
**GLENN HEGAR
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS**



**Request for Proposals (RFP No. 212o)
for
Building Energy Code Training and Outreach Services
for the
State Energy Conservation Office**

Anticipated Schedule of Events

RFP Issuance:

Written Questions Due:

Response to Questions Post:

Proposals Due:

Contract Execution:

Commencement of Services:

Date

August 7, 2015

August 14, 2015

August 21, 2015

September 3, 2015

September 23, 2015

September 23, 2015

TABLE OF CONTENTS

PART I INTRODUCTION AND BACKGROUND	4
1.1 Introduction.....	4
1.2 Background.....	4
PART II SCOPE OF WORK	4
2.1 Overview.....	4
2.2 Classroom Training Sessions.....	4
2.3 Online Training Modules.....	7
2.4 Reporting.....	7
2.5 Term of Contract; Sample Contract.....	7
PART III GENERAL INFORMATION	8
3.1 Comptroller Rights.....	8
3.2 Respondent Obligations.....	8
3.3 Successful Respondent Obligations.....	8
3.4 Schedule of Events.....	8
3.5 Issuing Office.....	9
3.6 Submission of Questions.....	9
3.7 Deadline for Submission of Proposals; Delivery Instructions; Number of Copies Required.....	10
3.8 Confidential Information; Nondisclosure; Open Records.....	11
3.9 Media Releases.....	11
3.10 Respondent’s Understanding of the RFP.....	11
3.11 Non-exclusivity.....	12
3.12 Incorporation of Exhibits.....	12
PART IV PROPOSAL FORMAT	12
4.1 Introduction.....	12
4.2 General Organization of Proposal Contents.....	12
PART V PROPOSAL EVALUATION AND SELECTION	18
5.1 Evaluation Process.....	18
5.2 Selection Criteria.....	19
5.3 Respondent’s Past Performance.....	19
5.4 Protest Procedures.....	19
EXHIBIT A SAMPLE CONTRACT	20
I. Recitals.....	20
II. Authority.....	20
III. Services and Standards of Performance.....	20

IV. Personnel.....	21
V. Funding; Legislative Action	22
VI. Evaluation and Written Acceptance	22
VII. Payments.....	22
VIII. Term and Termination	23
IX. Confidentiality and Open Records	24
X. Insurance	25
XI. INDEMNIFICATION.....	25
XII. Dispute Resolution.....	26
XIII. Property Rights	26
XIV. Representations, Warranties, and General Provisions	27
XV. Merger; Severability	36
XVI. Signatories	36
ATTACHMENT A.....	37
ATTACHMENT B.....	38
ATTACHMENT C-1	39
ATTACHMENT C-2	41
ATTACHMENT D.....	43
ATTACHMENT E.....	44
ATTACHMENT F	47
ATTACHMENT G.....	48
ATTACHMENT H.....	50
ATTACHMENT I.....	53
ATTACHMENT J.....	54
ATTACHMENT K.....	55
ATTACHMENT L.....	56
ATTACHMENT M.....	57
EXHIBIT B EXECUTION OF PROPOSAL	58
EXHIBIT C HUB SUBCONTRACTING PLAN (HSP)	61
EXHIBIT D CRIMINAL CONVICTION CERTIFICATION	71
EXHIBIT E NONDISCLOSURE AGREEMENT	73
EXHIBIT F CONFLICT OF INTEREST STATEMENT	74

PART I INTRODUCTION AND BACKGROUND

1.1 Introduction

The Texas Comptroller of Public Accounts (“Comptroller”), on behalf of the State Energy Conservation Office (“SECO”), issues this Request for Proposals No. 212o (“RFP”) to solicit proposals from qualified firms and individuals to design, develop and implement classroom training sessions and interactive, online training courses regarding the 2015 International Energy Conservation Code (“IECC”) and the Energy Efficiency chapter of the 2015 International Residential Code (“IRC”) as published by the International Code Council (“ICC”).

All requisite services are referred to as “Services” in this RFP. Each individual or firm submitting a proposal in response to this RFP shall be referred to as a “Respondent.” The selected Respondent, if any, is hereinafter referred to as the “Successful Respondent.”

As a result of this RFP, Comptroller anticipates executing a contract with Successful Respondent to perform the Services as described in this RFP (the “Contract”).

1.2 Background

SECO administers and delivers a variety of energy efficiency programs which significantly impact energy costs and consumption in the institutional, industrial, transportation, and residential sectors. Specifically, these programs provide: (1) technical resources to assist in the utilization of energy more efficiently; (2) financial assistance for completion of energy retrofits; (3) educational materials to help make the public aware of the necessity for an energy efficient society; and (4) the study, development, and utilization of renewable or innovative energy resources and demonstration programs throughout the state.

The State Energy Program (“SEP”) is funded by the United States Department of Energy (“U.S. DOE”) and administered by SECO. As part of the SEP, SECO is seeking the Services to help train experienced industry professionals under new State energy codes which affect both commercial and residential developments.

Comptroller has established a preliminary total project budget of THREE HUNDRED AND FIFTEEN THOUSAND AND NO/100 DOLLARS (\$315,000.00) for the Services.

PART II SCOPE OF WORK

2.1 Overview

Successful Respondent will design, develop and implement the curriculum and presentation for classroom training sessions and interactive, online training courses regarding the IECC and the Energy Efficiency chapter of the 2015 IRC (collectively “the Codes”). The training sessions shall be designed to educate and train Texas builders, building officials, architects, and engineers who are knowledgeable of building designs and practices but who do not already have a thorough understanding of the updated IECC and IRC, respectively.

2.2 Classroom Training Sessions

- 2.2.1 Course Content. Successful Respondent will design two (2), three-hour long classroom training sessions: one (1) for the IECC and one (1) for the Energy Efficiency chapter of the IRC. Each classroom training session must include all of the following elements:

- Introduction of the basic concepts and principals of the Codes;
- Discussion of the major differences between the previous editions of the codes and the 2015 Codes;
- Discussion of the new Energy Rating Index component of the Codes; and
- An overview of the importance of compliance with the Codes.

2.2.2 Training Schedule Plan. Respondent shall provide a minimum of sixty (60) classroom training sessions in strategic locations in Texas. In its proposal, Respondent must submit a detailed Training Schedule Plan that includes:

- total number of classroom training sessions;
- estimated month of classroom training session;
- class topic for each classroom training session;
- location of each session, including city and site location; and
- estimated projected attendance for each classroom training session.

2.2.2.1 Respondent’s proposal must include an initial classroom training session schedule, following the layout of the SAMPLE CHART below:

	Estimated Month	Class Topic	City	Site Location	Estimated Attendance
1	November	2015 IRC	Dallas	Center for Architecture	15
2	November	2015 IECC	Dallas	Center for Architecture	15
3	November	2015 IRC	San Antonio	HBA	12
4	November	2015 IECC	San Antonio	HBA	12
5	November	2015 IRC	Amarillo	Civic Center	10
6	November	2015 IECC	Amarillo	Civic Center	10

2.2.2.2 Following award and execution of the Contract, each month Successful Respondent shall provide a finalized Training Schedule for SECO’s review and approval. Upon SECO’s approval of the first submitted finalized Training Schedule, classroom training sessions will begin within a maximum of sixty (60) days from the start of the Contract.

2.2.2.3 Successful Respondent shall complete, at a minimum, fifty percent (50%) of the classroom training sessions by April 30, 2016, and one hundred percent (100%) of the classroom training sessions by August 31, 2016.

2.2.3 Meeting Site, Equipment, and Training Materials. Successful Respondent will be responsible for all logistics of implementing and administering the classroom training sessions, including selecting and securing the meeting site(s) for classroom training sessions, class room set-up, and the provision of required audio-visual equipment and all needed training materials.

2.2.3.1 All costs associated with administering and implementing the classroom training sessions, including but not limited to, the cost of securing a meeting site or facility, the cost of any audio visual equipment, the cost of creating training materials, the cost of providing a trainer or instructor and the cost of printing and transporting any training materials shall be included and incorporated into Respondent’s proposal and must be included in the total program cost submitted on the price sheet located in Attachment B to Exhibit A (Authorized Personnel and Price Sheet) of this RFP.

- 2.2.3.2 Successful Respondent shall design, develop, and provide the training materials for the classroom training sessions. A hard copy and electronic copy of the training materials shall be submitted to SECO for SECO's review and approval at least three (3) weeks prior to the start of the first sessions. Successful Respondent shall provide each attendee to each classroom training session with a copy of the training materials.
- 2.2.4 Registration, Attendance, and Evaluation. Successful Respondent will be responsible for all contact with classroom training session registrants and shall use an online registration. Successful Respondent must have a minimum of ten (10) people registered per classroom training session twenty four (24) hours prior to the start of each respective session.
- 2.2.4.1 Attendance Sheet. Successful Respondent will compile an Attendance Sheet for each classroom training session held, which Attendance Sheet must include each attendee's name, email and profession.
- 2.2.4.2 Minimum Registration. Successful Respondent must provide notice to SECO of any scheduled classroom training session that has less than ten (10) people registered twenty four (24) hours prior to the scheduled start of the session. SECO may require Successful Respondent to cancel any such scheduled classroom training session and reschedule. Any such scheduled classroom training session which is cancelled for this reason will not count towards the minimum number of classroom training sessions required to be conducted under the Contract.
- 2.2.4.3 Minimum Attendance. Classroom training sessions with less than six (6) people actually in attendance will not count toward minimum number of classroom training sessions required to be conducted under the Contract, unless approved by SECO.
- 2.2.4.4 Evaluation. Respondent shall develop and provide a sample evaluation form for attendees to complete at the end of each classroom training session. Successful Respondent shall have all attendees complete the evaluation forms and submit completed forms to SECO with each Monthly Report. Successful Respondent must achieve an overall rating of above average from at least 80 percent of the respondents.
- 2.2.5 Trainer. Successful Respondent shall identify and designate an ICC certified trainer or trainer(s) with the requisite experience and qualifications, clear communication skills and commitment of time necessary to fulfill the number of classroom training sessions set forth in the Training Schedule Plan as required under Part II, Section 2.2.2 of this RFP.
- 2.2.5.1 The certified trainer(s) shall have a minimum of two (2) years of experience providing residential and/or commercial energy code training.
- 2.2.5.2 In its proposal, Respondent must provide a resume detailing any identified trainer's experience, references, and a sample video of the trainer's work as an instructor. The sample video should be no longer than one (1) hour long; if a video longer than one (1) hour is provided, only the first hour will be considered as part of the evaluation. The sample video must be submitted on CD or DVD and videos submitted by web-link, URL, flash "drive" or other portable storage device will not be accepted. Comptroller will not contact Respondent in the event that a damaged or incomplete sample training video is submitted in the proposal. Consequently, Respondent's failure to provide all or part of the requested sample training video in its proposal may be reflected as a score of "0" for the applicable evaluation criterion.

2.2.5.3 Successful Respondent must provide for an alternative plan to fulfill the duties required by this RFP in the event that the trainer(s) designated and identified by Successful Respondent in its response are unable to perform the duties required by this RFP.

2.2.6 Professional Accreditation. Successful Respondent shall be accredited to award continuing education credit for building industry professionals.

