



RAILROAD COMMISSION OF TEXAS

REQUEST FOR PROPOSAL Solicitation No. 455-21-1008

STATEWIDE LABORATORY TESTING SERVICES

Sole Point of Contact:

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Solicitation Issued

April 5, 2021

Responses Due *NO LATER THAN*

2:00PM (CT) May 6, 2021

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ATTACHMENTS TO THIS SOLICITATION:

- Attachment Cover Page
- Attachment 1: Statement of Services
- Attachment 2: Mandatory Rate Submission Sheet
- Attachment 3: Respondent's Statements and Covenants
- Attachment 4: Respondent's Qualifications Statement form
- Attachment 5: HUB Subcontracting Plan (HSP) form
- Attachment 6: Sample Chain of Custody Form
- Attachment 7: Sample RRC Contract
- Attachment 8: Performance Evaluation Standards

DEFINITIONS AND ACRONYMS

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

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

Chain of Custody (COC): The Chain of Custody, or Evidence Transmittal Letter, is a very important document that must accompany your evidence when submitting samples to the laboratory for analysis. It is also very important for other types of regulatory compliance testing when auditors are called in to review your company's results. The COC is a written authorization issued from RRC to Vendor, which indicates work under the Contract issued thereunder is authorized to commence in accordance with the terms and conditions of the Contract and on, but not sooner than, the date specified within the COC.

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

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.

Laboratory Testing Services: Refers to laboratory analytical services provided in accordance with applicable method protocols, laboratory Quality Assurance Project Plan ("QAPP"), and all applicable rules and regulations and Laboratory analysis shall be performed in accordance with applicable published standards for analytical methods (i.e. EPA, NIOSH, TCEQ), including all method-required and method-recommended Quality Control ("QC") steps.

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.

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

Quality Assurance Officer (QAO): Coordinates or performs quality assurance system audits of laboratory performance (internal and commercial) using samples provided by regulatory or commercial agencies; prepares or reviews preparation of calibration standards and quality assurance check samples for internal laboratory use.

Quality Control (QC): Laboratory quality control is designed to detect, reduce, and correct deficiencies in a laboratory's internal analytical process prior to the release of patient results, in order to improve the quality of the results reported by the laboratory.

Quality Assurance Project Plan (QAPP): A Quality Assurance Project Plan, or QAPP, is a written document outlining the procedures a monitoring project will use to ensure the data it collects and analyzes meets project requirements.

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

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

Request for Proposal (RFP): 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 RFP document set.

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

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

RRC QAM: The Quality Assurance Manager (QAM) is an environmental professional on the staff of RRC. The QAM is the official QA contact for all QA environmental assessment activities for the Program. The RRC QAM will be responsible for reviewing RRC laboratory Quality Assurance Project Plans. The QAM will review and concur on all Program QAPPs.

RRC Statewide Rules: The official rules of RRC and that 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 at <http://texreg.sos.state.tx.us/...RRC Statewide Rules>.

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

Standard Operating Procedure (SOP): A standard operating procedure is a set of step-by-step instructions compiled by an organization to help workers carry out complex routine operations. SOPs aim to achieve efficiency, quality output and uniformity of performance, while reducing miscommunication and failure to comply with industry regulations.

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.

Scope Of Work: 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.

TAC: Texas Administrative 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 RFP and who is ultimately selected to carry out the requirements stipulated in this RFP, and any resulting contract and work order issued under such contract.

Work Order: 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. All Work Orders require the submission of a COC form with evidence when submitting samples to the laboratory for analysis

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 RFP to qualified entities to submit a Response detailing the entity's qualifications to provide to RRC laboratory testing services as further described herein and in accordance with all terms, conditions, and specifications contained within the Solicitation and Contract Documents. Responses to this RFP No. 455-21-1008 shall be received in accordance with the detailed instructions in **PART II: INSTRUCTIONS TO RESPONDENTS**, no later than 2:00PM (CT), Thursday, May 6, 2021.

1.1 SERVICES, GENERALLY. The RRC seeks analytical laboratory testing services to be performed within RRC Oil and Gas Division Districts throughout the state of Texas (see **RFP ATTACHMENT 1 Statement of Services**) including, but not limited to, providing laboratory analytical services in accordance with applicable method protocols, laboratory Quality Assurance Project Plan ("QAPP"), and all applicable rules and regulations and Laboratory analysis shall be performed in accordance with applicable published standards for analytical methods (i.e. EPA, NIOSH, TCEQ), including all method-required and method-recommended Quality Control ("QC") steps as described below. The Vendor is responsible for supplying ice chests, sampling containers, shipping labels, preservatives, etc. The Vendor shall provide the analytical results on either an expedited (by close of business, the next working day after the receipt of the samples or two (2) working days if requested method requires extraction or digestion) or normal turnaround basis (7-10 working days from when the samples were received) as indicated on the COC form by a RRC representative. The Vendor shall be responsible for the any costs related to shipping or delivery of the samples to the laboratory (collectively, the "Laboratory Testing 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 Laboratory Testing Services. RRC relies on contracting with highly qualified, experienced Laboratory Testing Services providers with Texas Laboratory Accreditation authorized to provide and perform all work necessary to complete Laboratory Testing Services projects required under the Contract and Work Orders issued thereunder.

This RFP describes the requirements that must be met by the selected Respondent. Respondents are cautioned to carefully read the RFP in its entirety. Selection of Respondent will be based on pricing, demonstrated competence, detailed credentials, evaluation criteria and other requirements as outlined in **Part II: Instructions to Respondent, Section 2.10.2 Weighted Criteria** and **RFP Attachment 4 Respondent's Qualifications Statement**. Failure to provide the mandatory required information will automatically disqualify respondent from consideration for award in connection with this RFP.

For purposes of this RFP, Laboratory Testing Services in which RRC has a recurring need may fall within the following general categories of Laboratory Testing Services:

- NORM samples
- Single media samples
- Mixed media samples
- Basic BS&W analysis
- Well water analysis for contaminants hazardous to human health: chemical and biological in nature
- BTEX analysis
- TCEQ Method 1005 for Petroleum Hydrocarbons
- TCEQ Method 1006 for Petroleum Hydrocarbons
- Texas Risk Reduction Program Tier 1 Protective Concentration Limits

Selected Respondents shall be bound to the terms and conditions of this RFP, and the RRC's Contract as finalized between the RRC and Respondent (see **RFP ATTACHMENT 7 Sample RRC Contract**), 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 RFP. A Contract arising from this RFP shall not be exclusive; RRC may obtain Laboratory Testing Services from other sources during the term of the Contract. A Contract shall have no monetary value and no guarantee that any Work Order will be issued thereunder. An award of a Contract arising from this RFP shall not disqualify a Respondent from responding to a future RRC project-specific solicitation for Laboratory Testing Services.

1.3 ANNOTATIONS

1.3.1 PERFORMANCE PERIOD. Any Contract resulting from this RFP shall include an original term of two (2) years from date of the Contract effective date ("Original Term"). At RRC's discretion, original Contract term may be extended for up to one (1) additional two-year optional renewal term ("Renewal Term"). Renewal Terms to any Contract shall be accomplished through written amendment to the original Contract, fully executed prior to expiration of the Contract, and shall incorporate all terms and conditions of the original Contract as may be amended by mutual agreement between the RRC and Vendor.

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

- 1.3.2.1** Respondent possesses the equipment, staff, and all other components necessary to perform the laboratory testing services detailed within this solicitation.
- 1.3.2.2** Respondent possesses successful performance of Laboratory Testing Services similar in scope (as judged by RRC) to the Laboratory Testing Services described in **RFP ATTACHMENT 1 Statement of Services**.
- 1.3.2.3** Respondent is financially solvent and adequately capitalized, as judged by the RRC.
- 1.3.2.4** Respondent must have Texas Laboratory Accreditation.

1.3.3 Texas Laboratory Accreditation.

- 1.3.3.1** The Respondent and any subcontractor employed or used by the Respondent shall have and maintain accreditation from Texas Laboratory Accreditation Program according to Title 30 Texas Administrative Code (TAC) Chapter 25 (relating to Environmental Testing Laboratory Accreditation and Certification) Subchapters A, B, and/or C, where applicable, as amended, for all matrices and all methods and parameters of analysis associated with work performed under this Contract, unless RRC agrees in writing to allow one of the regulatory exceptions specified in 30 TAC §25.6.
- 1.3.3.2** The Respondent and any subcontractor employed or used by the Respondent may not analyze any samples received under this Contract for which the Respondent or any subcontractors employed or used by the Respondent does not have accreditation from Texas Laboratory Accreditation Program according to 30 TAC §25 Subchapters A, B, or C as amended, for the matrices and all methods and parameters of analysis associated with work performed under this Contract, unless RRC agrees in writing to allow one of the regulatory exceptions specified in 30 TAC §25.6.
- 1.3.3.3** While performing work under this Contract, the Respondent shall operate its laboratory and maintain its accreditation according to the standards for accreditation.
- 1.3.3.4** The Respondent shall include these requirements in any contract, work order, or other type of agreement associated with the subcontracting of analytical work under this Contract.
- 1.3.3.5** Notwithstanding anything to the contrary, nothing in this Section shall be construed as requiring the Respondent to acquire Texas Laboratory Accreditation Program lab accreditation for any methods and parameters of analysis they were not certified for prior to entering into this Contract. The maintenance of accreditation requirements herein shall apply to methods of analysis which Respondent, and its subcontractors, where applicable, held at the time of evaluation and award of this Contract.

Respondents that do not meet required qualification requirements may be determined to be non-responsive and subject to rejection.

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

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

PART II: INSTRUCTIONS TO RESPONDENT

2. GENERAL 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 RFP, or as revised by Addenda, if any, to this RFP. **RESPONSES RECEIVED AFTER THE DEADLINE DATE AND TIME WILL NOT BE CONSIDERED.** Respondents are advised RRC headquarters is currently closed to the public until further notice. Please see section 2.2 *Response Delivery* below).

2.1.1 SCHEDULE OF EVENTS. *TABLE 1 Schedule of Events* provides dates applicable to this RFP. At the sole discretion of RRC, *TABLE 1* may be revised through written addendum posted to the [Texas Comptroller’s ESBD website](#) no later than the Proposal due date and time. Award Date is estimated only; at the RRC’s sole discretion, the award may occur at any time after due date of Proposal and completion of evaluation of Proposals received.

