract Clauses (29 CFR § 5.5)

§ 5.5 Contract provisions and related matters.

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, Provided, That such modifications are first approved by the Department of Labor):

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under

paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of

all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The Railroad Commission of Texas shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Railroad Commission of Texas may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)

(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Department of the Interior if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Department of the Interior. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Department of the Interior if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the Department of the Interior, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a “Statement of Compliance,” signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the “Statement of Compliance” required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees -

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage

determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Department of the Interior may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act. The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or § 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Railroad Commission of Texas shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.