2.2.7 Marketing and Promotion. It is crucial to the success of the program that building industry professionals are made aware of the classroom training sessions. Successful Respondent shall be responsible for creating a general awareness about the classroom training sessions among building industry professionals. This includes, but is not limited to, contacting the local building association(s), the local chapter(s) of the American Institute of Architects, and the local chapter(s) of the Building Officials Association of Texas and other similar local and state professional groups, associations, and organizations. Successful Respondent will leverage strategic partners to increase awareness of and attendance at classroom training sessions. In its proposal, Respondent must submit a Marketing and Promotion Plan detailing how it will create awareness among key partners for promoting classroom training sessions, all forms of media relating to the advertising of training, and a brief plan for each location and the costs associated. Successful Respondent shall, prior to each classroom training session, send SECO documentation of marketing efforts undertaken for each classroom training session.

2.3 Online Training Modules

Successful Respondent shall create two (2) online, interactive web-based training modules (“Online Training Modules”): one (1) for each of the IECC and IRC, respectively. The Online Training Modules shall include both an on-screen lecture delivered by a certified trainer and the integration of the graphics and slides used in the live classroom training sessions. The Online Training Modules shall be made available online for a minimum of three (3) years from the time of initial posting.

In its proposal, Respondent must identify the producer and web host for the Online Training Modules and provide a minimum of two (2) samples of prior experience in creating, maintaining and hosting of similar online training modules.

2.4 Reporting

Successful Respondent shall communicate with the SECO Project Manager and report all relevant information including the date and location of classroom training sessions, attendance, and local point of contact on a monthly basis. Copies of completed evaluation forms should also be submitted on a monthly basis along with an Attendance Sheet that includes attendee’s name, email and profession for each classroom training session. Successful Respondent shall provide SECO with a written report each month no later than the 10th day of the following month.

2.5 Term of Contract; Sample Contract

If a Contract is awarded, the initial term of the Contract shall begin September 23, 2015, or as soon thereafter as practical, and terminate August 31, 2016.

A Contract awarded under this RFP, if any, shall be based on the Sample Contract included as Exhibit A of this RFP and shall incorporate this entire RFP. The Sample Contract includes boilerplate provisions, and Comptroller reserves the right, in its sole discretion, to make a contract award without negotiation of these provisions. In the event Comptroller requires negotiations with Respondents, any modifications or clarifications agreed to with Successful Respondent during contract negotiations shall also be incorporated into the final executed Contract. Each Respondent must review these terms and conditions in Exhibit A and otherwise in this RFP and address any concerns or issues in its transmittal letter. Terms and conditions not specifically objected to in the transmittal letter will be deemed to be accepted by Respondent. Comptroller has final approval of any contract awarded as a result of this RFP.

Comptroller reserves the right, in its sole discretion, to modify the terms and conditions of the Sample Contract in the best interests of the State prior to signature by the parties. Notwithstanding any exceptions or any other provision of Respondent's proposal to the contrary, Successful Respondent shall indemnify Comptroller and the State of Texas, as specified in the Sample Contract. The State of Texas, Comptroller, and their respective employees, officers, agents, and representatives will not indemnify Successful Respondent for any amount for any purpose, and any provisions to the contrary are void.

PART III GENERAL INFORMATION

3.1 Comptroller Rights

In the best interest of Comptroller and the State, Comptroller, in its sole discretion, may amend or modify any provisions of this RFP or withdraw this RFP at any time prior to award of a Contract. Comptroller reserves the right, in its sole discretion, to reject any or all submitted proposals or to select one or more qualified Respondents to this RFP without discussion of proposals with the respective Respondents.

The decision of Comptroller, or its designee with regard to the above, shall be administratively final. Comptroller, in its sole discretion, may waive administrative deficiencies and/or minor technicalities in proposals received. All proposals shall become a part of Comptroller's official procurement files and may be available for public inspection upon execution of a Contract, if any.

3.2 Respondent Obligations

Respondents to this RFP are responsible for any expense related to the preparation and submission of a proposal. Comptroller shall not pay for any cost that is incurred by Successful Respondent prior to the effective date of the Contract. Qualified firms with the requisite experience are invited to submit proposals in accordance with this RFP. Proposals must address all specifications.

3.3 Successful Respondent Obligations

Comptroller shall look solely to Successful Respondent for performance of the Contract. Successful Respondent shall provide the requested Services under the direction of Comptroller. Successful Respondent shall be the sole point of Contract responsibility. Successful Respondent shall be liable, both individually and severally, for the performance of all obligations under the awarded Contract and shall not be relieved of the non-performance of any subcontractor.

3.4 Schedule of Events

The times stated in this document refer to Central Time ("CT"), Austin, Texas, where appropriate. Comptroller's regular office hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, except national and official State of Texas holidays. All deadlines are subject to change at Comptroller's sole discretion.

Comptroller anticipates that the selection of Successful Respondent and execution of the Contract, if any, will proceed according to the following approximate schedule:

August 7, 2015	— Issuance of RFP (after 10:00 a.m. CT)
August 14, 2015	— Deadline for Submission of Questions (2:00 p.m. CT)
August 21, 2015	— Electronic Posting of Official Responses to Questions (or as soon thereafter as practical)
September 3, 2015	— Deadline for Submission of Proposals (2:00 p.m. CT) (Late proposals will not be considered)
September 23, 2015	— Contract Execution (or as soon thereafter as practical)
September 23, 2015	— Commencement of Services (or as soon thereafter as practical)

Notices of changes to items directly impacting the original RFP or proposal process will be posted on the *Electronic State Business Daily* (“ESBD”) located at: <http://esbd.cpa.state.tx.us>. Any amendment to this solicitation will be posted as an addendum on the ESBD. It is the responsibility of interested parties to periodically check the ESBD for updates to the procurement prior to submitting a proposal. Respondent’s failure to periodically check the ESBD for updates will in no way release Successful Respondent from compliance with any requirements in the “addenda or additional information,” even if such compliance results in additional costs to meet the requirements.

3.5 Issuing Office

Comptroller, through its Contracts Section, is the Issuing Office and the sole point of contact for this RFP. The Contracts Section is the only office authorized to clarify, modify, amend, alter, or withdraw the specifications, terms, and conditions of this RFP and any contract awarded as a result of this RFP. Upon issuance of this RFP, other employees of Comptroller shall not answer questions or otherwise discuss the contents of this RFP with any Respondents or their representatives. Failure to observe this restriction may result in disqualification of any pending or subsequent proposal. This restriction does not preclude discussions unrelated to this RFP. **Except as otherwise indicated, all communications concerning this procurement must be in writing and addressed to the Issuing Office as follows:**

Joseph Madden
Assistant General Counsel, Contracts
Texas Comptroller of Public Accounts
LBJ State Office Building
111 East 17th Street, Room 201
Austin, Texas 78774
Fax: 512-463-3669
E-mail: contracts@cpa.texas.gov

Proposals sent via U.S. Postal Service (“USPS”) must be sent to Joseph Madden at P. O. Box 13528, Austin, Texas, 78711-3528, rather than the street address for hand or overnight delivery above.

3.6 Submission of Questions

Respondents may submit questions to the Issuing Office no later than 2:00 p.m. by the deadline set forth in the Schedule of Events. Questions concerning this RFP must be in writing and addressed to the Issuing Office. Respondents are encouraged to email questions to the Issuing Office to ensure timely receipt. On or about the date set forth in the Schedule of Events, Comptroller expects to electronically post answers to the written questions on the ESBD located at: <http://esbd.cpa.state.tx.us>.

3.7 Deadline for Submission of Proposals; Delivery Instructions; Number of Copies Required

One (1) original and four (4) copies of each sealed proposal must be submitted to and received in the Issuing Office no later than 2:00 p.m. on September 3, 2015. Late proposals will not be considered under any circumstances. The boxes must be sealed and labeled with “RFP No. 212o Building Energy Code Training and Outreach Services for the State Energy Conservation Office” and the name and address of Respondent.

Respondents are solely responsible for verifying Comptroller’s receipt of all proposals by the deadline specified above. Comptroller shall not be liable or responsible for any costs whatsoever incurred in submission of a proposal in response to this RFP. Faxed and emailed proposals are not acceptable and will not be considered.

Comptroller prefers hand or overnight delivery of the sealed proposals to the Issuing Office. Delivery persons must allow time to process through Comptroller Security Desk on the ground floor of the LBJ Building before being granted access to the Issuing Office. Delivery persons must carry and present a valid and current photo identification card to the Security Desk in order to receive an escort to the Issuing Office. If, after delivery the sealed box or boxes are opened by Comptroller and the proposal is determined to be non-compliant, the proposal will be disqualified and the box or boxes returned to Respondent at Respondent’s sole cost and expense.

If sending a proposal by regular mail, certified mail, or express mail, it is incumbent upon Respondent to allow for sufficient time to permit timely delivery by the USPS and by mail services internal to Comptroller. A USPS postmark or round validation stamp, a mail receipt with the date of mailing stamped by the USPS, a dated shipping label, invoice, or receipt from a commercial carrier, or any other documentation in lieu of the Issuing Office on-site time stamp WILL NOT be accepted. For purposes of meeting the 2:00 p.m. delivery deadline, the Issuing Office’s date and time stamp machine will be considered conclusive in all respects.

At the time of submission of the hard copies by the deadline for proposals, Respondent must also deliver to Comptroller four (4) electronic copies of its complete proposal as follows:

- Two (2) CDs, each CD containing a complete copy of Respondent’s proposal in *searchable* pdf format. A complete copy of the proposal includes all documents contained in the proposal submitted in response to this RFP, including those documents with Respondent’s signature. The CDs should be titled: “Complete copy of [Name of Respondent]’s Proposal. Comptroller’s RFP No. 212o.”
- Two (2) CDs, each CD containing a copy of Respondent’s proposal, in *searchable* pdf format, which has excised, blacked out, or otherwise redacted information from its proposal that Respondent reasonably considers to be confidential and exempt from public disclosure under the Texas Public Information Act, Chapter 552 of the Texas Government Code (this should be a *de minimis* portion, if any, of Respondent’s proposal, such as social security numbers or email addresses). The CDs shall also contain an appendix for Respondent’s proposal which provides a cross reference for the location of each piece of material redacted by Respondent and a general description of the redacted information. The CDs should be titled “For Public Release: Redacted Version of [Name of Respondent]’s Proposal and Exhibits. Comptroller’s RFP No.212o.”

Under Section 322.020 of the Texas Government Code, the Legislative Budget Board (“LBB”) has implemented a database of state agency contracts. See the LBB website at www.lbb.state.tx.us. Comptroller shall upload to the LBB’s contract database the text of the complete Contract, including Successful Respondent’s proposal (with limited redaction and appendix) no later than ten (10) days after date of Contract award. In submitting a proposal in response to this RFP, Respondent acknowledges that it understands and accepts this requirement.

3.8 Confidential Information; Nondisclosure; Open Records

All information gathered, produced, derived, obtained, analyzed, controlled or accessed by Respondent in connection with a contract resulting from this RFP (“Confidential Information”), shall be and remain Confidential Information and shall not be released or disclosed by Respondent without the prior written consent of Comptroller, which consent must specifically identify the Confidential Information to be disclosed by Respondent and the nature of the disclosure for which consent is sought. Respondent must execute and return with its proposal a Nondisclosure Agreement with Comptroller in the form of Exhibit E attached hereto.