TABLE 1: Schedule of Events

Event	Date
Issuance of RFP	Monday, April 5, 2021
Submission of HSP for RRC Courtesy Review	Tuesday April 13, 2021
Deadline for Submission of Written Inquiries (no later than 3:00PM CT)	Tuesday, April 20, 2021
Deadline for RRC HSP Courtesy Review	Wednesday April 21, 2021
Response to Written Inquiries, if any (Addendum posted to ESBD)	Friday, April 23, 2021
Response Due Date (no later than 2:00PM CT)	Thursday, May 6, 2021
Award Date (estimated only)	Thursday, June 3, 2021

2.2 RESPONSE DELIVERY. **NOTE**** DUE TO COVID-19 (CORONAVIRUS) RRC IS NOT ACCEPTING HAND DELIVERY RESPONSES. ANY RESPONSE SUBMITTED BY FACSIMILE OR HAND DELIVERY WILL BE REJECTED.** Responses shall be submitted to RRC either by US Postal service, overnight delivery, or electronically via email. It is the sole responsibility of a Respondent to select its preferred method of delivery from the delivery methods permitted herein. Proposals submitted by email shall be in Adobe Acrobat Reader PDF digital format, with a subject line referencing the appropriate RRC Solicitations Number, to the email address provided below. Respondents shall use the following address labeling information most applicable to Respondent’s chosen delivery method:

<p>US Postal Service: RFP No. 455-21-1008 Railroad Commission of Texas Contract Management Section Matthew Bowman, Contract Manager PO Box 12967 Austin, TX 78711-2967</p>	<p>Overnight: RFP No. 455-21-1008 Railroad Commission of Texas Contract Management Section Matthew Bowman, Contract Manager 1701 N. Congress Ave. Room:10.180C Austin, TX 78701</p>	<p>Email Submission: RFP No. 455-21-1008 Matthew.Bowman@rrc.texas.gov Railroad Commission of Texas Contract Management Section Matthew Bowman, Contract Manager</p>
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2.3 PROHIBITED COMMUNICATIONS; SOLE POINT OF CONTACT

2.3.1 Upon issuance of this RFP, RRC, its representative(s), and partners (if any) will not answer questions or otherwise discuss the contents of this RFP with any potential Respondent or their representatives(s), except for the written inquiries submitted in accordance with Section 2.4, below. Attempts to ask questions by phone or in person will not be allowed or recognized as valid. *Failure to adhere to this restriction may disqualify Respondent and Respondent’s 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 RFP.

2.3.2 For information, including technical information, related to this **RFP No. 455-21-1008** Lab Testing 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
	<p style="text-align: center;">Phone</p> 512-463-7087

2.4 INQUIRIES AND ADDENDA

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

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

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

2.5 HISTORICALLY UNDERUTILIZED BUSINESSES REQUIREMENTS

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

2.5.1 HUB SUBCONTRACTING PLAN. In accordance with Texas Government Code Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, 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 RFP, therefore:

2.5.1.1 ALL RESPONDENTS, INCLUDING TEXAS CERTIFIED HUBS, MUST SUBMIT A COMPLETED HUB SUBCONTRACTING PLAN (“HSP”) FORM (SEE RFP ATTACHMENT 5 HUB Subcontracting Plan Form) 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 RFP REQUIREMENTS AND SHALL RESULT IN RRC’S REJECTION OF THE RESPONSE AND RENDERING THE RESPONSE INELIGIBLE FOR AWARD OF A CONTRACT ARISING FROM THIS RFP.

2.5.1.2 RESPONDENTS MUST SUBMIT A COMPLETED HSP FORM *ON THE HSP FORM INCLUDED AS RFP ATTACHMENT 5 HUB SUBCONTRACTING PLAN FORM*; NO ALTERNATE FORMS, INCLUDING ALTERNATE OR PRIOR VERSIONS OF HSP FORMS, WILL BE ACCEPTED.

2.5.1.3 Preliminary HSP Review. A Respondent may submit a draft of Respondent’s HSP for a preliminary review by RRC’s HUB team. Respondents wishing to take advantage of the preliminary HSP review must submit the HSP no later than the deadline for submission of HSP for preliminary review stated within **TABLE 1 Schedule of Events** of this RFP. Respondents are strongly encouraged to utilize this opportunity for a preliminary review of the HSP. The preliminary review is not an official review of the HSP for determination of responsiveness or contract award but is a preliminary review for compliance with HSP form instructions and required Good Faith Effort.

2.5.2 GOOD FAITH EFFORT REQUIRED. In accordance with 34 Texas Administrative Code §20.285(d), any person submitting a bid, response, offer, or other applicable expression of interest in response to this RFP 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 **RFP ATTACHMENT 5 HUB SUBCONTRACTING PLAN FORM**).

2.5.3 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 RFP. Full commodity and services descriptions may be found on the Texas Comptroller’s website at: <https://comptroller.texas.gov/purchasing/nigp/>. The list is for information purposes only and is not intended as an exhaustive list of subcontracting opportunities related to this RFP. It is the sole responsibility of a Respondent to determine what, if any, subcontracting opportunities are most applicable to the Respondent’s business in performance of work under a Contract arising from this RFP. Respondent is not required to include within an HSP form any or all the commodities or services listed in **TABLE 2** of this RFP. Respondents should review the HSP form (see **RFP ATTACHMENT 5 HUB SUBCONTRACTING PLAN FORM**) for instructions applicable to identification of specific commodities or services intended for subcontracting.

TABLE 2: POTENTIAL HUB SUBCONTRACTING NIGP CODES

NIGP Class	NIGP Item	Description (Commodities and Services)
961	48	Laboratory and Field-Testing Services, Including Hazardous Waste
938	62	Laboratory Equipment and Accessories, General and Analytical Research Use, Nuclear, Optical, Physical Maintenance and Repair
979	52	Laboratory Equipment and Accessory Rental or Lease: General and Analytical Research Use, Nuclear, Optical, Physical
992	55	Miscellaneous Testing and Calibration Services
992	36	Core Sample, Not Concrete, Testing Services

2.5.4 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 start date of Contract through completion date of Contract, a prime contractor (Vendor) awarded a Contract arising from this RFP shall monthly submit a HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report (see **RFP ATTACHMENT 5**) for each active Work Order prior to RRC's approval of payment under the Contract.

2.5.5 RRC'S HUB PROGRAM ADMINISTRATION. For explanation of the RRC's HUB program, for assistance in completing the HSP form, and to obtain HUB lists if web access is not available, Respondents are encouraged to contact RRC's HUB Administration (Phone: 512-669-0511; or email: hub@rrc.texas.gov.)

2.6 RESPONSE REQUIREMENTS

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

2.6.2 CONFIDENTIAL INFORMATION; PUBLIC INFORMATION ACT DISCLOSURES. RRC is a governmental body subject to the Texas Public Information Act ("PIA"), Texas Government Code Chapter 552. Any 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) PDF document containing complete copies of all of Respondent's submissions pursuant to this RFP. Respondent must label this PDF document "**Complete Response Documents, [Respondent's Name], RRC RFP No. 455-21-1008. CONTAINS CONFIDENTIAL INFORMATION.**"

One (1) PDF document, containing copies of all of Respondent's submissions with all information claimed as confidential excised, blacked out, or otherwise redacted. This document must also contain an appendix which contains clear references to all redacted information including a general description of the redacted information. Respondent must label this PDF document "**For Public Release: Redacted version of [Respondent's Name], RRC RFP No. 455-21-1008.**"

2.7 EXCEPTION TO PROVISIONS

Respondent is strictly prohibited from taking blanket exception to the entire RFP; a Response that includes blanket exception to the entire RFP or that does not include proposed alternative language to exceptions taken,

may be disqualified from Contract award. Any exception may be considered negatively during the evaluation and scoring process or may result in a contract not being awarded to Respondent.

2.8 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 RFP 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 RFP, 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:

2.8.1 TITLE PAGE (TAB A). The Response title page must include:

- a. RRC's RFP number: **RFP No. 455-21-1008**;
- 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.

2.8.2 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 RFP, and shall identify the Services Respondent can deliver within the Services categories described in this RFP. 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 RFP, and a statement of Respondent's ability to meet or exceed required minimum qualifications.
- b. Summary of Respondent's experience in delivery of same or substantially similar services as those required under this RFP, and a statement of Respondent's ability to meet or exceed required minimum experience;
- c. The company must have a minimum of five years of experience in Laboratory Environmental testing. The Respondent will provide this information by completing the Respondent's Qualifications Statement.
- d. The company's laboratory manager and quality assurance officer shall have a minimum of a bachelor's degree in chemistry or a related scientific/engineering discipline and a minimum of three years of laboratory experience, including at least one year of applied experience with quality assurance (QA) principles and practices in an analytical laboratory. The Respondent will provide this information by completing the Respondent's Qualifications Statement.
- e. The Respondent shall submit a Quality Assurance Program/Project Plan (QAPP) that consists of a comprehensive program to generate data of acceptable quality. As an appendix to the QAPP, the Respondent shall submit all internal laboratory quality assurance procedures that are specified in the laboratory's quality assurance manual developed in compliance with ISO 17025. The QAPP and appendix should be submitted as a PDF either on a USB flash drive if mailed, or as an attachment to the submission email.
- f. Identification of Services categories Respondent can and is willing to deliver from among, but not limited to, the following categories:
 - NORM samples
 - Single media samples
 - Mixed media samples
 - Basic BS&W analysis
 - Well water analysis for contaminants hazardous to human health: chemical and biological in nature
 - BTEX analysis
 - TCEQ Method 1005 for Petroleum Hydrocarbons
 - TCEQ Method 1006 for Petroleum Hydrocarbons
 - Texas Risk Reduction Program Tier 1 Protective Concentration Limits

- g. Listing of all Respondent's physical office locations from which Respondent intends to deliver Laboratory Testing Services, and/or receive samples.
- h. Clear, concise, detailed explanation of Respondent's exceptions taken, if any, to the terms and/or conditions of this RFP.

2.8.3 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 D Respondent's Submittals.

- a. **A Response shall include a detailed list of Respondent's owned, leased, or available, Laboratory Testing equipment, as well as all Laboratory Testing Services capable of providing.**
- b. 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 Laboratory Testing Services required under a contract arising from this RFP. **Respondent shall include projects that represent delivery of Laboratory Testing Services similar in scope to that of the work described within RFP ATTACHMENT 1 Statement of Services, and that demonstrate Respondent's ability to meet or exceed the minimum qualifications and experience required under this RFP.**
- c. **Texas Laboratory Accreditation Program Certification**

2.8.4 RESPONDENT'S SUBMITTALS (TAB D). In addition to the Required RRC RFP Attachments, a Respondent shall include within the "Respondent's Submittals" section any additional statements, 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. ***Respondent's Submittals (Tab D) MUST comply with the requirements of section 2.9 Disclosures.***

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

- a. ***RFP ATTACHMENT 2:*** Mandatory Rate Submission Sheet
- b. ***RFP ATTACHMENT 3:*** Respondent's Statements and Covenants
- c. ***RFP ATTACHMENT 4:*** Respondent's Qualifications Statement Form
- d. ***RFP ATTACHMENT 5:*** HUB Subcontracting Plan Form

In addition to the Required RRC RFP Attachments, a Respondent shall include within the "Respondent's Submittals" section any additional statements, including any statements arising from section 2.8.1 through 2.8.4 of this RFP, or such other information Respondent deems necessary, valuable, and appropriate to fully inform RRC of Respondent's qualifications, expertise, and superiority in selection as a Vendor for Contract award.

2.9 DISCLOSURES

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

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

- 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 Response and/or termination of the Contract.

2.9.2 LEGAL ACTIONS. Respondent shall identify any pending or completed legal actions that were brought against Respondent, Respondent's agents, officers, and/or Respondent's subcontractors, within the five-year period immediately preceding the 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 jurisdiction of legal action or contract dispute, reason for penalties or liquidated damages, and penalties or liquidated damages amount for each incident.

2.9.3 OTHER. In addition to the disclosures stated above, Respondent shall include any disclosures necessary to conform with **RFP ATTACHMENT 3 Respondent’s Statements and Covenants**. Respondent is strongly encouraged to carefully and thoroughly review each statement and covenant within **RFP ATTACHMENT 3** to determine 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 **RFP ATTACHMENT 3** item 5.)