Following the award of a Contract, responses to this RFP are subject to release as public information unless the response or specific parts of the response can be shown to be exempt from the Texas Public Information Act. All Respondents are advised to consult with their legal counsel regarding disclosure issues and take the appropriate precautions to safeguard trade secrets or any other proprietary information. Comptroller assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by Respondents.

If a Respondent believes that any portion of a proposal is confidential, then Respondent must so specify. Respondent must stamp in bold red letters the term “CONFIDENTIAL” on that specific part or page of the proposal which Respondent believes to be confidential. Respondent must submit in writing specific detailed reasons, including any relevant legal authority, stating why Respondent believes the material to be confidential. Vague and general claims as to confidentiality will not be accepted. Comptroller will be the sole judge as to whether a claim is general and/or vague in nature. All proposals and parts of proposals which are not marked as confidential will be automatically considered public information after the contract is awarded. A response resulting in an award may be considered public information even though parts are marked confidential.

In the event Comptroller receives a request for portions of a proposal marked as “CONFIDENTIAL” as specified above, Comptroller shall forward such request to the office of the Texas Attorney General for an opinion on whether such information may be withheld from disclosure under the Texas Public Information Act. Comptroller will notify Respondent whose proposal is the subject of the request when the information is forwarded to the office of the Attorney General. Comptroller assumes no obligation for asserting legal arguments on behalf of Respondent. Respondents are advised that Comptroller is obligated to comply with the decision of the Attorney General, including any such decision calling for the release of information marked “CONFIDENTIAL” by a Respondent.

Copyrighted proposals are unacceptable and are subject to disqualification as non-responsive.

3.9 Media Releases

Comptroller does not endorse any vendor, commodity, or service. Media releases pertaining to this RFP, the Contract, if any, or the Services to which they relate shall not be made without the prior written consent of Comptroller and then only in accordance with explicit written instructions from Comptroller. The disclosure of the contents of proposals prior to the award of the Contract, if any, or any other violation of this section, may result in disqualification.

3.10 Respondent’s Understanding of the RFP

By submitting a signed proposal, a Respondent represents that it fully understands this RFP and shall abide by its terms and conditions. No exceptions, amendments, or deviations from this RFP shall be allowed in any proposals unless an addendum to the RFP is posted to the ESBD prior to the date that responses are due. Unauthorized exceptions, amendments, or deviations in the response may result in disqualification of the proposal.

3.11 Non-exclusivity

This RFP is not exclusive, and Comptroller reserves the right to issue additional solicitations regarding the Services described in this RFP or similar services at any time.

3.12 Incorporation of Exhibits

Exhibits A, B, C, D, E, and F are attached hereto and incorporated as part of this RFP for all purposes.

PART IV PROPOSAL FORMAT

4.1 Introduction

Each original proposal and copy shall contain a cover sheet with the following: “RFP No. 212o for Building Energy Code Training and Outreach Services for the State Energy Conservation Office” and the name and address of Respondent. Proposal pages must be numbered. Each document included in the original proposal and each copy shall be separated from the other documents by a tab sheet. Respondent shall ensure its proposal, and copies are bound to avoid separation of documentation in each original proposal and each copy.

Proposals must be organized as described in Section 4.2. Proposals not organized in this manner may be subject to disqualification. Conciseness and clarity of content are required; vague and general proposals may be considered non-responsive and may result in disqualification. Proposals must be complete; failure to provide all required information may result in the disqualification of the proposal.

ALL EXHIBITS TO THIS RFP ARE PREPARED EXCLUSIVELY FOR RFP NO. 212o. RESPONDENT’S SUBMISSION OF OTHER EXHIBITS OR DOCUMENTS, INCLUDING PRIOR RFP EXHIBITS, MAY RESULT IN DISQUALIFICATION OF THE PROPOSAL.

4.2 General Organization of Proposal Contents

Proposals must be organized as follows:

- (1) Transmittal Letter;
- (2) Executive Summary;
- (3) Table of Contents;
- (4) Respondent Identifying Information;
- (5) Proposed Subcontractor(s) Identifying Information;
- (6) Respondent Qualifications and Experience;
- (7) Proposed Personnel;
- (8) Respondent Narrative;
- (9) Cost Proposal;
- (10) Insurance;
- (11) Financial Statements;
- (12) Execution of Proposal;
- (13) Historically Underutilized Businesses Subcontracting Plan;
- (14) Criminal Conviction Certification;
- (15) Nondisclosure Agreement; and
- (16) Conflict of Interest Statement

A description of the information required for each of the items listed above is set forth below.

4.2.a Transmittal Letter

Respondent must submit a transmittal letter that identifies the entity submitting the proposal and includes a commitment by that entity to provide the Services required by Comptroller. **The transmittal letter must state that the proposal is valid for one hundred twenty (120) days from the deadline for delivery of proposals to Comptroller. Any proposal containing a term of less than one hundred twenty (120) days for acceptance from this deadline will be rejected as non-responsive.**

The transmittal letter must be signed by a person legally authorized to bind Respondent. Respondent also must indicate in its transmittal letter why it believes it is the most qualified to provide the requisite Services and why it believes its proposed services best meet Comptroller's objectives and RFP requirements.

The transmittal letter must include a statement of acceptance of the terms and conditions of the contract as set forth in the Sample Contract located in Exhibit A to the RFP. If a Respondent takes exception to any of the proposed terms and conditions stated in the Sample Contract or this RFP, then the exception(s) must be specifically and clearly identified in the transmittal letter and an explanation of the requested change along with the proposed alternative language must also be included in the transmittal letter. However, failure to accept those terms and conditions may result in disqualification of the proposal.

4.2.b Executive Summary

Respondent must provide an executive summary of its proposal and a representation that the proposal addresses all of the requirements of this RFP. The executive summary must not exceed three (3) pages, and must represent a full and concise summary of the contents of the proposal. Respondent must identify any Services that are provided beyond those specifically requested. If Respondent is providing Services that do not meet the specific requirements of this RFP but in the opinion of Respondent are equivalent or superior to those specifically requested, any such differences must be noted in the executive summary. However, failure to provide the Services specifically required may result in disqualification of the proposal.

4.2.c Table of Contents

Each proposal must be submitted with a table of contents that clearly identifies and denotes by page number each section of the proposal and the location of all enclosures of the proposal. The table of contents must follow the RFP's structure as much as possible.

4.2.d Respondent Identifying Information

Respondent must provide the following identifying information:

- (1) name and address of business entity submitting the proposal;
- (2) names of all principals;
- (3) type of business entity (*e.g.*, corporation, partnership);
- (4) state of incorporation or organization and principal place of business;
- (5) name and location of Texas offices, other major offices, and other facilities that relate to Respondent's performance under this RFP;
- (6) name, address, business telephone number, cell phone number, email address, and fax number of Respondent's principal contact person regarding the Contract;
- (7) Respondent's Federal Employer Identification Number ("FEIN" or "EIN") and Texas Tax Identification/Registration Number, if any;
- (8) all affiliated companies and subsidiaries, or any joint ventures or other affiliations; and
- (9) full name and address for each member, partner, and employee of Respondent (and any subcontractors) who will perform Services.

4.2.e Proposed Subcontractor(s) Identifying Information

The proposal must identify any subcontractors and outline the contractual relationship between Respondent and each proposed subcontractor. Respondent must provide statements for each of its proposed subcontractors signed by an individual authorized to legally obligate each subcontractor and attesting to the fact that it will provide the Services as represented in Respondent's proposal. Proposed subcontractors may be required to submit ownership information similar to that required of Respondents in Section 4.2.d, above. Respondent must disclose, at Comptroller's request, any information regarding proposed subcontractors.

4.2.f Respondent Qualifications and Experience

(1) Experience

Respondent must include a detailed overview of Respondent's experience providing the requisite services in its proposal. Respondent must demonstrate its knowledge of and experience with activities relevant to the services requested by this RFP. Respondent must provide a detailed profile that describes the following.

- (a) the size and scope of all operations, including number of Respondent's employees and years in business generally and in performing these or similar services specifically;
- (b) the general nature of previous similar work performed by Respondent, particularly work in the last three (3) years;
- (c) Respondent's depth and length of experience with state agencies or other governmental entities;
- (d) for each proposed subcontractor:
 - i) the size and scope of all operations, including number of employees and years in business;
 - ii) the general nature of previous similar work performed, particularly work in the last three (3) years;
 - iii) depth and length of experience with state agencies; and
- (e) any other information Respondent believes is pertinent to this RFP.

(2) Cancellations or Terminations

Respondent must list **all** contracts or purchase orders that Respondent executed or accepted within the last three (3) years and which were canceled or terminated prior to completion by any state agency or other entity with which Respondent contracted. For each such contract or purchase order, Respondent must include a detailed explanation for the cancellation or termination and final resolution of the matter as well as the names and telephone numbers of each such agency's or firm's contact person. If none, specify none.

(3) References

In its proposal, Respondent must include a list of at least three (3) clients, other than Comptroller, for which Respondent has provided services during the last three (3) years on projects of a similar nature as those requested by this RFP that typify Respondent's qualifications. For each project, Respondent should include the following information:

- (a) client name;
- (b) client contact person, address, and telephone number;
- (c) complete description of the work performed and deliverables provided;
- (d) description of efforts to minimize the utilization of governmental entity staff and resources; and
- (e) accurate description of the cost of the work performed (if for a public entity), including whether payment was fixed-fee, hourly fee, or some other method of compensation.

Comptroller is not obligated to contact Respondent in the event incomplete reference information is submitted in the proposal. Consequently, Respondent's failure to provide all or part of the requested reference information in its proposal may be reflected as a score of "0" for the applicable evaluation criterion.

4.2.g Proposed Personnel

In addition to providing the information and sample video required to be submitted regarding Respondent's designated Trainer under Section 2.2.5 above, the proposal must identify all key personnel who are to be part of the proposed team and detail their experience. Respondent must include in the proposal résumés of all management, supervisory, and key personnel that will be involved in performing the Services and must provide for each person:

- (1) a full name, including full middle name;
- (2) a five (5) year employment history;
- (3) a specific description of relevant experience and skills that person has with this type of services that must include at least three (3) years of experience performing work similar to the required Services (limit to one page);
- (4) a specific indication of what role the individual will have in this project, and
- (5) any additional pertinent information to indicate the individual's ability to aid Respondent in successfully completing the required Services (limit to one page).

In addition, Respondent must provide an organizational chart indicating lines of authority, names, titles, and functions of individuals responsible for the Services.

Résumés must present the required personnel information in sufficient detail to provide Comptroller with a convincing indication that the personnel involved can successfully provide the required Services. The key personnel, as identified in the proposal, are considered to be essential to the Services. Comptroller reserves the right, in its sole discretion, to approve each member of the team and to request substitutions. All replacements of personnel must be of equal or superior experience or skill as the person replaced.

4.2.h Respondent Narrative

In its proposal, Respondent must submit a narrative explanation of how the offered services will meet the requirements of this RFP.

In its proposal, Respondent must also provide a Work Plan which incorporates the preliminary Training Schedule Plan, Marketing and Promotion Plan, and information regarding Online Training Modules as set forth in Section 2.2. Respondent's narrative must include a table of contents and: (1) address how services will be performed by Respondent; and (2) provide a detailed description, including a timeline for completion, of how the requirements of Section 2.2 will be met within the timelines set forth in this RFP. Roles and responsibilities of Comptroller, beyond those stated in the RFP, shall be clearly described by the Respondent.

In its narrative, Respondent may also concisely describe any additional features, aspects, or advantages of its services in any relevant area not covered elsewhere in its proposal.

4.2.i Cost Proposal

Comptroller is soliciting proposals to procure the Services for a firm fixed price. Respondents are encouraged to offer their best pricing at all times. Respondent must include all costs of providing all of the services requested by this RFP on a price sheet similar in format to the price sheet located in Exhibit A, Attachment B (Authorized Personnel and Price Sheet). All costs and expenses associated with the Services defined by the RFP, including attendance at, and participation in, all meetings as requested by Comptroller, must be included on the proposed price

sheet. Variable costs such as travel-related expenses must not be added as line items on the price sheet. Comptroller reserves the right to negotiate budget and budgetary constraints at the time of contract award. Any Contract resulting from this RFP shall include a total not-to-exceed fee for all costs associated with providing the Services.

Comptroller has established a preliminary total project budget of THREE HUNDRED AND FIFTEEN THOUSAND AND NO/100 DOLLARS (\$315,000.00) for the Services.

4.2.j Insurance

In its proposal, Respondent must provide a statement of its intent to obtain and maintain for the term of the Contract the minimum insurance and bond coverage specified in the Sample Contract. Respondent should also describe other insurance coverage maintained by Respondent in the ordinary course of business and provide proof of same in its proposal. Proof of insurance and bond coverage may be provided in the form of current certificates of insurance.

4.2.k Financial Statements

In its proposal, Respondent and its parent company, if applicable, must provide evidence of financial stability by providing audited financial statements for each of the last two (2) years of Respondent's operations or, in the alternative, financial statements compiled, reviewed and attested by an independent certified public accountant or certified public accounting firm.

In lieu of providing audited financial statements in its Proposal, a Respondent may provide a statement regarding the Respondent's financial stability and viability to perform under any resulting contract. If Respondent elects this approach rather than audited financial statements, the Respondent must submit a statement, with appropriate supporting documentation sufficiently detailed to demonstrate financial solvency and to verify the capacity to fulfill the requirements of this RFP.

4.2.l Execution of Proposal

Exhibit B must be completed and signed by Respondent.

4.2.m Historically Underutilized Businesses Subcontracting Plan

The State of Texas and Comptroller are committed to assisting Historically Underutilized Businesses ("HUBs") through the procurement process. In accordance with Sections 2161.181 and 2161.182 of the Texas Government Code, each state agency shall make a good faith effort to increase the contract awards for the purchase of goods or services to HUBs based on rules adopted to implement the disparity study described by Section 2161.002(c) of the Texas Government Code. In accordance with Section 2161.252 of the Texas Government Code and 34 Texas Administrative Code §20.14, each state agency (including institutions of higher education) as defined by Section 2151.002 of the Texas Government Code 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. If subcontracting opportunities are probable, each state agency's invitation for bids or other purchase solicitation documents for construction, professional services, other services, and commodities with an expected value of \$100,000 or more shall state that probability and require a HUB Subcontracting Plan ("HSP") and supporting documentation.

The HUB goals per 34 Texas Administrative Code §20.13 are: 11.2% for heavy construction other than building contracts; 21.1% for all building construction, including general contractors and operative builders contracts; 32.9% for all special trade construction contracts; 23.7% for professional services contracts; 26.0% for all other services contracts; and 21.1% for commodities contracts.

Comptroller has determined that this procurement falls under the following category:

Special Trade Construction ___ Professional Services ___ Other Services X Commodities ___

Comptroller has determined that HUB subcontracting opportunities are probable. Therefore, Comptroller identifies the list of HUB vendors located at: <http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/> as a list of vendors from the Centralized Master Bidders List (“CMBL”) that may perform the subcontract opportunities. The class and item codes for this RFP are as follows: Class 924, Item 05; Class 924, Item 16; Class 924, Item 18; Class 924, Item 41; Class 924, Item 60; Class 924, Item 64.

Respondent must carefully review, complete, and return all HUB forms as required in Exhibit C.

4.2.n Criminal Conviction Certification

Exhibit D must be completed and signed by Respondent.

4.2.o Nondisclosure Agreement

Exhibit E must be completed and signed by Respondent.

4.2.p Conflict of Interest Statement

The Conflict of Interest Statement must be prepared, signed by Respondent, and returned with the proposal as Exhibit F.

In its proposal, a Respondent must represent and warrant to Comptroller that it and each of its 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 Comptroller’s objectives. Respondents that cannot make this representation and warranty should not respond to this RFP.

Respondent must disclose any existing or potential conflicts of interest or possible issues that might create appearances of impropriety relative to the submission of a proposal from Respondent and its possible selection as Successful Respondent, or its performance or the performance of its proposed subcontractor(s) of the Contract.

As part of this disclosure requirement, each Respondent must include in its proposal all past and present contractual, business, financial or personal relationships between Respondent and Comptroller and between Respondent’s proposed subcontractors, if any, and Comptroller. For purposes of this disclosure requirement, (i) “past” is defined as within the two (2) calendar years prior to the deadline for submission of proposals in response to this RFP; (ii) “Comptroller” is defined as the statewide elected official who heads the agency as well as the agency’s employees or recent former employees; and (iii) “recent former employees” are defined as those Comptroller employees who have terminated agency employment within the two (2) calendar years prior to the deadline for submission of proposals in response to this RFP. For each item, Respondent must provide a detailed explanation of why Respondent does or does not believe such item poses a conflict of interest, potential conflict of interest, or appearance of impropriety issue relative to Respondent’s submission of a proposal, possible selection as Successful Respondent or its performance of the Contract.

For purposes of this RFP, “personal relationship” is defined as a current or past connection other than a clearly contractual, business, financial, or similar relationship and includes family relationships or other connections outside simply providing a response to this RFP. For this purpose, “family relationship” means a relationship within the third degree of consanguinity or second degree of affinity (see Chapter 573 of the Texas Government Code) which defines these degrees of consanguinity and affinity. Connections other than such family relationships fall within this definition and must be disclosed if a reasonable person could expect the connection to diminish Respondent’s independence of judgment or effectiveness in the performance of Respondent’s responsibilities to Comptroller or the

State under the Contract. Connections also fall within this definition if a reasonable person could expect the connection, within the overall context of Respondent's submission of a proposal, possible selection as Successful Respondent, or its performance of the Contract, to create an issue for the agency's consideration relative to a potential appearance of impropriety or conflict of interest. Connections also fall within this definition if the relationship is with Comptroller or other State of Texas employee with authority to make decisions or recommendations on state contracting or procurement or this RFP. For purposes of this provision, those persons with authority to make decisions or recommendations are those persons who fall within the definition of "purchasing personnel" in Section 2262.004(a)(2) of the Texas Government Code.

In submitting a proposal in response to this RFP, a Respondent affirms that it has not given, 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 or any employee or representative of same, in connection with this procurement.

Respondents must disclose any proposed personnel under the contract who are current or recent former employees of Comptroller or the State. Recent former employees are defined above.

Disclosures under these provisions are information that will be evaluated by Comptroller. However, all information provided will not necessarily lead to a restriction or disqualification. Issues will be considered on a case-by-case basis in the best interests of the State of Texas. If a Respondent is in doubt about whether information should be disclosed, Respondent should consult its legal counsel. Failure to disclose any required information under these provisions may be cause for proposal disqualification or termination of the contract under this RFP. Comptroller reserves the right, in its sole discretion, to determine if an issue should result in proposal disqualification or termination of the Contract. If circumstances change or additional information is obtained subsequent to submission of proposals, Respondent's duty to disclose under these provisions continues under the term of the Contract and does not end with submission of a proposal or receipt of Contract award.

PART V PROPOSAL EVALUATION AND SELECTION

5.1 Evaluation Process

Comptroller shall establish an Evaluation Committee. Copies of those proposals found to be responsive and to be in compliance with this RFP will be distributed to the members of the Evaluation Committee for their review and evaluation. Clarifications on issues raised in the proposals may be sought from individual Respondents. Best and Final Offers may be sought from Respondents whose proposals are ranked most highly by the Evaluation Committee.

Comptroller may request that top scoring Respondents present an overview of the proposed services. The number of top scoring Respondents selected to provide presentations will be determined by Comptroller in its sole discretion. Such Respondents will be notified, and presentation dates and times will be arranged. All presentations will be performed at Comptroller offices located at LBJ Building, 111 E. 17th Street, Austin, Texas.

Upon the selection of Successful Respondent, if any, Comptroller shall proceed with contract negotiations and attempt to finalize the contract with the apparent Successful Respondent. If a contract cannot be successfully negotiated within a reasonable period of time, negotiations will be terminated, and negotiations with the next highest-ranking Respondent may commence. The process may continue until a contract is signed or the RFP is withdrawn. However, Comptroller may at any time, upon failure of negotiations, choose to reissue or withdraw the RFP rather than continue with negotiations.

As soon as possible after the execution of a written contract with Successful Respondent, all other Respondents shall be provided with formal notification.

5.2 Selection Criteria

Only those proposals that meet the minimum qualifications shall be evaluated and scored. The evaluation criteria and relative weights for this RFP are set forth below:

Evaluation Criteria	Evaluation Weight
Training Schedule Plan including number of trainings	15%
Marketing and Promotion Plan	15%
Past Performance, Qualifications, Experience, Trainer References, Trainer Video	25%
Online Training based on prior experience and samples of work	15%
Cost	30%

5.3 Respondent's Past Performance

Comptroller may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Vendor Performance Tracking System as authorized by 34 Texas Administrative Code §20.108, Comptroller may examine other sources of vendor performance, including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of contracts. Such sources of vendor performance may include any governmental entity, whether an agency or political subdivision of the State of Texas, another state, or the Federal government. Further, Comptroller may initiate such examinations of vendor performance based upon media reports. Any such investigations shall be at the sole discretion of Comptroller, and any negative findings, as determined by Comptroller, may result in a non-award to Respondent. The Vendor Performance Tracking System information is located on Comptroller's website at: http://www.window.state.tx.us/procurement/prog/vendor_performance/.

5.4 Protest Procedures

Respondents must use the protest procedures adopted by Comptroller at 34 Texas Administrative Code §1.72 in the event of a protest.

EXHIBIT A
SAMPLE CONTRACT

EDUCATIONAL SERVICES AGREEMENT
BETWEEN
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS
AND
[CONTRACTOR]

This Educational Services Agreement (“Contract”) is entered into by and between the Texas Comptroller of Public Accounts (“Comptroller”), an agency of the State of Texas, and _____ (“Contractor”), located at _____.