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

TABLE 3. RRC RFP ATTACHMENTS

Attachment Number: Name	Return with Response?
Attachment 1: Statement of Services	No
Attachment 2: Mandatory Rate Submission Sheet	Yes
Attachment 3: Respondent’s Statements and Covenants	Yes
Attachment 4: Respondent’s Qualifications Statement form	Yes
Attachment 5: HUB Subcontracting Plan (HSP) form	Yes
Attachment 6: Sample COC Form	No
Attachment 7: Sample RRC Contract	No
Attachment 8: Performance Evaluation Standards	No

2.10 RESPONSE EVALUATION AND CONTRACT AWARD

RRC reserves the right to award multiple Contracts for Laboratory Testing Services. To determine highly qualified providers of Laboratory Testing Services, Responses first shall be evaluated to determine pass/fail of criteria demonstrating responsiveness to this RFP. Responses deemed responsive shall advance to weighted criteria evaluation and scoring. RRC reserves the right to continue to evaluate Responses until achievement of best value to the State as defined by and in accordance with Texas Government Code §2155.074 and §2155.075.

2.10.1 RESPONSIVENESS. Each Response shall be evaluated to determine responsiveness to this RFP.

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

- a. Compliance with RFP Section 1.3.4 Costs of Response Preparation;
- b. Compliance with RFP Section 2.1. Strict Adherence to Submission Deadline;
- c. Compliance with RFP Section 2.5 Historically Underutilized Businesses Requirements (including all subsections);
- d. Compliance with RFP Section 2.8 Organization of Response (including all subsections); and
- e. Compliance with RFP Section 3. Terms and Conditions.

A Respondent’s failure to comply with one or more requirements of the RFP may result in the Response being deemed non-responsive and thereby disqualified from further consideration of 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 RFP. It is Respondent’s sole responsibility to thoroughly review the Solicitation and Contract Documents of this RFP, including all attachments and addenda issued, if any, to ensure understanding of requirements for responsiveness. All determinations of responsiveness to this RFP shall be final.

2.10.2 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 purchase of goods or services as set forth in Texas Government Code §2155.074. Factors that may be considered include:

- a. Respondents pricing as listed in **RFP Attachment 2 Mandatory Rate Submission Sheet**;
- b. Qualifications of Respondent, Respondent’s personnel, and/or Respondent’s subcontractors;
- c. Respondent’s ability to perform Laboratory Testing Services required under the Contract and to promptly and timely provide Laboratory Testing Services without delay or interference;
- d. Indicators of Respondent’s probable performance under the Contract; indicators may include but not be limited to Respondent’s past performance on RRC projects, Respondent’s financial resources and Respondent’s experience or demonstrated capability and responsibility in delivery of same or substantially similar services;
- e. Respondent’s compliance with RFP Response submission requirements; and
- f. 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 RFP.

TABLE 4: WEIGHTED CRITERIA

Criteria	Weight
Price/Cost	60%
Qualifications	40%
Total Base Points	100%

2.10.3 RESPONDENT’S QUALIFICATIONS. Evaluation and scoring shall include, but is not limited to, contents in Response **TAB B EXECUTIVE SUMMARY** including Respondent’s ability to meet and exceed minimum qualifications stated in this RFP, 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 RFP, contents in Response **TAB D RESPONDENT’S SUBMITTALS** that demonstrate Respondent’s ability to provide various Lab Testing Services, as well as access to quantity, type and standard of equipment used in performance of Laboratory Testing 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.

2.10.3.1 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/.../vendor-performance.../;
- b. Currently under a Corrective Action Plan through RRC;
- c. Having repeated negative Vendor Performance Reports for the same reason;
- d. Having a record of repeated non-responsiveness to Vendor Performance issues; and/or
- e. Having one or more Purchase Orders that have been cancelled for non-performance in in the previous 12 months.

To evaluate and score Respondent’s past performance, RRC may also make inquiry with other entities including Respondent’s references within **RFP ATTACHMENT 4 RESPONDENT’S QUALIFICATIONS STATEMENT** 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.

- 2.10.4 CONTRACT NEGOTIATIONS.** RRC reserves the option to negotiate with one or more Respondents deemed highly qualified to provide the Laboratory Testing Services sought by RRC. Negotiation elements may include, but shall not be limited to Laboratory Testing 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.
- 2.10.5 RRC CONTACT(S) FOLLOWING AWARD.** RRC contact(s) for day-to-day administration of the Contract shall be determined following Contract award. These individuals may appoint one or more delegates to assist in the day-to-day administration of the Contract and may provide to Vendor a written list of RRC delegates.
- 2.10.6 RESERVATION OF RIGHTS.** In addition to any other rights specified elsewhere in this RFP:
- a. RRC reserves the right to reject a Response that does not fully comply with the instructions and criteria outlined in this RFP.
 - 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. The terms and conditions herein shall be fully incorporated into and constitute part of the RFP 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 absence of express exclusion in whole or in part from the Response, all terms and conditions are deemed incorporated therein.

3.1 GENERAL TERMS AND CONDITIONS

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

3.1.2 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.

3.1.2.1 No plea of ignorance of existing site conditions or difficulties that may be encountered during 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.

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

3.1.3 AMBIGUITY, CONFLICT, EXCLUSIONARY SPECIFICATION, OR OMISSION. If Respondent discovers any ambiguity, conflict, discrepancy, exclusionary specifications, omission, or other error in the RFP, Respondent must immediately notify in writing RRC's point of contact for the RFP. If Respondent fails to notify RRC's point of contact for the RFP 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.

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

3.1.5 NO ALTERATIONS OR WITHDRAWALS OF RESPONSE AFTER DEADLINE. Responses may not be altered or amended after the Response due date and time specified in the RFP. 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.

3.1.6 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.

3.1.7 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.

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

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

3.1.10 RESPONDENT COSTS. Respondent shall bear all costs and expenses associated with 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.

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

3.1.12 CONTRACT AWARD, COPYRIGHT, REISSUANCE. A response to the RFP is an offer to contract with the State of Texas through RRC based upon the specifications, terms, and conditions contained in the RFP. The 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 RFP as a form required to be submitted with Respondent's Response.

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

3.1.13 LIMITATION ON AUTHORITY, NO OTHER OBLIGATIONS. 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.

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

3.1.15 AMENDMENTS TO THE CONTRACT. The Contract may be amended only upon written agreement between RRC and Vendor; however, the Contract may not be amended in a manner that conflicts with the laws of the United States or of the State of Texas. Vendor agrees to amend the Contract and to cooperate in the execution

of any contract amendments necessary to effectuate compliance with laws of the State of Texas when such laws require RRC to include additional language in the Contract. During the term of the Contract and any extensions or renewals thereof, RRC reserves the right to request amendments or modifications to the Contract when RRC determines such action to be in the best interests of the State of Texas and/or RRC and for compliance with all applicable state and federal laws, regulations, requirements, and guidelines. Except as otherwise provided in negotiated terms and conditions expressly identified and formalized in the Contract, the entire agreement between RRC and Vendor shall consist of the following documents: the Contract, amendments to the Contract, Purchase Orders, Work Orders and, Change Notices (if any), the RFP (including addenda, if any), and the Response.

3.1.16 ORDER OF PRECEDENCE; PROHIBITED EXCEPTIONS

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

- a. The Contract (including expressly identified, negotiated terms and conditions) and Amendments to the Contract, Purchase Orders, Work Orders and Change Notices (if any).
- b. The RFP and Addenda (if any), and
- c. Vendor's Response.

3.1.16.2 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.

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

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

3.1.19 CHANGES AND CHANGED CONDITIONS.

3.1.19.1 RRC's Authorized Representative may, in writing, order changes in the work within the general scope of the Contract or Work Order issued thereunder.

3.1.19.2 In event Vendor identifies Changed Conditions, Vendor shall not further proceed with work until Vendor has submitted a written notice of Changed Conditions to RRC's Authorized Representative and received from RRC's Authorized Representative an authorization to continue with work.

3.1.19.3 If Changed Conditions increase or decrease the cost of, or time required for performing the work, Vendor shall assert a claim in writing prior to the making of final request for payment under the Contract, and RRC may issue a written equitable adjustment by change order. However, no adjustment shall be made in favor of Vendor unless Vendor has timely submitted written notice of Change Conditions and written assertion of claim in conformance with the terms of the Contract. Notwithstanding the forgoing, in absence of a written notice of Changed Conditions having been timely submitted by Vendor, RRC in its sole discretion may waive the requirement therefore and approve Vendor's claim. In the event RRC and Vendor cannot agree upon an equitable adjustment, the dispute shall be decided pursuant to the dispute resolution process contained within the terms and conditions of the Contract.

3.1.19.4 It is recognized and agreed to by RRC and Vendor that information provided within the RFP, including specifications, attachments and addenda, if any, may not be complete or free from errors, omissions and imperfections, or that the information may require changes or supplementation in order

for the work to be completed to the 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 RFP, 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.

3.1.20 CONTRACT COMPLETION AND LIQUIDATED DAMAGES.

- 3.1.20.1 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.
- 3.1.20.2 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 Laboratory Testing 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.
- 3.1.20.3 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.
- 3.1.21 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.
- 3.1.21.1** Vendor must submit to RRC's Authorized Representative any proposed subcontractor and shall receive from RRC's Authorized Representative, written approval of the subcontractor prior to Vendor authorizing subcontractor's performance of any work under the Contract.
- 3.1.21.2** Subcontractors providing service under the Contract shall meet the same requirements and level of experience as required of the Vendor.
- 3.1.21.3** No subcontract under the Contract shall relieve the Vendor of responsibility for delivery of work and services required under the Contract. If Vendor uses a subcontractor for any or all work required, the following conditions shall apply under the listed circumstances:
- a. Respondents planning to subcontract all or a portion of the work to be performed under this Contract shall identify each proposed subcontractor on the HSP form (see *RFP ATTACHMENT 5 HUB SUBCONTRACTING PLAN FORM.*)
 - b. Subcontracting shall be at Vendor's expense.
 - c. RRC retains the right to review any subcontractor's background and approve or reject the use of Vendor's proposed subcontractors.

- d. Vendor shall be the only Vendor for RRC for the Contract. Vendor shall manage Vendor's subcontractors, if any. Vendor shall provide contact information, including mobile phone number and email address, of Vendor's designated point of contact to which RRC and Vendor's subcontractors shall submit any inquiries.

3.1.22 PAYMENTS TO VENDOR. Vendor shall submit by email to RRC's designated point of contact all requests for payment. Payment requests shall be submitted upon Respondent's completion of and RRC's acceptance of 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.

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

3.1.22.2 Progress Payments. Note: A Contract arising from this RFP shall require 0% retainage withheld on all progress payments, unless expressly required by supplemental terms and conditions within a Work Order issued under the Contract. Payment requests under the Contract shall be based on work completed per site, per month unless otherwise approved in writing by RRC. Upon Respondent's completion of work, and upon RRC's acceptance thereof, Vendor shall submit a properly prepared, itemized invoice accompanied by all additional documents required by Contract, as a Contract progress payment equal to 100% of the value of the work invoiced as completed by Respondent and accepted by RRC.

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

3.1.22.4 INVOICE REQUIREMENTS.

- a. Vendor's invoice must clearly reflect the following:
 - i. RRC Contract Number, Work Order, and Purchase Order number (as applicable);
 - ii. RRC bill to information;
 - iii. Vendor name;
 - iv. Vendor address;
 - v. Vendor remit payment to information;
 - vi. Texas Vendor Identification Number assigned by Texas Comptroller of Public Accounts;
 - vii. Invoice date;
 - viii. Invoice number (may not be duplicate invoice number from prior invoice submitted);
 - ix. Date(s) of delivery of services and/or goods; and
 - x. Description of services, to include (per site):
 - Operator name

- Lease/site name
- County
- State Managed Cleanup Code number
- Price

xi. Invoice total.

- b.** Vendor's invoices submitted to and received by RRC, but which fail to conform to all invoice requirements stipulated within the Contract Documents will be returned to Vendor unpaid or will be held by RRC until all requirements for submittal of revised invoice and/or additional documents required by the Contract are satisfied.

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

3.1.22.6 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 delivery of Lab Testing Services.

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

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

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

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

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

3.1.24 INDEMNIFICATION.

3.1.24.1 ACTS OR OMISSIONS. RESPONDENT/VENDOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND RRC, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, VENDORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF RESPONDENT/VENDOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY RESPONDENT/VENDOR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND RESPONDENT/VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE TEXAS ATTORNEY GENERAL. VENDOR AND RRC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

3.1.24.2 TEXAS/WORKERS' COMPENSATION/UNEMPLOYMENT INSURANCE; INCLUDING INDEMNITY. VENDOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, VENDOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF VENDOR'S AND VENDOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. VENDOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. RRC AND/OR THE STATE SHALL NOT BE LIABLE TO THE VENDOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY.

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

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

3.1.25.1 CLAIMS. RESPONDENT SHALL DEFEND, INDEMNIFY, SAVE, AND HOLD HARMLESS THE STATE OF TEXAS AND RRC, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, VENDORS, ASSIGNEES, AND/OR DESIGNEES FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, SERVICEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL, INTANGIBLE PROPERTY, PUBLICITY, OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF RESPONDENT PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) RRC'S AND/OR RESPONDENT'S USE OF OR ACQUISITION OF ANY SERVICES OR OTHER ITEMS PROVIDED TO RRC BY RESPONDENT OR OTHERWISE TO WHICH THE STATE OF TEXAS AND/OR RRC HAS ACCESS AS A RESULT OF RESPONDENT'S PERFORMANCE UNDER THIS CONTRACT. RESPONDENT AND RRC

AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. RESPONDENT SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY RESPONDENT WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND RESPONDENT MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, RESPONDENT WILL REIMBURSE AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF RESPONDENT OR IF AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND RESPONDENT WILL PAY ALL REASONABLE COSTS OF AGENCY'S COUNSEL.

3.1.25.2 NOTICE. If Vendor becomes aware of an actual or potential claim, or RRC provides Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against RRC, shall), at Vendor's sole option and expense; (i) procure for RRC the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that RRC's use is non-infringing.

3.1.25.3 LIMITATIONS. Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Vendor's written approval, (iii) any modifications made to the product by the Vendor pursuant to RRC's specific instructions, (iv) any intellectual property right owned by or licensed to RRC, or (v) any use of the product or service by RRC that is not in conformity with the terms of any applicable license agreement.

3.1.26 PERSONAL INJURY, PROPERTY DAMAGE. Vendor shall be liable for any bodily injury or personal injury to any individual caused by any of Vendor's employees during any assignment under the terms of the Contract. In the event of loss, destruction, or damage to any State of Texas or RRC property by Vendor's employees, Vendor shall indemnify the State of Texas and RRC and pay to the State of Texas and/or RRC the full cost of repair, reconstruction, or replacement at RRC's election. Vendor shall reimburse the State of Texas and/or RRC for such property damage within thirty (30) calendar days after Vendor's receipt of RRC's written notice of amount due. This provision survives the termination or expiration of the Contract.

3.1.27 INSURANCE REQUIREMENTS. Time is of the essence. Vendor shall submit to RRC a complete, current, certificate of insurance not later than ten (10) calendar days after RRC's issuance of written Notice of Intent to Award 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.

3.1.27.1 All required insurance coverage must issue from a company or companies that:

- a. Have both a Financial Strength Rating of "A" or better from A.M. Best Company, Inc.; and
- b. Have a Financial Size Category Class of "VII" or better from A. M. Best Company, Inc.

3.1.27.2 All insurance policies for required coverage must be issued by companies authorized to do business in, and under the laws of, the State of Texas. Certificates of insurance shall be issued on a form approved by the Texas Department of Insurance and be satisfactory to RRC. Certificates of insurance shall specify and/or set forth the following:

- a. RRC as certificate holder with correct mailing address;
- b. Insured's name which must match Vendor's legal name on and within this Contract;
- c. Insurance company(ies) affording each coverage, policy number of each coverage, policy dates of each coverage, all coverages and limits described herein, and signature of authorized representative of the insurance company(ies);
- d. Producer of the certificate of insurance with correct address and phone number listed;
- e. Additional insured status as required herein;

- f. Amount of any deductibles and/or retentions;
- g. A 30-day Notice of Cancellation, non-renewal, or reduction in coverage;
- h. Contractual liability coverages as required herein;
- i. Primary and non-contributing endorsement. All insurance coverage required herein shall be primary to and shall seek no contribution from all insurance available to RRC, with RRC's insurance being excess, secondary, and non-contributing;
- j. Waiver of Subrogation endorsement; and
- k. Listing of all exclusions and limitations added by endorsement to general liability coverage; however, no endorsements shall restrict, limit, or exclude in any manner whatsoever, coverage required.

3.1.27.3 All certificates of insurance for required coverage other than workers' compensation and professional liability (as applicable) shall name the State of Texas, RRC, and its officers, directors, and employees as additional insured.

3.1.27.4 Respondent's 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).

3.1.27.5 Minimum Contractually Required Insurance Types and Coverage:

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

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

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

3.1.28.1 TERMINATION OR CANCELLATION FOR CONVENIENCE.

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

3.1.28.2 TERMINATION OR CANCELLATION FOR CAUSE.

- a. **Breach of Material Term.** Either party may, upon giving thirty (30) calendar days' written notice identifying specifically the basis of such notice, terminate the Contract for breach of a material term or condition of the Contract, provided the breaching party must not have cured such breach within the thirty (30) calendar days' period. In the event of such termination, Vendor will be paid for all services accepted prior to the date of the termination. No additional charges or fees will be assessed to RRC for the termination or cancellation.
- b. **Vendor Nonperformance.** If Vendor defaults on the Contract after award has been made, RRC reserves the right to cancel the Contract without notice and either reissue the RFP or award the Contract to the next qualified, responsive and responsible Vendor offering the best value to the state as determined by RRC. In such event, the defaulting Vendor will not be considered for award for any Contract arising under the re-solicitation and may not be considered in future solicitations for the same type of work unless the specifications or scope of work differ substantially from the work and/or services under the Contract on which Vendor defaulted. The length of any period of suspension shall be determined by RRC based on the seriousness of the default. In the event of nonperformance default, Vendor shall remain liable for all covenants and indemnities under the Contract. Vendor shall be liable for all costs and expenses, including any attorneys' fees and court costs, incurred by RRC with respect to the enforcement of any remedies listed herein.
- c. **Bankruptcy.** Upon the filing of a petition for bankruptcy, or upon the judgment of bankruptcy or insolvency by or against Vendor, RRC may terminate the Contract for cause without notice. Such termination shall be effective upon the date of such filing or upon the date of judgment.
- d. **Availability of State Funds, Legislative Action, Necessity of Performance.** The Contract is subject to termination or cancellation, without penalty to RRC, either in whole or in part, subject to the availability of state funds.
- e. **Legal Remedies and Damages from Breach of Contract.** RRC expressly reserves all legal remedies to which it may be entitled to collect and all damages directly or indirectly resulting from breach of contract by Vendor or any of its agents, representatives, subcontractors, employees, or any other party acting on behalf of Vendor. RRC reserves the right to pursue all applicable rights and remedies if the Contract is terminated for any reason and RRC expressly waives no such rights or remedies.
- f. **Substitution of Services.** In the event of RRC's termination or cancellation of the Contract for cause, RRC may procure, upon such reasonable terms and in such manner as RRC deems appropriate, substitute services similar to services terminated or canceled. Vendor shall be liable to RRC for any excess or additional costs incurred by RRC in acquiring such services plus court costs and attorneys' fees. RRC's recovery of costs under this section is in addition to any other remedies available to RRC under the Contract and/or under applicable law.

3.1.28.3 MISCELLANEOUS TERMINATION PROVISIONS.

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

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

3.1.30 INDEPENDENT VENDOR. Vendor shall serve as an independent Vendor in providing services under 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.

3.1.31 FORCE MAJEURE. Any delays in or failure of performance by either party, except in respect of the obligation of payments under the RFP or Contract, shall not constitute default hereunder if and to the extent such delays or failure of performance are caused by occurrence(s) beyond the reasonable control of the party affected, and which by the exercise of due diligence such party is unable to prevent, herein called "Force Majeure," including acts of God or the public enemy, sabotage, war, mobilization, revolution, civil unrest, riots, strikes, lockouts, 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.

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

3.1.33 DISPUTE RESOLUTION. Disputes arising under the Contract shall be resolved in accordance with the dispute resolution process provided in Texas Government Code Chapter 2260 and in accordance with 16 Texas Administrative Code Chapter 20, Subchapter A, Division 2.

Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practices and Remedies Code. Neither the execution of the Contract by RRC nor any other conduct of any representative of RRC relating to the Contract shall be considered a waiver of sovereign immunity to suit.

3.1.34 COMPLIANCE WITH OTHER LAWS. Respondent shall comply with all laws, regulations, requirements and guidelines applicable to 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.

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

3.1.36 LEGAL NOTICES. Any legal notice required or permitted to be delivered under the RFP and/or Contract shall be deemed delivered when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to RRC or Respondent. Notice given in any other manner shall be deemed effective only when received by the party to be notified. Either party may change its address for notice by providing written notice to the other party in accordance with the terms and conditions herein.

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

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

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

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

3.1.41 PUBLIC DISCLOSURE. Respondent shall not use RRC's name, logo, or other likeness in any press release, marketing material, or other announcement 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 RFP, 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.

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

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

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

3.1.45 RESPONDENT’S STATEMENTS AND COVENANTS REQUIRED. Respondents must sign and return the *Respondent’s Statements and Covenants* form (see **RFP ATTACHMENT 3 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.

3.2 SUPPLEMENTAL TERMS AND CONDITIONS APPLICABLE TO RFP No. 455-21-1008.

3.2.1 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 RFP 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.

3.2.2 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).

3.2.3 Prohibited Use of State Property. Respondent is prohibited from using State Property for any purpose other than performing Laboratory Testing 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.

3.2.4 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.

3.2.4.1 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.

3.2.4.2 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.

3.2.4.3 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.

3.2.5 Enhanced Contract Monitoring. RRC has determined any contract resulting from this RFP may require enhanced monitoring for performance and compliance with the Contract terms and conditions. Vendor receiving a Contract award resulting from this RFP shall be subject to applicable performance evaluation standards described within **RFP ATTACHMENT 8 PERFORMANCE EVALUATIONS STANDARDS**.

ATTACHMENTS

Attachment 1	Statement of Services
Attachment 2	Mandatory Rate Submission Sheet
Attachment 3	Respondent's Statements and Covenants
Attachment 4	Respondent's Qualifications Statement Form
Attachment 5	HUB Subcontracting Plan Form and Appendix
Attachment 6	Sample COC Form
Attachment 7	Sample RRC Contract
Attachment 8	Performance Evaluation Standards

STATEMENT OF SERVICES

1.0 INTRODUCTION.

Vendor shall provide all labor, materials, equipment, tools, incidentals and services, coordination, and Lab Manager activities necessary to deliver Laboratory Testing Services located within RRC Oil and Gas Division Districts throughout the state of Texas. All work under the Contract shall be performed in accordance with applicable RRC Statewide Rules, federal and state statutes, regulations, and rules, the specifications within this SOS and any Work Order issued under the Contract, and all terms and conditions of the Contract.