I. Recitals

Whereas, on August 7, 2015, Comptroller issued a Request for Proposals No. 212o (“RFP”) from qualified firms and individuals to provide Building Energy Code Training and Outreach Services (“Educational Services”) for the State Energy Conservation Office (“SECO”) as set forth in the RFP and on or about August 21, 2015, issued its official responses to written questions (collectively “RFP”);

Whereas, Contractor submitted a proposal on or before September 3, 2015, in response to Comptroller’s RFP (“Proposal”);

Whereas, Contractor was selected as a Successful Respondent;

Whereas, under this Contract, Contractor shall fully comply with all terms, conditions, requirements and other provisions of this Contract, including those set forth in the Attachments attached hereto and incorporated herein for all purposes; and

Whereas, in consideration of Contractor’s compliance with all requirements of this Contract, Comptroller awards this Contract to the Contractor.

Now, therefore, the parties hereby agree as follows:

II. Authority

This Contract is entered into pursuant to Chapters 403, Section 403.11; Chapter 447, Section 447.006; Chapter 2305, Section 2305.038; and Chapter 2254, Subchapter A of the Texas Government Code.

III. Services and Standards of Performance

3.1 Services. Contractor shall provide to Comptroller all of the services and deliverables described in and in the manner required by this Contract all of the following documents (“Services”) as attached hereto and incorporated as part of this Contract for all purposes. All terms and conditions of Comptroller’s RFP shall apply.

- Attachment A: Statement of Services to be Performed;
- Attachment B: Authorized Personnel and Price Sheet;
- Attachment C-1: Assurance of Compliance, Nondiscrimination in State Assisted Programs;
- Attachment C-2: Assurance of Compliance, Nondiscrimination in State Assisted Programs;
- Attachment D: Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions;
- Attachment E: Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements;
- Attachment F: Disclosure of Lobbying Activities;

<u>Attachment G:</u>	Assurances – Non-Construction Programs;
<u>Attachment H:</u>	Intellectual Property Provisions;
<u>Attachment I:</u>	Subcontracting Provisions; Mandatory Flowdown Provision;
<u>Attachment J:</u>	Comptroller’s RFP;
<u>Attachment K:</u>	HUB Subcontracting Plan;
<u>Attachment L:</u>	Contractor’s Proposal; and
<u>Attachment M:</u>	Confidential Treatment of Information Acknowledgement

In the event of a conflict, the documents shall control in the following order of precedence:

1. This Contract, excluding Attachments;
2. Attachments A and B;
3. Attachments C-1 through H;
4. Attachment I;
5. Attachment J;
6. Attachment K;
7. Attachment L; and
8. Attachment M

Contractor’s performance under this Contract is limited to the requirements set forth in this Contract, including services reasonably related to satisfying those requirements.

Contractor represents and warrants that it has the requisite qualifications, experience, personnel, and other resources to provide all of the required Services to Comptroller in the manner required by this Contract. Comptroller shall look solely to Contractor for performance of this Contract. Contractor shall provide the services under the direction of Comptroller. Contractor shall be the sole point of Contract responsibility. Contractor shall be liable, both individually and severally, for the performance of all obligations under this Contract, and shall not be relieved of the non-performance of any subcontractor.

Contractor understands that this Contract is not exclusive and that Comptroller may issue additional solicitations and/or award additional contracts for these or other accounting services at any time.

3.2 Standards of Performance. This will include minimum Standards of Performance in the RFP and any additional Standards of Performance proposed by Contractor and agreed to by Comptroller and the following: (1) Contractor shall discharge all duties solely in the interest of Comptroller and with the judgment, care, skill, prudence and diligence that an expert would use in a similar situation; and (2) Contractor shall comply with all applicable state and federal laws, regulations, requirements and guidelines, relating to professional engineering services, as they exist at the inception of this Contract and as they may be amended or revised during the term of this Contract.

IV. Personnel

Contractor shall act as an independent contractor in providing services under this Contract. Contractor’s employees shall not be construed as employees of Comptroller in providing services under this Contract. Contractor shall assign to this Contract only those persons as employees who are approved by Comptroller’s Project Manager. Contractor shall assign only qualified personnel to this Contract. Comptroller reserves the right, in its sole discretion, to approve each of Contractor’s personnel and to request substitution. As of the date of Comptroller’s execution of this Contract, Comptroller’s Project Manager has authorized the personnel listed in Attachment B of this Contract to provide services under this Contract.

Contractor shall provide to Comptroller prior written notice of any proposed change in authorized personnel providing services under this Contract. In the event Contractor intends to add, replace, or substitute personnel during the term of the Contract, Contractor shall provide Comptroller resumes of the proposed personnel. All proposed substitutions and replacement personnel must have equal or superior experience or skill as the person replaced. Comptroller will provide Contractor with written notice of approval or rejection of proposed personnel within three (3) business days following receipt of the resume. No additions, substitutions, or replacements of authorized

personnel will be made without the prior written consent of Comptroller. Each of Contractor's personnel is subject to removal from the Contract by Comptroller.

Contractor represents and warrants that each of the authorized personnel listed in Attachment B of this Contract, and any substitute or replacement personnel assigned after the effective date of this Contract, have the necessary training, qualifications, education and experience to provide the services required under this Contract. Contractor represents and warrants that none of its employees, including, but not limited to, those authorized to provide services under this Contract, are present or former employees of Comptroller.

V. Funding; Legislative Action

Comptroller's performance of its obligations under this Contract is contingent upon and subject to the availability of and actual receipt by Comptroller of sufficient and adequate funds from the sources contemplated by this Contract. This Contract is subject to immediate cancellation or termination without penalty to Comptroller or the State of Texas, subject to the availability and receipt of these funds. In addition, Comptroller is a state agency whose authority and appropriations are subject to the actions of the Texas Legislature. If Comptroller becomes subject to a legislative change, revocation of statutory authority or lack of funds that would render the services to be provided under this Contract impossible or unnecessary, Comptroller may terminate this Contract without penalty to Comptroller or the State of Texas. In the event of a termination or cancellation under this Section, Comptroller shall not be required to give notice and shall not be liable for any damages or losses caused or associated with such termination or cancellation.

VI. Evaluation and Written Acceptance

Prior to authorizing any payment under Section VII of this Contract, Comptroller shall evaluate Contractor's performance against the Standards of Performance and with all other requirements of this Contract. Prior to authorizing any such payments, Comptroller shall evaluate and provide written notice of Comptroller's acceptance or rejection of Contractor's services.

VII. Payments

Contractor shall invoice Comptroller after Services have been performed and accepted by Comptroller in accordance with Section VI of this Contract. Comptroller shall not pay for any Services in advance. Contractor's invoice must include services provided by authorized personnel at rates not to exceed those specified in Attachment B.

The State shall pay Contractor for work actually authorized and accepted in writing by Comptroller as in compliance with this Contract. Upon receipt of Comptroller's written acceptance described above in Section VI of this Contract, Contractor shall be entitled to submit detailed invoices to support payment, complete with reasonable supporting documentation, within ten (10) calendar days after receipt of Comptroller's written acceptance. Comptroller shall not pay for any Services in advance. Contractor's invoice must include services provided by authorized personnel at rates not to exceed those specified in Attachment B.

In submitting an invoice to Comptroller, Contractor certifies to the following: that the invoice has been carefully reviewed for detailed description of the services performed; that the services have been performed in compliance with this Contract; that the amount of the invoice and all previous invoices together do not exceed the contractual cap of the Contract or Contractor's negotiated fees; that the charges and expenses shown on the invoices are reasonable and necessary; and that all appropriate and required supporting documentation is attached. Comptroller may, in its sole discretion, require additional documentation to support payment, and Contractor shall respond to any such requests within five (5) days of receipt.

Payment shall be made in accordance with Texas Prompt Payment Act, Chapter 2251 of the Texas Government Code. Comptroller shall not pay any amounts for any purpose to Contractor or any other entity, except as expressly provided for in this Contract. Comptroller reserves the right to make payments only upon receipt of a correct invoice, including all of the required supporting documentation. Comptroller also reserves the right to refuse payments for invoices that exceed the rates specified in this Contract.

VIII. Term and Termination

8.1 Term. This Contract shall become effective on the date signed by Comptroller, after having first been signed by the Contractor, and shall terminate on August 31, 2016, unless otherwise sooner terminated as provided in this Contract. Comptroller shall have the right, in its sole discretion, to renew this Contract for one (1) additional one-year period through August 31, 2017. Notwithstanding the termination or expiration of this Contract, the provisions of this Contract regarding confidentiality, indemnification, payments, records, and dispute resolution of the RFP shall survive the termination or expiration dates of this Contract.

8.2 Termination for Cause. Without limitation on the right of Comptroller to terminate this Contract pursuant to its terms, Comptroller reserves the right, in its sole discretion, to terminate this Contract, in whole or in part, upon any one of the following conditions, any of which constitute an “Event of Default”:

(i) A receiver, conservator, liquidator, or trustee of Contractor, or of any of its property is appointed by order or decree of any court or agency or supervisory authority having jurisdiction; or an order for relief is entered against Contractor, under Title 11 of the United States Code; or Contractor is adjudicated bankrupt or insolvent; or any portion of the property of Contractor is sequestered by court order and such order remains in effect for more than thirty (30) days after such party obtains knowledge thereof; or a petition is filed against Contractor under any state, reorganization, arrangement, insolvency, readjustment of debt, dissolution, liquidation, or receivership law of any jurisdiction, whether now or hereafter in effect, and such petition is not dismissed within thirty (30) days;

(ii) Contractor files a case under the Title 11 of the United States Code or is seeking relief under any provision of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution, receivership or liquidation law of any jurisdiction, whether now or hereafter in effect, or consents to the filing of any case or petition against it under any such law;

(iii) Contractor makes an assignment for the benefit of its creditors, or admits in writing its inability to pay its debts generally as they become due, or consents to the appointment of a receiver, trustee, or liquidator of Contractor or of all or any part of its property; of judgment for the payment of money in excess of \$50,000.00 (which is not covered by insurance) is rendered by any court or governmental body against Contractor, and Contractor does not discharge the same or provide for its discharge in accordance with its terms, or procure a stay of execution thereof within thirty (30) days from the date of entry thereof, and within said thirty (30) day period or such longer period during which execution of such judgment shall have been stayed, appeal therefrom and cause the execution thereof to be stayed during such appeal while providing such reserves therefor as may be required under generally accepted accounting principles; or a writ or warrant of attachment or any similar process shall be issued by any court against all or any material portion of the property of Contractor, and such writ or warrant of attachment or any similar process is not released or bonded within thirty (30) days after its entry;

(iv) A court of competent jurisdiction finds that Contractor has failed to adhere to any laws, ordinances, rules, regulations or orders of any public authority having jurisdiction;

(v) Contractor fails to communicate with Comptroller as required by the Contract;

(vi) Contractor breaches an industry standard of confidentiality related to the Contract;

(vii) Comptroller determines that Contractor or any of its subcontractors have an unacceptable conflict of interest and such conflict is not cured within ten (10) calendar days following notification thereof to Contractor;

(viii) Comptroller determines that Contractor has failed or refused to perform, is negligent in performing, or is unable to perform or it reasonably appears that Contractor will not perform any of the duties or obligations as provided under this Contract, or fails or refuses to perform consistent with the statements, promises and

commitments made by Contractor during the solicitation process, and has not cured such performance defect within thirty (30) days of receipt of written notice from Comptroller of such performance defect or the actual deadline for performing, whichever occurs last;

(ix) If Contractor fails to notify Comptroller in writing of a “material adverse change” experienced by Contractor or any subcontractor during the term of this Contract or any extension thereof at the time the change occurs or is identified. The term “material adverse change” shall mean: (i) any actual or anticipated change in control, ownership or executive management of Contractor or any subcontractors for which Comptroller has not provided advance written consent; (ii) any actual or anticipated legal or administrative investigations or proceedings initiated against Contractor or subcontractors regardless of the jurisdiction from which such proceedings originate; or (iii) any change or changes that individually or in the aggregate are materially adverse to (1) the net assets in an amount of fifteen percent (15%) or more, properties, business, security, results of operations or financial condition, taken as a whole, of Contractor or any subcontractor, (2) the ability of Contractor or subcontractors to perform its or their obligations under this Contract, or (3) the legality or enforceability against Contractor or subcontractors; or

(x) Contractor fails to comply with any of the Standards of Performance of the Contract.

8.3 Termination for Convenience. Comptroller reserves the right, in its sole discretion, to terminate the Contract on thirty (30) days written notice to Contractor. Comptroller also reserves the right, in its sole discretion, to terminate the Contract immediately, with written notice to Contractor, if it is in the best interests of Comptroller or the State of Texas to do so.

8.4 Termination Remedies. Upon an Event of Default, Comptroller, without limiting any other rights or remedies it may have by law, equity, or under this Contract, will have the right to institute an action for actual damages and/or injunctive relief and/or to terminate the Contract immediately. Comptroller’s termination of this Contract shall not limit or waive any remedies Comptroller may have for breach by Contractor of its past, present, or future duties and obligations created by this Contract or otherwise required by applicable law.

All remedies available to Comptroller for breach or anticipatory breach of this Contract by Contractor are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. Liquidated damages, actual damages, cost projections, injunction relief, and/or performance bonds may also be invoked either separately or combined with any other remedy in accordance with applicable law.

8.5 Transition. Upon termination of the Contract for any reason, Contractor shall, in good faith and with reasonable cooperation, aid in the transition to any new arrangement and provider. In accordance with Section 14.42 of this Contract, Contractor shall deliver to Comptroller all completed, or partially completed, work and any and all documentation or other products and results of these services.

8.6 No Liability Upon Termination. If this Contract is terminated for any reason, Comptroller and the State of Texas shall not be liable to Contractor for any damages, claims, losses, or any other amounts arising from or related to any such termination. In the event of termination of this Contract, Comptroller’s sole and maximum obligation shall be to authorize payment to Contractor for previously authorized services, performed in accordance with all requirements of this Contract, up to the termination date.

IX. Confidentiality and Open Records

Contractor shall comply with the provisions of the Nondisclosure Agreement, Exhibit E of the RFP at all times. Contractor shall take all necessary and appropriate action to safeguard all sensitive data and other confidential information from unauthorized disclosure. Whenever the transmission of confidential information is necessary, Contractor shall transmit the information electronically, and such electronic transmission shall be secure and the data encrypted, at a minimum, using 128 AES encryption to protect it from unauthorized disclosure.

Notwithstanding any provisions of this Contract to the contrary, Contractor understands that Comptroller will comply with the Texas Public Information Act as interpreted by judicial opinions and opinions of the Attorney General of the State of Texas. Within three (3) days of receipt, Contractor shall refer to Comptroller any third party requests received directly by Contractor for information to which Contractor has access as a result of or in the course of performance under this Contract. Contractor is required to make any information created or exchanged with Comptroller pursuant to this Contract, and not otherwise excepted from disclosure under this Contract or the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to Comptroller. In order to comply with such requirement, any information created or exchanged with Comptroller shall be in Word, Excel, or PDF format, as applicable.

X. Insurance

Contractor represents and warrants that it shall, within five (5) business days of executing this Contract, provide Comptroller with current written certificates of insurance or other acceptable proof of the following insurance coverages for Contractor and Contractor's employees:

- (i) Standard Workers Compensation Insurance covering all personnel who will provide services under this Contract;
- (ii) Commercial General Liability Insurance \$1,000,000 minimum each occurrence limit; \$2,000,000 minimum aggregate limit;
- (iii) Professional Liability Insurance: \$1,000,000 minimum each occurrence limit; \$2,000,000 minimum aggregate limit; and
- (iv) Commercial Automobile Insurance: \$300,000 minimum Liability; \$5,000 minimum Cargo.

Contractor represents and warrants that all of the above coverages are with companies licensed in the State of Texas with "A" rating from A.M. Best Company and authorized to provide the corresponding coverages. Contractor also represents and warrants that all policies contain endorsements prohibiting cancellation except upon at least thirty (30) days written notice to Comptroller. Contractor represents and warrants that it shall maintain all of the above insurance coverages during the entire term of this Contract. Contractor shall provide proof of required insurance coverage via email referencing the RFP number submitted to the following address: contract.administration@cpa.texas.gov.

XI. INDEMNIFICATION

CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS AND COMPTROLLER, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, 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 THE CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THIS CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THIS CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND COMPTROLLER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

XII. Dispute Resolution

Chapter 2260 of the Texas Government Code (“Chapter 2260”) prescribes dispute resolution processes for certain breach of contract claims applicable to certain contracts for goods and services. As required by Chapter 2260, Comptroller has adopted rules under Chapter 2260, codified at 34 Texas Administrative Code §§1.360 – 1.387, and may adopt revisions to these rules throughout the term of this Contract, including any extensions. Contractor shall comply with such rules.

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used, as further described herein, by Comptroller and Contractor to attempt to resolve any claim for breach of contract made by Contractor under this Contract:

- (i) Contractor’s claim for breach of this Contract that the parties cannot resolve in the ordinary course of business shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, Contractor shall submit written notice, as required by Chapter 2260, to the Deputy Comptroller or his or her designee. Said notice shall also be given to all other representatives of Comptroller and Contractor otherwise entitled to notice under this Contract. Compliance by Contractor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.
- (ii) The contested case process provided in Chapter 2260 is Contractor’s sole and exclusive process for seeking a remedy for an alleged breach of contract by Comptroller if the parties are unable to resolve their disputes under subparagraph (i) of this Section.
- (iii) 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 of the Texas Civil Practice and Remedies Code. Neither the execution of this Contract by Comptroller nor any other conduct of any representative of Comptroller relating to this Contract shall be considered a waiver of sovereign immunity to suit.

For all other specific breach of contract claims or disputes under this Contract, the following shall apply:

Should a dispute arise out of this Contract, Comptroller and Contractor shall first attempt to resolve it through direct discussions in a spirit of mutual cooperation. If the parties’ attempts to resolve their disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by Comptroller and Contractor within fifteen (15) days after written notice by one of them demanding mediation under this Section. Contractor shall pay all costs of the mediation unless Comptroller, in its sole good faith discretion, approves its payment of all or part of such costs. By mutual agreement, Comptroller and Contractor may use a non-binding form of dispute resolution other than mediation. The purpose of this Section is to reasonably ensure that Comptroller and Contractor shall in good faith utilize mediation or another non-binding dispute resolution process before pursuing litigation. Comptroller’s participation in or the results of any mediation or another non-binding dispute resolution process under this Section or the provisions of this Section shall not be construed as a waiver by Comptroller of (i) any rights, privileges, defenses, remedies or immunities available to Comptroller as an agency of the State of Texas or otherwise available to Comptroller; (ii) Comptroller’s termination rights; or (iii) other termination provisions or expiration dates of this Contract.

Notwithstanding any other provision of the Contract to the contrary, Contractor shall continue performance and shall not be excused from performance during the period any breach of contract claim or dispute is pending under either of the above processes; however, Contractor may suspend performance during the pendency of such claim or dispute if Contractor has complied with all provisions of Section 2251.051 of the Texas Government Code and such suspension of performance is expressly applicable and authorized under that law.

XIII. Property Rights

For purposes of this Contract, the term “Work” is defined as all work papers, work products, materials, approaches, designs, specifications, systems, software, programs, source code, documentation, methodologies, concepts,

intellectual property or other property developed, produced or generated in connection with the services to be provided by Contractor. Comptroller and Contractor intend this Contract to be a contract for services and each considers the Work and any and all documentation or other products and results of the services to be rendered by Contractor to be a work made for hire. Contractor acknowledges and agrees that the Work (and all rights therein) belongs to and shall be the sole and exclusive property of Comptroller.

If for any reason the Work would not be considered a work-for-hire under applicable law, Contractor does hereby sell, assign, and transfer to Comptroller, its successors and assigns, the entire right, title and interest in and to all copyright and other intellectual property rights in and to the Work and any registrations and copyright applications relating thereto and any renewals and extensions thereof, and in and to all works based upon, derived from, or incorporating the Work, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing. Contractor agrees to execute all papers and to perform such other property rights as Comptroller may deem necessary to secure for Comptroller or its designee the rights herein assigned.

In the event that Contractor has any rights in and to the Work that cannot be assigned to Comptroller, Contractor hereby grants to Comptroller an exclusive, worldwide, royalty-free, irrevocable, and perpetual license to directly and indirectly reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, such rights to make, have made, use, sell and offer for sale any products developed by practicing such rights, and to otherwise use such rights, with the right to sublicense such rights through multiple levels of sublicenses.

Contractor and Contractor's employees will have no rights in or ownership of the Work and any and all documentation or other products and results of the services or any other property of Comptroller.

XIV. Representations, Warranties, and General Provisions

14.1 Family Code. Under Section 231.006 of the Texas Family Code (relating to child support), Contractor represents and warrants that Contractor is not ineligible to receive the specified payment and acknowledges that this Contract may be terminated and payment withheld if this representation and warranty is inaccurate.

14.2 Eligibility. Under Section 2155.004 of the Texas Government Code, Contractor represents and warrants that Contractor is not ineligible to receive this Contract and acknowledges that this Contract may be terminated and payment withheld if this representation and warranty is inaccurate. Contractor represents and warrants that it is not delinquent in the payment of any franchise taxes owed the State of Texas.

14.3 Liability for Taxes. Contractor represents and warrants that it 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 Contractor or its employees. Comptroller shall not be liable for any such taxes resulting from this Contract.

14.4 HUBs. Contractor represents and warrants that it shall comply with the Historically Underutilized Business requirements of this Contract.

14.5 Compliance with Applicable Laws; Amendments. Contractor shall comply with all laws, regulations, requirements and guidelines applicable to a Contractor providing services to the State of Texas, as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. Comptroller reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for Comptroller's or Contractor's compliance with all applicable state and federal laws, regulations, requirements and guidelines.

Except as provided in this Section 14.5 and Section 14.17 of this Contract, this Contract may be amended only upon written agreement between Comptroller and Contractor; however, this Contract may not be amended so as to make it conflict with the laws of the State of Texas. Comptroller may issue Purchase Order Change Notices for ordering and tracking purposes consistent with this Contract provided such Purchase Order Change Notices reference this Contract.

14.6 Texas Law; Venue. This Contract shall be governed by and construed in accordance with the laws of the State of Texas. The venue of any suit brought for any breach of this Contract is fixed in any court of competent jurisdiction of Travis County, Texas.