2.0 SERVICES TO BE PERFORMED.

All work will be performed and paid as per unit prices provided in the Mandatory Price Sheet (see **RFP ATTACHMENT 2 Mandatory Rate Submission Sheet**). Any additional work not covered under this section or by unit prices will be handled as a reimbursable item.

Vendor is responsible for providing laboratory analytical services in accordance with applicable method protocols, laboratory QAPP, and all applicable rules and regulations. Laboratory analysis shall be performed in accordance with applicable published standards for analytical methods (i.e., EPA, NIOSH, TCEQ) and shall include all method-required and method-recommended QC steps as described below. The Vendor is responsible for supplying ice chests, prepaid cash cards to purchase ice, sampling containers, shipping labels, preservatives, COC forms, etc. Vendor shall provide the analytical results on either an expedited (by close of business, the next working day after the receipt of the samples) or normal turnaround basis (7-10 working days from when the samples were received) as indicated on the COC form by a RRC representative. Vendor shall be responsible for the costs of shipping the samples to the laboratory.

2.1 QUALITY ASSURANCE PROJECT PLAN.

Vendor shall submit a QAPP that consists of a comprehensive program to generate data of acceptable quality. The QAPP must include a quality assurance (QA) component that encompasses the long-term management procedures and controls, and an operational, day-to-day, Quality Control (QC) component. The QAPP should present the policies, organization, objectives, functional guidelines, and specific QA and QC activities designed to achieve the data quality requirements when running performance-based methods. The standard operating procedures (SOPs) pertaining to each element shall be included, or referenced, and should describe the specific operational and analytical procedures as normally implemented by the laboratory.

The QAPP should address, at a minimum, the following elements:

- 1) The laboratory's organization and job descriptions;
- 2) Facilities and equipment;
- 3) Personnel training;
- 4) Analytical procedures;
- 5) Sample handling practices and COC;
- 6) Holding times and preservatives;
- 7) Material procurement and control;
- 8) QC of samples and documentation;
- 9) Corrective action;
- 10) Internal/external audits and outside certifications;
- 11) Method detection limits;
- 12) Equipment maintenance and repair;
- 13) Document control;
- 14) Data reduction and validation;
- 15) Data deliverables; and,
- 16) Completeness.

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As an appendix to the QAPP, the Vendor shall provide all internal laboratory QA procedures that are specified in the laboratory's QMP developed in compliance with ISO 17025. The laboratory's QMP shall describe all the general and specific procedures used within the laboratory to achieve scientifically sound and legally defensible data.

2.1.1 COC SAMPLE HANDLING REQUIREMENTS.

All samples shipped to the contract laboratory for analysis shall be packaged properly, refrigerated as necessary, transferred in accordance with appropriate COC Order procedures and shall arrive at the laboratory within 24 hours after sample pickup.

Vendor, per specific laboratory operating procedures and QAPP requirements, is required to document the following information on the COC form upon receipt of samples:

- 1) Date of sampling;
- 2) Date and time samples are received and relinquished;
- 3) Signature of Vendor accepting custody of the samples.
- 4) Condition of samples upon receipt (e.g. intact, leaking, broken);
- 5) Mode of delivery;
- 6) Sample identification information and corresponding field sample identification information;
- 7) Analyses requested for each sample;
- 8) Temperature of the samples upon receipt;
- 9) Matrix of each sample;
- 10) The pH for applicable samples;
- 11) Contact information of a RRC representative; and
- 12) Signature of person relinquishing custody of the samples.

The COC forms, shipping documents, telephone conversation records, and any corrective action forms shall be maintained by the Vendor for each shipment and included in the reporting package for submittal to the RRC.

All samples and extracts shall be stored under conditions that will ensure their integrity and preservation. All measures shall be taken to prevent cross-contamination. Limited and controlled access to all laboratory areas shall be maintained.

Samples and associated extracts shall be stored for a minimum of 60 days after receipt of the final data report for those samples. After that time, Vendor shall be responsible for the disposal of the samples and their associated extracts in compliance with all local, state, and federal regulations unless arrangements have been made for the return of any unused sample portions back to the site.

Extraction/digestion holding times shall be defined from the date and time of sample collection in the field to the date and time when the sample is first exposed to the extraction/digestion solvent. For non-continuous extraction procedures, the holding times shall be defined from the date/time of sample collection in the field to the date/time when the sample is extracted up to the point of concentration and prior to any clean up. Holding times for analytical procedures shall be defined from the date and time of sample extraction to the date and time of sample analysis. The Vendor shall maintain documentation that clearly shows the dates and times for all sample handling/manipulation processes.

SAMPLES MUST BE ANALYZED WITHIN THE NORMAL OR EXPEDITED TURNAROUND TIMES AS SPECIFIED ON THE SAMPLE COC FORM. IF VENDOR DOES NOT MEET THE EXPEDITED TURNAROUND TIME, THEN THE RRC SHALL PAY THE BID PRICE FOR NORMAL TURNAROUND TIME FOR THAT SAMPLE ANALYSIS. IF THE NORMAL TURNAROUND TIME IS NOT MET, THEN THE RRC SHALL PAY HALF THE RFP PRICE FOR THE SAMPLE ANALYSIS.

2.1.2 Analysis Requirements.

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Vendor shall maintain written, laboratory-specific SOPs for all methods and general operations. The laboratory-specific SOPs shall fully detail the actual procedures and documentation used to implement performance-based methods. The SOPs should be based on the guidance as published by EPA (i.e. QA/G-6 Guidance for the preparation of SOPs for Quality-Related Documents, April 2007). The SOPs shall include specific details for estimating the method detection limit. Method detection limit studies shall be conducted for each analysis according to EPA Method, 40 CFR, Part 136, Appendix B. The laboratory SOPs shall be available to the RRC upon request.

Vendor shall have the appropriate standards for all target analytes on the premises. Vendor shall store the standard's certificate of analysis. Vendor shall continuously monitor the purity or quality of a series of well-documented procedures described in the QAPP. Primary reference standards and standard solutions used by the laboratory shall be obtained from reliable commercial sources (i.e. NIST, EPA, etc.) to ensure the highest purity possible.

For each method performed, Vendor shall maintain documentation that demonstrates the laboratory's ability to perform the method within the QA limits as stated in the method or the QAPP. Vendor may be required to demonstrate their continuing capability to perform any given method by ensuring that applicable SOPs are current and representative of what is implemented in the laboratory. In the case of a method deviation, Vendor shall demonstrate that the altered method meets QA limits.

Vendor shall maintain records that document all laboratory activities. Examples of laboratory documents shall include but not be limited to the following:

- 1) Logbooks;
- 2) COC records;
- 3) Sample work sheets;
- 4) Bench sheets; and,
- 5) Other documents relating to the sample or sample analysis.

The data produced by the Vendor should be legally defensible per the QAPP and regulatory requirements. Vendor shall be aware of these requirements and be able to show that these requirements were followed. Vendor shall be able to clearly show how analytical values were obtained. Intentional falsification of process results or QC parameters, or failure to document actual conditions for the purpose of misrepresentation, may constitute fraud. Mistakes must be documented and corrected. The QAPP should include procedures for an electronic audit trail that documents the changes, all changes to data, by whom the changes were made, the date of the change, and reason for the change.

2.1.3 CALIBRATION PROCEDURE AND FREQUENCIES.

Vendor shall provide all necessary analytical support to achieve scientifically sound and legally defensible data. This includes verifying, measuring and recording on first daily use the calibration of analytical balances, the internal temperatures of all refrigerators and freezers, and the calibration of all variable volume pipettes. Fixed glassware and the water supply system shall be calibrated/monitored monthly and other glassware shall be calibrated/monitored annually.

Calibration of the instruments is required to ensure that the analytical systems are operating correctly and with proper sensitivity. Calibration curves, blanks, standards, and background correction systems shall be verified and recorded for the appropriate instrument and analyses as described in the QAPP and in accordance with the manufacturer.

2.1.4 QUALITY ASSURANCE/QUALITY CONTROL PROCEDURES.

Vendor's internal QC checks shall determine if laboratory operations are operating within acceptable QC limits and the effect of the sample matrix on the data being generated (matrix-specific QC). Target ranges shall be set to determine if QA and QC objectives are met.

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Samples shall be prepared, analyzed and reported in batches and be traceable. The preparation and analysis batches shall be identified. Samples taken from the same site shall be grouped together for batching purposes within the constraints imposed by the method holding times. The laboratory QC procedure manual shall include a description of all batches. The QC procedures shall also include the minimum required QC samples for each preparation batch, which includes but is not limited to the following: reagent blanks, method blanks, laboratory control samples, matrix spikes, matrix spike duplicates and duplicates.

2.1.5 PREVENTIVE MAINTENANCE.

Preventive maintenance shall be routinely performed on each analytical instrument. Either trained staff or trained service personnel shall perform repairs. The method SOPs or the QAPP shall describe preventive maintenance procedures and schedules. The Vendor shall maintain detailed logs for each instrument that documents the preventive maintenance and repairs performed.

2.1.6 CORRECTIVE ACTIONS.

Vendor shall provide corrective action to resolve problems and restore proper functioning to the analytical systems. Corrective action procedures shall be described in the QAPP and shall include at a minimum the following:

- 1) Sample integrity violation;
- 2) Sample delivered at improper temperature;
- 3) Sample not preserved properly;
- 4) Sample exceeding holding times;
- 5) Errors on the COC;
- 6) Instrument calibration failure;
- 7) Laboratory Control Sample (LCS) failure;
- 8) Matrix Spikes and Matrix Spike Duplicates (MS/MSD) failure; and
- 9) Calculating and reporting errors.

If corrective actions are needed for deficiencies that would affect data quality, the Vendor shall immediately notify a RRC representative and the RRC Austin office of the samples that may be affected. The Vendor shall record all corrective action, including the call alerting the RRC, on the chain-of-custody.

2.1.7 DATA REDUCTION, EVALUATION AND REPORTING.

Vendor shall provide laboratory analytical data reports in compliance with ISO 17025, and shall include a reference to the extraction procedure performed by the laboratory. All analytical data generated by the laboratory shall be extensively reviewed prior to report release to assure the validity of the reported data. The internal data evaluation process shall cover the areas of data generation and reduction and shall require at least two levels of independent review.

Each report shall include a case narrative that includes but is not necessarily limited to:

- 1) Notation of extractions or analyses that exceed holding times;
- 2) Definition of all data qualifiers;
- 3) Description of corrective actions; and
- 4) Notation of any other factors that could affect the sample results.

The analytical report shall contain sufficient information to determine the precision, bias, representativeness, comparability, and sensitivity of the data. The analytical report for each sample shall include:

- 1) COC form;
- 2) Project name and identification information;
- 3) Field sample identification information as stated on the chain-of-custody;
- 4) Laboratory sample identification information;

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- 5) Matrix or sample description (if necessary);
- 6) Holding time compliance (including sample collection date, sample received date, sample extracted/prepared date, sample analysis date);
- 7) Preparation, analysis or other batch numbers;
- 8) Analyte or parameter evaluated;
- 9) Analytical result with correct number of significant figures;
- 10) Detection limits (including any adjustment for sample-specific factors);
- 11) Method quantitation limits;
- 12) Sample quantitation limits;
- 13) Data qualifiers;
- 14) Concentration units;
- 15) Dilution factors; and
- 16) Chromatograms, if applicable.