14.7 Time Limits. Time is of the essence in the performance of this Contract. Contractor shall strictly comply with all of the deadlines, requirements, and Standards of Performance for this Contract.

14.8 Assignments. Contractor may not assign this Contract, in whole or in part, and may not assign any right or duty required under it.

14.9 Federal, State, and Local Requirements. Contractor shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2s to common law employees. Contractor is responsible for both Federal and State Unemployment insurance coverage and standard Worker's Compensation Insurance coverage. Contractor shall comply with all Federal and State tax laws and withholding requirements. Comptroller shall not be liable to Contractor or its employees for any Unemployment or Workers' Compensation coverage, or Federal or State withholding requirements. Contractor shall indemnify Comptroller and pay to Comptroller all costs, penalties, or losses resulting from Contractor's omission or breach of this Section.

14.10 Provision for Direct Deposit. The electronic funds transfer ("EFT") provisions of Texas law were codified in Section 403.016 of the Texas Government Code. Depending on eligibility under the law, certain payments from the State of Texas may be directly deposited into Contractor's bank account or may be made by warrant. If Contractor is eligible for direct deposit and wishes to be paid by direct deposit, Contractor must complete the form titled "Vendor Direct Deposit Authorization" and return it as soon as possible to: Comptroller of Public Accounts, Attention: Budget and Internal Accounting Division, Accounts Payable Section, LBJ State Office Building, 111 E. 17th Street, Austin, Texas 78774.

14.11 No Waiver. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Comptroller as an agency of the State of Texas or otherwise available to Comptroller. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities available to Comptroller under this Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. Comptroller does not waive any privileges, rights, defenses, remedies, or immunities available to Comptroller as an agency of the State of Texas, or otherwise available to Comptroller, by entering into this Contract or by its conduct prior to or subsequent to entering into this Contract. **The modification of any privileges, rights, defenses, remedies, or immunities available to Comptroller must be in writing, must reference this Section, and must be signed by Comptroller to be effective, and such modification of any privileges, rights, defenses, remedies, or immunities available to Comptroller shall not constitute waiver of any subsequent privileges, rights, defenses, remedies, or immunities under this Contract or under applicable law.**

14.12 Permits, Licenses. Contractor represents and warrants that it has obtained all necessary permits, licenses, easements, waivers, and permissions of whatsoever kind required for its performance and the performance of its subcontractors under this Contract.

14.13 Control; Ownership; Legal Proceedings. Contractor shall immediately notify Comptroller in writing of any actual or anticipated change in the control or ownership of Contractor and of any legal or administrative investigations or proceedings initiated against Contractor regardless of the jurisdiction from which such proceedings originate.

14.14 Limitation on Authority; No Other Obligations. Contractor shall have no authority to act for or on behalf of Comptroller or the State of Texas except as expressly provided for in this Contract; no other authority, power, use, or joint enterprise is granted or implied. Contractor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of Comptroller or the State of Texas.

14.15 No Other Benefits. Contractor shall have no exclusive rights or benefits other than those set forth herein.

14.16 Patent, Trademark, Copyright and Other Infringement Claims. Contractor shall indemnify, save and hold harmless Comptroller and the State of Texas from and against claims of patent, trademark, copyright, trade secret or other proprietary rights, violations or infringements arising from Comptroller's or Contractor's use of or acquisition of any services or other items provided to Comptroller by Contractor or otherwise to which Comptroller has access as a result of Contractor's performance under this Contract, provided that Comptroller shall notify Contractor of any such claim within a reasonable time of Comptroller's receiving notice of any such claim. If Contractor is notified of any claim subject to this Section, Contractor shall notify Comptroller of such claim within five (5) working days of such notice. If Comptroller determines that a conflict exists between its interests and those of Contractor or if Comptroller is required by applicable law to select separate counsel, Comptroller shall be permitted to select separate counsel, and the reasonable costs of such Comptroller's counsel shall be paid by Contractor. No settlement of any such claim shall be made by Contractor without Comptroller's prior written approval. Contractor shall reimburse Comptroller and the State of Texas for any claims, damages, losses, costs, expenses, judgments or any other amounts, including, but not limited to, attorneys' fees and court costs, arising from any such claim. Contractor represents that it has determined what licenses, patents and permits are required under this Contract and has acquired all such licenses, patents and permits.

14.17 Supporting Documents; Right to Audit; Independent Audits. Contractor shall maintain and retain supporting fiscal documents adequate to ensure that claims for Contract funds are in accordance with applicable Comptroller and State of Texas requirements. Contractor shall maintain all such documents and other records relating to this Contract and the State's property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the State's property, such as work papers, reports, books, data, files, software, records, and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by Comptroller, State of Texas or their authorized representatives. Contractor shall cooperate with auditors and other authorized Comptroller and State of Texas representatives and shall provide them with prompt access to all of such State's property as requested by Comptroller or the State of Texas. By example and not as an exclusion to other breaches or failures, Contractor's failure to comply with this Section shall constitute a material breach of this Contract. For purposes of this Section, the "State's property" includes, but is not limited to, "Work" as defined in this Contract.

Comptroller may require, at Contractor's sole cost and expense, independent audits by a qualified certified public accounting firm of Contractor's books and records or the State's property. The independent auditor shall provide Comptroller with a copy of such audit at the same time it is provided to Contractor. Comptroller retains the right to issue the request for proposals for the services of an independent certified public accounting firm under this Contract. In addition to and without limitation on the other audit provisions of this Contract, pursuant to Section 2262.154 of the Texas Government Code, the state auditor may conduct an audit or investigation of Contractor or any other entity or person receiving funds from the state directly under this Contract or indirectly through a subcontract under this Contract. The acceptance of funds by Contractor or any other entity or person directly under this Contract or indirectly through a subcontract under this 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, Contractor or other 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. This Contract may be amended unilaterally by Comptroller to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.154. In addition, Contractor shall ensure that this paragraph concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.

14.18 DTPA; Unfair Business Practices. Contractor represents and warrants that it has not been the subject of a Deceptive Trade Practices Act or any unfair business practice administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of a Deceptive Trade Practices Act or any unfair

business administrative hearing or court suit and that such officers have not been found to be liable for such practices in such proceedings.

14.19 Immigration. Contractor represents and warrants that it shall comply with the requirements of the Immigration and Nationality Act (8 U.S.C. §1101 et seq.) and all subsequent immigration laws and amendments.

14.20 U.S. Department of Homeland Security's E-Verify System. Respondent, by submitting a Response, certifies that it utilizes and will continue to utilize, for the term of any contract resulting from this RFP, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:

1. all newly-hired employees employed to perform duties within Texas, during the term of any contract resulting from this RFP; and
2. all newly-hired employees (including subcontractors) assigned by Successful Respondent to perform work pursuant to any contract resulting from this RFP, within the United States of America.

Successful Respondent shall provide, upon Comptroller's written request, an electronic or hard copy screenshot of the confirmation that Respondent is enrolled in E-verify.

If it is determined that Successful Respondent has violated the certifications set forth in this Section, then (1) Successful Respondent shall be in breach of contract, (2) Comptroller 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 Comptroller under the contract, Successful Respondent shall be responsible for all costs incurred by Comptroller to obtain substitute services to replace the terminated contract.

14.21 Equal Opportunity. Contractor represents and warrants that it shall comply with the Civil Rights Act in giving equal opportunity without regard to race, color, creed, sex or national origin.

14.22 Antitrust. Contractor represents and warrants that neither Contractor nor any firm, corporation, partnership, or institution represented by Contractor, nor anyone acting for such firm, corporation or institution has violated the antitrust laws of Texas codified in 15.01, *et. seq.* of the Texas Business and Commerce Code, or the federal antitrust laws, nor communicated directly or indirectly the proposal to any competitor or any other person engaged in such line of business.

14.23 No Conflicts. Contractor represents and warrants that Contractor has no actual or potential conflicts of interest in providing services to Comptroller under this Contract and that Contractor's provision of services under this Contract would not reasonably create an appearance of impropriety. Without limitation on the foregoing, other disclosures required under this Contract, and other prohibited work provisions of this Contract, Contractor shall, throughout the term of this Contract, comply with and provide all of the following: provide to Comptroller, upon request, a copy of Contractor's most recent audit, if any, together with a full disclosure of any and all internal control weaknesses, if any; disclose and describe in detail Contractor's most recent peer review, if any, stating the date of the review and irregularities, if any, and concluding comments; disclose and describe in detail any emerging irregularities, if any, that could materially affect Comptroller's interests; and disclose and describe in detail how Contractor examines whether Contractor's outside auditors provide auditing or other services to Contractor or Contractor's clients or to Comptroller.

14.24 Financial Interests; Gifts. Contractor represents and warrants that neither Contractor nor any person or entity that will participate financially in this Contract has received compensation from Comptroller for participation in preparation of specifications for this Contract. Contractor represents and warrants that it has not given, offered to give, and does not intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to any public servant or employee in connection with this Contract.

14.25 ADA. Contractor represents and warrants that it shall comply with the requirements of the Americans with Disabilities Act (ADA).

14.26 Buy Texas. Contractor represents and warrants that it will comply with Section 2155.4441 of the Texas Government Code relating to the use of service contracts for products produced in the State of Texas.

14.27 Drug Free Workplace. Contractor represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 and maintain a drug-free work environment.

14.28 Criminal Conviction Certification. Contractor certifies that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representatives of such subcontractors, to be assigned to the services hereunder, have been convicted of a felony criminal offense, or that if such a conviction has occurred or occurs during the term of this Contract, Contractor will immediately fully advise Comptroller as to the facts and circumstances. Contractor has completed and returned the Criminal Conviction Certification form (Exhibit D to Attachment J).

14.29 Notices. Any written notices required under this Contract will be by either hand delivery to Contractor's office address specified on Page 1 of this Contract or to Comptroller's Legal Counsel, c/o Texas Comptroller of Public Accounts, 111 E. 17th Street, Austin, Texas, 78774, or by U.S. Mail, certified, return receipt requested, addressed to the appropriate foregoing address. Notice will be effective on receipt by the affected party. Either party may change the designated notice address in this Section by written notification to the other party.

14.30 False Statements; Breach of Representations. By signature to this Contract, Contractor makes all the representations, warranties, guarantees, certifications and affirmations included in this Contract. If Contractor signed its proposal with a false statement or signs this Contract with a false statement or it is subsequently determined that Contractor has violated any of the representations, warranties, guarantees, certifications or affirmations included in this Contract, Contractor shall be in default under this Contract and Comptroller may terminate this Contract for cause and pursue other remedies available to Comptroller under this Contract and applicable law.

14.31 Force Majeure. Except as otherwise provided, neither Contractor nor Comptroller shall be liable to the other for any delay in, or failure of performance, of any requirement included in this Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

14.32 Debts or Delinquencies to State. Contractor acknowledges and agrees that, to the extent Contractor owes any debt or delinquent taxes to the State of Texas, any payments or other amounts the Contractor is otherwise owed under or related to the Contract may be applied by Comptroller toward any debt or delinquent taxes Contractor owes the State of Texas until the debt or delinquent taxes are paid in full. These provisions are effective at any time Contractor owes any such debt or delinquency. Contractor shall comply with rules adopted by Comptroller under Sections 403.055, 403.0551, 2252.903 of the Texas Government Code and other applicable laws and regulations regarding satisfaction of debts or delinquencies to the State of Texas.