The QC report shall include the following:

- 1) Surrogate recoveries (organic analyses only);
- 2) LCS recoveries;
- 3) MS/MSD recoveries and percent differences;
- 4) Blank results;
- 5) Laboratory duplicate results and percent differences
- 6) Post-digestion spike;
- 7) Dilution check sample results (inorganic analyses only); and
- 8) All associated acceptance criteria.

Electronic data deliverables may be specified either in addition to or in lieu of hard copy requirements. Electronic data deliverables shall contain the same information as described for the hard copy deliverables.

2.1.8 SAMPLE ANALYSES.

Vendor shall use the methods specified as line items on the bid submission sheets. The Vendor may also use equivalent methods if approved by a RRC representative.

Copies of the reports shall be emailed to the RRC at the completion of the analyses in the requested turnaround time. Upon request, reports shall be faxed or emailed to a RRC representative at the completion of the analyses in the requested turnaround time.

2.2 VENDOR RESPONSIBILITIES.

Vendor shall provide sample shipping from the district office during normal business hours, packing, refrigerating as necessary, labor, equipment, goods, materials (including chain-of-custody forms, ice chests, prepaid cash cards to purchase ice, sampling jars, vials, preservatives, etc.) and services necessary to perform expedited turnaround (i.e., by close of business, the next working day after the receipt of the samples) and normal turnaround (i.e., 7-10 working days turnaround) for chemical analysis in a safe and legally correct manner.

Vendor shall provide a laboratory manager who is responsible for the following: 1) implementing the laboratory's QA Plan, 2) maintaining accurate SOPs and enforcing their use in the laboratory, 3) participating in interlaboratory comparisons and proficiency testing, 4) certifying that personnel performing all tests have proper education and training, 5) providing a contingency plan which identifies back-up personnel for key laboratory positions (i.e., QA officer (QAO), etc.) in the event of personnel absence, 6) having policy and procedures in place which ensure protection of client's confidential information and proprietary rights, 7) maintaining a work environment that emphasizes the importance of data quality, and 8) providing appropriate management and supervisory support.

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Vendor shall provide a laboratory QAO who shall be responsible for maintaining the quality system and overseeing the QA aspects of the data. The laboratory manager may also serve as the QAO.

Vendor shall contact the sample submitter of record, the RRC Project QAM, as soon as practicable, but no later than twenty-four (24) hours from receipt, concerning any sample that is:

- 1) improperly collected, preserved, or handled;
- 2) received after holding times has expired;
- 3) received in a container that is broken or in a container whose seal is broken;
- 4) received without a chain of custody (COC) or request for analysis (RFA) form;
- 5) received with a COC or RFA form that lacks signature(s), sampling date(s), or sampling time(s); or
- 6) received with a COC or RFA form that lacks field measurement results, information concerning analyses requested or program area, unless the sample submitter of record provides the missing information upon request.

Vendor may contact the RRC Project QAM to determine whether or not to accept incomplete or missing documents or information. Vendor shall contact RRC Contract Manager within 24 hours and prior to invalidating the samples.

Vendor shall notify the sample submitter of record and the RRC Project QAM by electronic mail or facsimile of the rejection of any sample and reason(s) for rejection within 72 hours of rejection. Reasons for invalidation of samples will be provided. Records of invalidated samples will be maintained in accordance with procedures outlined in Standard Operating Procedures (SOPs) maintained by the Vendor.

2.2.1 SAMPLE CONTROL.

- 1) Upon receipt of a sample, Vendor shall assign and monitor the due date for each analysis performed under this Contract.
- 2) Legal COC: Vendor shall have a written SOP for maintaining legal COC of samples consistent with the procedures in the current version of American Society for Testing and Materials Method D 4840, Standard Guide for Sample COC Procedures. Vendor shall maintain legal COC on samples that RRC identifies in a written request for the laboratory to implement the SOP.

2.2.2 METHOD MODIFICATION.

Vendor shall request and receive written approval from RRC before using a modified analytical method. The request shall be submitted to and approved by the RRC according to *The Analytical Method Modification Program - How to Apply*, TCEQ Regulatory Guide RG-380. It is the Vendors responsibility to demonstrate and maintain documentation that supports the equivalency of any method modifications.

Method modification may be employed, and the data will be accepted, as long as the methods used:

- (1) meet the sensitivity requirements of the measurement performance specifications;
- (2) are contained in 40 Code of Federal Regulations Part 136, the most current version of Standard Methods, or another reliable procedure approved by the RRC QAM;
- (3) are implemented by the laboratory in accordance with applicable accreditation requirements; and
- (4) modifications are documented in the applicable test method SOP. Prior approval to submit an application for analytical method modification must be obtained from the RRC Project QAO. Approval by the RRC will be granted or denied based on review of the application, specifically the section documenting an initial demonstration of method equivalency conducted by the laboratory.

Vendor shall submit a weekly report via electronic mail to the RRC Contract Manager on Monday of each week or, if the Monday is a state holiday, on the first workday following the Monday. Each weekly report shall include:

- 1) A listing of the samples received during the preceding week;
- 2) The total amount of the contract award;

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- 3) The total amount billed by the Vendor through the preceding week; and
- 4) The total amount remaining (contract award minus amount billed).

2.2.3 WORK PROCESS.

All work ordered under the Contract will be initiated by one of the processes below. A COC form is required with all submissions for laboratory analysis.

2.2.3.1 COMPLEX WORK ORDER PROCESS.

This process will be used for nonroutine testing, to coordinate large volume orders, and to request on hand testing supplies for distribution to RRC District Offices. RRC may initiate work through the submission of a Work Order request as needed depending on analysis, type and size of containers, ice chest, preservatives, etc. RRC will submit to Vendor a Work Order issued in the form of an email which shall include a request of bottle set(s) with type and size of containers from the laboratory and scope of work (SOW) related to services Vendor is to perform when needed. Work orders shall include:

- 1) Number of samples
- 2) Sample Material
- 3) Analytical test needed
- 4) Date of sampling is expected to occur
- 5) Necessary turnaround time for reporting results

In all cases, samples will be submitted in properly sealed containers with a COC form as required for quality assurance transmittal protocols.

2.2.3.2 ROUTINE WORK ORDER PROCESS.

This process will be used for high frequency tests in small volumes shipped from RRC District Staff directly to the vendor's laboratory testing facility. RRC may initiate work through the submission of sample (s) and COC form. All work will be performed based on the analyses identified on the COC form and paid at a fixed price per unit as stated on Request for Proposal (RFP) *Attachment 2 Mandatory Rate Sheet*. Any additional work not covered under this section or by unit prices will be handled as a reimbursable at cost item.

Vendor is responsible for providing laboratory analytical services in accordance with applicable method protocols, laboratory Quality Assurance Project Plan (QAPP), and all applicable rules and regulations. Laboratory analysis shall be performed in accordance with applicable published standards for analytical methods (i.e. EPA, NIOSH, TCEQ) and shall include all method-required and method-recommended quality control (QC) steps as described below. The Vendor is responsible for supplying ice chests, prepaid cash cards to purchase ice, sampling containers, shipping labels, preservatives, COC forms, etc. Vendor shall provide the analytical results on either an expedited (by close of business, the next working day after the receipt of the samples) or normal turnaround basis (7-10 working days from when the samples were received) as indicated on the chain-of-custody form by a RRC representative.

Vendor shall be responsible for the costs of shipping the samples to the laboratory. The RRC may request Vendor to pick up samples at the District Office during normal business hours. In this situation, the Vendor shall be responsible for storing samples in the proper containers, keeping samples properly refrigerated, preserving samples with appropriate preservatives, and shipping samples promptly to the laboratory within a 24-hour time period. The RRC may elect to deliver the samples directly to the shipping company.

2.2.4 WORK SCHEDULE.

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Vendor shall commence the contract laboratory testing services upon receipt of a COC from the RRC.

Should the Vendor be unable to initiate the contract by the designated deadline, the RRC representative reserves the right to notify Vendor in writing that the contract has been terminated and will be awarded to the subsequent Respondent offering the best value to the state.

Vendor may make a written request for delaying initiating contract to the RRC. Any extension granted will be made in writing for reasons deemed appropriate by the RRC.

Vendor shall commence based on the analysis requested on the COC form(s) upon receipt of samples at the laboratory or by the Vendor's courier. Once the courier or the Vendor receives the samples, the samples must be received by the laboratory performing the analysis within 24 hours, unless the RRC provides notice otherwise.

Vendor shall conduct work diligently on a daily basis until analyses are completed. Vendor shall perform no work without the authority of the RRC by receipt of the COC form(s). Any work performed by the Vendor without authorization from the RRC will be done at the Vendor's own risk.

Vendor shall submit a laboratory report to the RRC within established expedited turnaround (i.e., by close of business, the next working day after the receipt of the samples) and normal turnaround (i.e., 7-10 working days turnaround) as specified in the COC form. The laboratory report shall contain the information and be in the format required by this RFP.

Vendor shall complete and submit the laboratory report(s) by such deadline as specified in the COC. Failure to complete and submit laboratory report(s) within established deadlines shall result in contract termination or a different pay schedule as outlined in this RFP. Failure to meet established deadline(s) shall result in contract termination or a different pay schedule as outlined in this RFP.

2.2.5 SAFETY.

Vendor shall follow all required safety and health protection procedures. The Vendor shall be responsible for the safety of all persons who may be affected by the services.

Vendor shall be responsible for ensuring compliance with all appropriate and applicable safety requirements at all times by all workers. Any health and safety program or manual required hereunder and such specific health and safety plan as may be required by the RRC or law is to remain and be maintained at the Vendor, readily accessible for review by all workers and subcontractors or review by the RRC.

The Vendor, its employees, and subcontractors shall observe all required or otherwise appropriate safety practices at all times.

In emergencies affecting the safety or protection of persons, work or property at the laboratory or by a subcontractor, Vendor, without special instructions or authorization from the RRC, is obligated to act to prevent threatened damage, injury or loss, and to be fully responsive to directives issued by authorized official emergency personnel, including any emergency response Vendor employed by the RRC. Vendor shall give prompt notification to the RRC when such emergency occurs.

2.2.6 QUALITY ASSURANCE/QUALITY CONTROL QA/QC.

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Vendor shall adhere to all QA/QC requirements as specified in ISO 17025 (General Requirements for the Competence of Testing and Calibration Laboratories), guidance as published by Environmental Protection Agency (EPA) (e.g., QA/G-6 Guidance for the preparation of SOPS for Quality-Related Documents, April 2007), 40 CFR, Part 136, and the Solid Waste Manual (EPA, SW-846), or other appropriate industry standard and updates thereof. Vendor shall adhere to all applicable published standards for analytical (and extraction) methods (i.e., EPA, NIOSH, TCEQ, etc.).

2.2.7 RECORDS RETENTION.

Vendor shall maintain in a safe place one record copy of all laboratory analytical results [including QA/QC, chromatographs (if applicable), etc.], all control documents, run logs, this agreement, all written amendments. These record documents together with all data collected as required by these contract documents and reports will be available to RRC for reference.

Except as otherwise provided by this agreement, Vendor shall not provide data, or reports generated or otherwise obtained in the performance of its responsibilities under this agreement to any party other than the RRC, EPA, the state of Texas or any of their authorized agents for the life of the agreement and for a period of five years after completion of this agreement.

Vendor agrees to disclose all information and reports resulting from access to records and to any of the entities referred to in this document.

Records maintained shall be maintained by Vendor during performance of the work under this agreement, and for five years thereafter. If any litigation, claim, negotiation, audit, cost recovery, or other action (including actions concerning costs of items to which an audit exception has been taken) involving such records has been started before the expiration of the five-year period, such records must be retained until completion of the action or resolution of all issues which arise from it, or until the end of the regular five-year period, whichever is later.

Access to records is not limited to the required retention periods. The entities designated in this section shall have access to records at any reasonable time for as long as the records are maintained.

2.2.8 REIMBURSABLES.

Reimbursable items are items not included in the RFP pricing. Reimbursable items will be invoiced separately and will be paid according to actual invoices received from third party vendors or according to the Vendor's rate sheet prices. Reimbursement of actual invoices from third party vendors will be made based on the actual invoice. The administrative fee will not be allowed on reimbursement based on the Vendor's rate sheet prices. All reimbursable materials and services purchased from third party vendors must be accompanied by the necessary documentation to ensure the best value for the state and by the actual invoice in order for payment to be rendered. **Under no circumstances will the Vendor provide or purchase reimbursable materials and services without prior written authorization from the RRC.** The RRC shall determine the amount of sales taxes paid by the Vendor or subcontractors, which under applicable law are reimbursable, and will pay the same to the Vendor.

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2.2.9 INVOICES.

Invoices shall be submitted to and all payment inquiries directed to:

San Antonio Railroad Commission of Texas Attn: William B. Miertschin/Neal Rosales Site Remediation Section 112 E. Pecan Street, Suite 705 San Antonio, TX 78205	Houston Railroad Commission of Texas Attn: Nancy Forster/Dean Southward Site Remediation Section 1919 N Loop West, Suite 620 Houston, TX 77008
Corpus Christi Railroad Commission of Texas Attn: Grace Davila/ Larry Schnexnayder Site Remediation Section 10320 IH 37 Corpus Christi, Texas 78410	Kilgore Railroad Commission of Texas Attn: Jeff Lauman/ Logan Young Site Remediation Section 2005 North State Highway 42 Kilgore, Texas 75662
Abilene Railroad Commission of Texas Attn: Koby Thompson/Travis Golson Site Remediation Section 3444 N. First Street, Ste, 66 Abilene, TX 79603	San Angelo Railroad Commission of Texas Attn: Gerald McCollough Site Remediation Section 622 S. Oakes St. Ste, J San Angelo, TX 76903
Midland Railroad Commission of Texas Attn: Carl Vessels/Bo Viscaino Site Remediation Section 10 Desta Dr. Suite 500 E Midland, Texas 79705	Wichita Falls Railroad Commission of Texas Attn: Ray Horton/Jeffery Jacobs Site Remediation Section 5800 Kell Blvd., Suite 300 Wichita Falls, TX 76301-6798
Pampa Railroad Commission of Texas Attn: Randy Milligan Site Remediation Section 200 W. Foster, Room 300 Pampa, TX 79065	Lubbock Railroad Commission of Texas Attn: Kolby Durham Site Remediation Section 6302 Iola Avenue Suite 600 Lubbock, TX 79424

2.2.10 RESPONDENT COSTS.

Respondent shall bear all costs and expenses for the provision of services required under this RFP.

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Mandatory Rate Submission Sheet

The estimated quantities stated in the line items are not guaranteed, are estimates and are for evaluation purposes only. The values do not represent anticipated maximum or minimum quantities, contractual requirements, or contractual obligations.

Payments under this contract will be based on the unit prices accepted by the RRC multiplied by the actual quantities resulting from performance of the services. Unit prices for line items may be used, as necessary, to cover work included in the Work Scope. Any unforeseeable items not specifically identified in the line items below will be a reimbursable item. Blank Unit Prices are not acceptable. A no charge for a unit price is acceptable and must be noted under the Unit Price section.

Failure to bid a unit price or leaving a unit price blank will result in disqualification of bid. Times Defined:

Normal: The Vendor shall provide analytical results within seven to ten working days from when the samples were received.

Expedited: The Vendor shall provide analytical results by close of business, the next working day after the receipt of the samples.

Item No.	Description	Quantity/Unit		Unit Price	Total
1	Total Petroleum Hydrocarbons (TCEQ-1005 extended to C-35) SOIL				
	Normal	200	Samples		
	Expedited	20	Samples		
2	Total Petroleum Hydrocarbons (TCEQ-1005 extended to C-35) WATER				
	Normal	50	Samples		
	Expedited	10	Samples		

Item No.	Description	Quantity/Unit		Unit Price	Total
3	Fractionation of TPHs into Aliphatics and Aromatics including analysis (TCEQ 1006) SOIL				
	Normal	50	Samples		
	Expedited	10	Samples		
4	Fractionation of TPHs into Aliphatics and Aromatics including analysis (TCEQ 1006) WATER				
	Normal	30	Samples		
	Expedited	5	Samples		
5	BTEX (EPA 8021 B) SOIL				
	Normal	10	Samples		
	Expedited	5	Samples		
6	BTEX (EPA 8021 B) WATER				
	Normal	10	Samples		
	Expedited	5	Samples		
7	BTEX (EPA 8021 B) Plus Total Petroleum Hydrocarbons (TCEQ-1005 extended to C35) SOIL				
	Normal	200	Samples		
	Expedited	20	Samples		
8	BTEX (EPA 8021 B) Plus Total Petroleum Hydrocarbons (TCEQ-1005 extended to C35) WATER				
	Normal	50	Samples		
	Expedited	10	Samples		
9	Dissolved Gas – Methane (RSK 175) WATER				
	Normal	15	Samples		
	Expedited	5	Samples		
10	TCLP Volatiles (EPA 1311/8260B) SOIL/LIQUID				
	Normal	25	Samples		
	Expedited	5	Samples		

Item No.	Description	Quantity/Unit		Unit Price	Total
11	TCLP Semi-volatiles (EPA 1311/8270C) SOIL/LIQUID				
	Normal	25	Samples		
	Expedited	5	Samples		
12	TCLP Metals (8 RCRA metals) (EPA 1311/6010B) and Mercury 7471A SOIL/LIQUID				
	Normal	25	Samples		
	Expedited	5	Samples		
13	Total Metals (8 RCRA metals) (EPA 6010B or 6020A/3050B), Mercury 7471B SOIL				
	Normal	10	Samples		
	Expedited	5	Samples		
14	Total Metals (8 RCRA metals) (EPA 6010B or 6020A/3005A, 3015, or 3020A), Mercury 7470A WATER				
	Normal	10	Samples		
	Expedited	5	Samples		
15	NORM Radium – 226, 228, and Individual Radionuclides by Gamma Spectroscopy (EPA 901.1 modified for soil) SOIL				
	Normal	50	Samples		
16	8 anions/cations (EPA 300.0) – calcium, carbonate, chlorides, magnesium, potassium, sodium, sulfate, and bicarbonate plus bromide WATER				
	Normal	100	Samples		
	Expedited	25	Samples		
17	Reactivity (SW-846, Ch 7.3), Corrosivity (pH or coupon), Ignitability (1010/1020-A) SOIL/LIQUID				
	Normal	25	Samples		
	Expedited	5	Samples		

Item No.	Description	Quantity/Unit		Unit Price	Total
18	Chloride (EPA 300.0 Ion Chromatography) SOIL				
	Normal	100	Samples		
	Expedited	10	Samples		
19	Chloride (EPA 300.0 Ion Chromatography) WATER				
	Normal	50	Samples		
	Expedited	10	Samples		
20	Specific conductance (electrical conductivity) (1:1 Paste Extract) SOIL				
	Normal	10	Samples		
	Expedited	5	Samples		
21	E. Coli (Colisure – presence/absence)				
	Normal	100	Samples		
	Expedited	25	Samples		
22	Fecal Coliform (Colisure – presence/absence) WATER				
	Normal	100	Samples		
	Expedited	25	Samples		
23	pH (EPA 150.1 or 9045C) SOIL				
	Normal	10	Samples		
	Expedited	5	Samples		
24	TOX (EPA 9020B/9023) LIQUID				
	Normal	10	Samples		
	Expedited	5	Samples		
25	EOX (EPA 9023B/9023) SOLID				
	Normal	10	Samples		
	Expedited	5	Samples		
TOTAL OF ALL LINE ITEMS:					

RESPONDENT'S STATEMENTS AND COVENANTS

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

1. The provisions in **RFP No. 455-21-1008** 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 RFP or the Contract arising therefrom.
2. Respondent certifies Respondent's intent to furnish the requested goods and/or services at the prices quoted in its Response, and notwithstanding any disclaimers in Respondent's Response and notwithstanding any other provision of the RFP or the Contract to the contrary, Respondent warrants and guarantees that all goods and services shall meet all specifications of the Contract.
3. Respondent certifies Respondent's prices include all costs of Respondent in providing the requested items that meet all specifications of this RFP, and that its prices will remain firm for acceptance for a minimum of one hundred eighty (180) calendar days from deadline for submission of Response.
4. Each of Respondent's employees, including replacement employees hired in the future, shall possess the qualifications, education, training, experience, and certifications required to perform the services in the manner required by the RFP.
5. Respondent represents and warrants that Respondent's provision of goods and/or services, or other performance under the Contract, will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
6. Pursuant to Texas Government Code Section 2155.003, Respondent has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract.
7. Respondent represents and warrants that RRC's payments to Respondent and Respondent's receipt of appropriated or other funds under the Contract are not prohibited by Texas Government Code §§556.005 or 556.0055.
8. Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed to the State of Texas under Texas Tax Code Chapter 171. In addition, if Respondent is an individual not residing in Texas or a business entity not incorporated in or whose principal domicile is not in Texas, the following certification applies:

Vendor certifies that it holds a permit issued by the Texas Comptroller to collect or remit all state and local sales and use taxes that become due and owing as a result of the individual's or entity's business in Texas, or certifies that it does not sell tangible personal property or services that are subject to the state and local sales and use tax.
9. Respondent represents and warrants that Respondent shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, state, or local income, sales, or excise taxes of Respondent and Respondent's employees. RRC shall not be liable for any taxes resulting from this Contract.
10. Respondent represents and warrants that in accordance with Texas Government Code §2155.005, neither Respondent nor the firm, corporation, partnership, or institution represented by Respondent, nor anyone acting for such a firm, corporation or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Texas Business and Commerce Code Chapter 15, or the federal antitrust laws, or (2) communicated

RESPONDENT'S STATEMENTS AND COVENANTS

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 RFP 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 RFP is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, pursuant to Texas Family Code §231.006(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 business practices in an administrative hearing or court suit, and that such officers have not been found to be liable for such practices in such proceedings.
16. In accordance with Texas Government Code §2155.4441, Respondent agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.
17. Pursuant to Texas Government Code §2272.003, Respondent certifies that either (i) it meets an exemption criterion under Texas Government Code §2272.003; or (ii) it is not an abortion provider or an affiliate of an abortion provider during the term of the Contract resulting from this solicitation.

RESPONDENT'S STATEMENTS AND COVENANTS

18. Pursuant to Texas Government Code §2270.002, Respondent certifies that either (i) it meets an exemption criterion under Texas Government Code §2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the Contract resulting from this solicitation. **Respondent shall state any facts that make it exempt from the boycott certification in its Proposal.**
19. Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Texas Government Code §2252.152.
20. Respondent certifies that it is not listed in the prohibited vendors list authorized by Executive Order 13224, "Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism", published by the United States Department of the Treasury, Office of Foreign Assets Control.
21. If Respondent is submitting a 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 Texas Administrative Code Chapter 328.
22. Respondent shall ensure that any Respondent employee or subcontractor employee who has access to a state computer system or database shall complete a cybersecurity training program certified under Texas Government Code §2054.519. 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.
23. 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 would or could impair Respondent's performance under any contract resulting from this RFP, relate to the solicited or similar goods or services, or otherwise be relevant to RRC's consideration of 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 RFP, 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 RFP.
24. Respondent represents and warrants that Respondent and each of Respondent's subcontractors have the requisite resources, qualifications, and independence to conduct the services free from outside direction, control, or influence, and subject only to the accomplishment of RRC's objectives.
25. Respondent represents and warrants that neither Respondent nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such 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.
26. Respondent has read and agrees to all terms and conditions of this RFP, unless Respondent specifically takes an exception and proposes an alternative provision in Respondent's Response (see RFP section 2.9.)
27. 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

RESPONDENT'S STATEMENTS AND COVENANTS

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.

Vendor 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. Vendor 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.

28. Respondent represents and warrants that if selected for award of a Contract arising from this RFP, 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 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".
29. Respondent certifies that for contracts for services Respondent shall utilize the [U.S. Department of Homeland Security's E-Verify system](#) during the term of the Contract to determine the eligibility of:
 - 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.

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

RESPONDENT'S STATEMENTS AND COVENANTS

32. Pursuant to 34 Texas Administrative Code §20.306, if applicable to the RFP, Respondent claims the preference(s) checked below:
- | | |
|--|--|
| <input type="checkbox"/> Supplies, materials, or equipment produced in TX or Offered by TX bidder or TX bidder that is owned by a service-disabled veteran | <input type="checkbox"/> Rubberized asphalt paving material |
| <input type="checkbox"/> Agricultural products produced or grown in TX | <input type="checkbox"/> Foods of Higher Nutritional Value |
| <input type="checkbox"/> Agricultural products and services Offered by TX bidders | <input type="checkbox"/> Recycled motor oil and lubricants |
| <input type="checkbox"/> USA produced supplies, materials, or equipment | <input type="checkbox"/> Products produced at facilities located on formerly contaminated property |
| <input type="checkbox"/> Products of persons with mental or physical disabilities | <input type="checkbox"/> Products and services from economically depressed or blighted areas |
| <input type="checkbox"/> Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel | <input type="checkbox"/> Contractors that meet or exceed air quality standards |
| | <input type="checkbox"/> Recycled or Reused Computer Equipment of Other |
33. Pursuant to Texas Government Code §§2155.004, 2155.006, 2155.0061, 2252.901 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.
34. Respondent represents and warrants Respondent currently is, and for the Contract term duration shall remain, in compliance with the requirements of 42 U.S.C. Ch. 126, §12101, et. seq., the Americans With Disabilities Act, and its implementing regulations, as each may be amended.
35. Respondent represents and warrants Respondent currently is, and for the Contract term duration shall remain, in compliance with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §§8101-8106.) and maintain a drug-free work environment. The final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget (2 C.F.R. Part 182) to implement the provisions of the Drug-Free Work Place Act of 1988 is fully incorporated by reference and shall constitute part of the Contract, and Vendor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.
36. Respondent agrees Respondent shall comply with all applicable provisions found within 41 CFR §60-1.4, related to Equal Employment Opportunity. Applicable provisions include, but are not limited to, the following: Vendor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, national origin, disability, or age. 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.
37. Respondent represents and warrants that all articles and services provided by Respondent and Respondent's subcontractors under the Contract shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15), state, local, and industry related statutes, rules, regulations, and codes.
38. Respondent represents and warrants that Respondent currently is, and for the Contract term duration shall remain, in compliance with all requirements of the Immigration and Nationality Act (8 U.S.C. §1101 et seq.) and all

RESPONDENT'S STATEMENTS AND COVENANTS

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.

39. Respondent certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the [State of Texas Debarred Vendor List](#) maintained by the Texas Comptroller of Public Accounts and the [System for Award Management \(SAM\)](#) maintained by the U. S. General Services Administration.
40. Respondent represents and warrants that all statements and information prepared and submitted in this document and 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, LAB MANAGER, QUALITY ASSURANCE OFFICER IN COMPANY AND YEARS EXPERIENCE:
 LABORATORY TESTING SERVICES**

NAME	TITLE	DEGREE	PHONE	NO. OF YEARS

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

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

Laboratory Testing Services _____%	Other Services _____%
------------------------------------	-----------------------

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	

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 EXPERIENCE RECORD:

PROVIDE THREE (3) SUCCESSFUL **NON-RRC** PROJECTS THAT ARE AT LEAST 50% COMPLETE (*50% COMPLETE PROJECTS WILL BE COUNTED TOWARDS SUCCESSFUL PROJECTS*) OR HAVE BEEN COMPLETED WITHIN THE LAST FIVE (5) YEARS MEASURED BACKWARDS FROM THE ISSUE DATE OF THIS RFP, AND THAT BEST DEMONSTRATE CURRENT QUALIFICATIONS RELATED TO THE WORK DESCRIBED WITHIN **RFP 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 Project is still in progress, provide percentage complete		If completed, date of completion		
If time extensions were added to the contract as a result of 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 RFP 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 Project is still in progress, provide percentage complete		If completed, date of completion		
If time extensions were added to the contract as a result of 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 RFP work.				

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 Project is still in progress, provide percentage complete		If completed, date of completion			
If time extensions were added to the contract as a result of 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 RFP 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.*

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 #: _____ Bid Open Date: _____

(mm/dd/yyyy)

Enter your company's name here: _____ Requisition #: _____

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		%	%	%
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 #: _____

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 #: _____
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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 A (Attachment A)

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Enter your company's name here: _____ Requisition #: _____

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

SECTION A-1: SUBCONTRACTING OPPORTUNITY

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

Item Number: _____ Description: _____

SECTION A-2: SUBCONTRACTOR SELECTION

List the subcontractor(s) you selected to perform the subcontracting opportunity you listed above in SECTION A-1. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscblsearch/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
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
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	- Yes - No		\$	%
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	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%

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

HSP Good Faith Effort - Method B (Attachment B)

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Enter your company's name here: _____	Requisition #: _____
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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?
			- Yes - No
			- Yes - No
			- Yes - 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?
		- Yes - No
		- Yes - No

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

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Enter your company's name here: _____ Requisition #: _____

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/tpasscmbsearch/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
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - 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: _____	
Point-of-Contact: _____	Phone #: _____
Requisition #: _____	Bid Open Date: _____ <small>(mm/dd/yyyy)</small>
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 _____ .	Date (mm/dd/yyyy)
<small>Central Time</small>	
<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:	- Not Applicable
4. Bonding/Insurance Requirements:	- Not Applicable
5. Location to review plans/specifications:	- Not Applicable

APPENDIX A:
HUB SUBCONTRACTING PLAN (HSP)
PRIME CONTRACTOR PROGRESS ASSESSMENT REPORT



HUB Subcontracting Plan (HSP)

Rev. 10/16

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: _____

Contracting Agency/University 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

When verifying subcontractors' HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized (HUB) Directory Search located at: <http://mycpa.cpa.state.tx.us/tpasscmlsearch/index.jsp> HUB status code "A" signifies that the company is a Texas certified HUB.

Subcontractor's Name	Texas certified HUB (Yes or No)	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>	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 (Agency Use Only)
			\$ -	\$ -	\$ -	
			\$ -	\$ -	\$ -	
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Signature: _____ Title: _____ Date: _____

RAILROAD COMMISSION OF TEXAS
SAMPLE CONTRACT No. 455-21-SAMPLE FOR
LAB TESTING 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 with the remediation of oil and gas waste, and RRC intends to purchase certain goods and/or have performed certain services, namely laboratory testing services; and

WHEREAS, in accordance with applicable provisions of Texas Government Code Chapters 2155 and 2156, RRC has selected Vendor to provide the desired laboratory testing services referenced within RRC’s Request For Proposal No. 455-21-1008 (“RFP No. 455-21-1008”), and Vendor has agreed to provide the desired laboratory testing services referenced within RFP No. 455-21-1008, subject to the terms and conditions hereinafter set forth

WHEREAS, all terms and conditions of RFP No. 455-21-1008, including but not limited to insurance, requirements and specifications within the Statement of Services, constitute part of this Contract No. **455-21-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), laboratory testing 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. 455-21-SAMPLE;
- b. Exhibit A, RFP No. 455-21-1008, including all associated attachments, appendices, exhibits, and addenda; and
- c. Exhibit B, Vendor’s Response, dated Month dd, yyyy (“Vendor’s Response”).

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

1.03. ORDER OF PRECEDENCE. For purposes of interpretation of the Contract and in the event of conflict within the Contract Documents, this **Contract No. 455-21-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. **455-21-SAMPLE**; then
- b. Exhibit A, RFP No. 455-21-1008, 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 to the Contract and shall continue for **NUMBER OF DAYS OR YEARS TO COMPLETE WORK** ("Original Term"), unless terminated earlier as provided in **RFP No. 455-21-1008**, Part III, and/or section 2.02. set forth below.

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

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

2.02. TERMINATION.

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

2.03. NO LIABILITY UPON TERMINATION. If this Contract is terminated for any reason, RRC and the State of Texas shall not be liable to Vendor for any damages, claims, losses, or any other amounts arising from or related to any such termination absent an award of damages pursuant to Texas Government Code Chapter 2260.

III. CONSIDERATION AND SERVICES.

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

3.02. SERVICES.

- a. Vendor shall provide the goods and services necessary and reasonably inferable to complete the work required by and described in **RFP No. 455-21-1008**.

- 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 **RFP No. 455-21-1008**. 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 (RFP No. 455-21-1008 *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, 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 **RFP No. 455-21-1008**.
- 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 RFP No. 455-21-1008.

IV. FUNDING.

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

V. VENDOR PERSONNEL.

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

VI. NOTICES.

6.01. LEGAL NOTICES.

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

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

For Vendor: Vendor Legal Name
Full mailing address

Attention: _____
Phone: _____
Email: _____

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

VII. MISCELLANEOUS PROVISIONS.

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

7.02. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this **Contract No. 455-21-SAMPLE** shall be construed as if such provision did not exist and the

non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

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

7.04. SOVEREIGN IMMUNITY. The Parties expressly agree that nothing contained in **RFP No. 455-21-1008** or this Contract is in any way intended to constitute a waiver by the State of Texas or RRC of any immunities from suit or from liability that the State of Texas or RRC may have by operation of law. Further, the Parties agree that nothing contained in RFP No. 455-21-1008 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. 455-21-SAMPLE** and all Contract Documents referenced in Section 1.01. herein constitute the entire agreement of the Parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless otherwise expressly authorized by the terms of this Contract, no modification, renewal, extension or amendment to this Contract shall be binding upon the Parties unless the same is in writing and signed by the respective Parties hereto.

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

RAILROAD COMMISSION OF TEXAS

VENDOR NAME

By: _____
Wei Wang,
Executive Director

By: _____
Printed Name:
Title:

Date of Execution: _____

Date of Execution: _____

RRC use only below this line.

Div. Director: _____

CM Director: _____

OGC: _____

PERFORMANCE EVALUATION STANDARDS

In accordance with Texas Government Code Chapter 2261, RRC has determined any Contract resulting from this RFP 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 RFP.

- **Services Performed:** this standard is defined as the Vendors' daily execution of Laboratory Testing 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 Laboratory Testing Services are performed as specified within the applicable Work Order.
- **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