14.33 Prohibited Use of Appropriated or Other Funds Under Control of State Agency; Lobbying. Contractor represents and warrants that Comptroller's payment to Contractor and Contractor's receipt of appropriated or other funds under this or any resulting Contract are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code.

14.34 Texas Bidder. Contractor represents and warrants that if a Texas address is shown as the address of Contractor, then Contractor qualifies as a Resident Bidder as defined by Section 2155.444 of the Texas Government Code.

14.35 Comptroller's Anti-Fraud Policy. Contractor represents and warrants that it has read and understood and shall comply with Comptroller's Anti-Fraud Policy located on Comptroller's website at <http://www.window.texas.gov/ssv/ethics.html>, as such Policy currently reads and as it is amended throughout the term of this Contract.

14.36 Abandonment or Default. If Contractor defaults on this Contract, Comptroller reserves the right to cancel this Contract without notice and either re-solicit or re-award the contract to the next best responsive and responsible respondent. The defaulting contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specifications or scope of work significantly change. The period of suspension will be determined by Comptroller based on the seriousness of the default.

14.37 Debarred Vendors List. Contractor represents and warrants that it and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and that Contractor is in compliance with the State of Texas statutes and rules relating to procurement and that Contractor or its subcontractors are not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.

14.38 Disaster Relief Violation. Sections 2155.006 and 2261.053 of the Texas Government Code prohibit state agencies from awarding a contract to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code, occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, Contractor certifies that it is not ineligible to receive the specified contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

14.39 Security Breach Notification. Contractor shall provide notice to Comptroller's Project Manager and Comptroller's Information Security Officer within twenty four (24) hours of Contractor's discovery or reasonable belief that there has been unauthorized use, exposure, access, disclosure, compromise, modification, or loss of sensitive or confidential Comptroller information ("Security Incident"). Within twenty-four (24) hours of the notification of a Security Incident, Contractor shall provide a written report to Comptroller's Information Security Officer detailing the circumstances of the incident, which includes at a minimum, if available:

- (i) A description of the nature of the Security Incident;
- (ii) The type of Comptroller information involved;
- (iii) Who may have obtained Comptroller information;
- (iv) What steps Contractor has taken or will take to investigate the Security Incident;
- (v) What steps Contractor has taken or will take to mitigate any negative effect of the Security Incident; and
- (vi) A point of contact for additional information.

Each day thereafter until the investigation is complete, Contractor shall provide Comptroller's Information Security Officer with a written report regarding the status of the investigation and the following additional information as it becomes available:

- (i) Who is known or suspected to have gained unauthorized access to Comptroller information;
- (ii) Whether there is any knowledge if Comptroller information has been abused or compromised;
- (iii) What additional steps Contractor has taken or will take to investigate the Security Incident;
- (iv) What steps Contractor has taken or will take to mitigate any negative effect of the Security Incident; and
- (v) What corrective action Contractor has taken or will take to prevent future similar unauthorized use or disclosure.

Contractor shall confer with Comptroller's Chief Information Security Officer regarding the proper course of the investigation and risk mitigation. Comptroller reserves the right to conduct an independent investigation of any Security Incident, and should Comptroller choose to do so, Contractor shall cooperate fully by making resources, personnel, and systems access available to Comptroller and Comptroller's authorized representative(s). Subject to

review and approval of Comptroller's Information Security Officer, Contractor, at its own cost, shall provide notice that satisfies the requirements of applicable law to individuals whose personal, confidential, or privileged data were compromised or likely compromised as a result of the Security Incident. If Comptroller, in its sole discretion, elects to send its own separate notice, then all costs associated with preparing and providing notice shall be reimbursed to Comptroller by Contractor. If Contractor does not reimburse such costs within thirty (30) days of Comptroller's written request, then Comptroller shall have the right to collect such costs.

14.40 Information Security Requirements.

a) Contractor shall comply with all applicable state and federal laws and regulations regarding confidentiality, privacy, and security pertaining to Comptroller confidential information.

b) Access to sensitive or confidential Comptroller information. Contractor represents and warrants that it will take all necessary and appropriate action within its abilities to safeguard sensitive or confidential Comptroller information and to protect it from unauthorized disclosure. If communications with Contractor necessitate the release of confidential Comptroller information, the Confidential Treatment of Information Acknowledgement form (CTIA) must be signed by each individual who will require access to or may be exposed to that information. Contractor shall access Comptroller's systems and sensitive or confidential Comptroller information only for the purposes for which it is authorized.

Contractor shall ensure that any sensitive or confidential Comptroller information in the custody of Contractor is properly sanitized or destroyed when the information is no longer required to be retained by Comptroller or Contractor in accordance with this agreement. Electronic media used for storing any confidential Comptroller information must be sanitized by clearing, purging or destroying in accordance with NIST Special Publication 800-88 Guidelines for Media Sanitization. Contractor must maintain a record documenting the removal and completion of all sanitization procedures with the following information:

- Date and time of sanitization/destruction;
- Description of the item(s) and serial number(s) if applicable;
- Inventory number(s); and
- Procedures and tools used for sanitization/destruction

No later than sixty (60) days from contract expiration or termination or as otherwise specified in this agreement, Contractor must complete the sanitization and destruction of the data and provide to Comptroller all sanitization documentation.

c) Access to Internal Comptroller Network and Systems. As a condition of gaining remote access to any internal Comptroller network and systems, Contractor must comply with Comptroller's policies and procedures. Comptroller's remote access request procedures will require Contractor to submit a Remote Access Request form for Comptroller's review and approval. Remote access technologies provided by Contractor must be approved by Comptroller's Information Security Officer. Individuals shall not access internal Comptroller network and systems from outside the United States. Individuals who are provided with access to Comptroller network or systems will be required to participate in Comptroller's Security Awareness Training on an annual basis. The State of Texas and Comptroller's Fiscal Year begins on September 1 and ends on August 31. Contractor shall maintain records of all individuals who have completed Comptroller-required training for the duration of the individual's employment with Contractor, plus five years. Upon Comptroller's written request, Contractor shall provide copies of the certificates of completion for Comptroller's Security Awareness Training. On November 1st of each year, Contractor shall submit a list to Comptroller which identifies all individuals who have current access to Comptroller network or systems as well as the most recent training completion date for each individual. Comptroller, in its sole discretion, may deny network or system access to any individual that does not complete Comptroller-required training within thirty (30) calendar days following the date of Comptroller's grant of access under this Contract.

d) Comptroller reserves the right to audit the security measures in effect on Contractor's connected systems without prior warning. Contractor must secure its own connected systems in a manner consistent with an auditable information security framework. Comptroller's audit can consist of a review of third party audit results of Contractor's security measures (e.g., SSAE-16 Type II, ISO 27002 assessment). Comptroller also reserves the right to immediately terminate network and system connections not meeting such requirements.

e) Comptroller data shall not be accessed from, stored at or transported to locations outside of the United States.

f) Where applicable, encryption shall conform to or exceed Federal Information Processing Standard (FIPS) 140-2:

- Backup media containing Comptroller data shall be encrypted at all times.
- Transmission of Comptroller data across public networks shall be protected by encryption methods such as Virtual Private Network (VPN), Secure Shell File Transfer Protocol (SFTPS), or File Transfer Protocol over SSL/TLS (FTPS).

g) If Contractor is a software manufacturer, then Contractor represents and warrants that it has implemented processes for the protection, detection, remediation, mitigation and timely customer notification of software vulnerabilities associated with its software provided under this agreement.

14.41 Internal Revenue Service Data. Reference Exhibit 7 (Contract Language for General Services) of IRS Publication No. 1075 posted 11-04-14. In performance of this contract, the Contractor agrees to comply with and assume responsibility for compliance by its employees with the following requirements:

(i) All work will be performed under the supervision of Contractor or Contractor's responsible employees.

(ii) Any Federal tax returns or return information (hereafter referred to as returns or return information) made available shall be used only for the purpose of carrying out the contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of the contract. Inspection by or disclosure to anyone other than an officer or employee of the Contractor is prohibited.

(iii) All returns and return information will be accounted for upon receipt and properly stored before, during, and after processing. In addition, all related output and products will be given the same level of protection as required for the source material.

(iv) No work involving returns and return information furnished under this contract will be subcontracted without prior written approval of the IRS.

(v) Contractor will maintain a list of employees authorized access. Such list will be provided to Comptroller and, upon request, to the IRS reviewing office.

(vi) Comptroller will have the right to void the contract if the Contractor fails to provide the safeguards described above.

Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that returns or return information disclosed to such officer or employee can be used only for a purpose and to the extent authorized herein, and that further disclosure of any such returns or return information for a purpose or to an extent unauthorized herein constitutes a felony punishable upon conviction by a fine of as much as \$5,000 or imprisonment for as long as five (5) years, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized future disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount not less than \$1,000.00 with respect to each instance of unauthorized disclosure. These penalties are prescribed by IRC Sections 7213 and 7431 and set forth at 26 CFR 301.6103(n)-1. Each officer or employee of any person to whom returns or return information is or may be disclosed shall be notified in writing by such person that any return or return information made available in any format shall be used only for the purpose of carrying out the provisions of this contract. Information contained in such material shall be treated as confidential and shall not be divulged or made known in any manner to any person except as may be necessary in the performance of this contract. Inspection by or disclosure to anyone without an official need to know constitutes a

criminal misdemeanor punishable upon conviction by a fine of as much as \$1,000.00 or imprisonment for as long as 1 year, or both, together with the costs of prosecution. Such person shall also notify each such officer and employee that any such unauthorized inspection or disclosure of returns or return information may also result in an award of civil damages against the officer or employee in an amount equal to the sum of the greater of \$1,000.00 for each act of unauthorized inspection or disclosure with respect to which such defendant is found liable or the sum of the actual damages sustained by the plaintiff as a result of such unauthorized inspection or disclosure plus in the case of a willful inspection or disclosure which is the result of gross negligence, punitive damages, plus the costs of the action. The penalties are prescribed by IRC Sections 7213A and 7431. Additionally, it is incumbent upon the Contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a(i)(1), which is made applicable to contractors by 5 U.S.C. 552a(m)(1), provides that any officer or employee of a contractor, who by virtue of his/her employment or official position, has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000. Granting Contractor access to FTI must be preceded by certifying that each individual understands Comptroller's security policy and procedures for safeguarding IRS information. Contractor must maintain its authorization to access FTI through annual recertification. The initial certification and recertification must be documented and placed in Comptroller's files for review. As part of the certification and at least annually afterwards, Contractor should be advised of the provisions of IRC Sections 7431, 7213, and 7213A (see Exhibit 6, IRC Sec. 7431 Civil Damages for Unauthorized Disclosure of Returns and Return Information and Exhibit 5, IRC Sec. 7213 Unauthorized Disclosure of Information). The training provided before the initial certification and annually thereafter must also cover the incident response policy and procedure for reporting unauthorized disclosures and data breaches. (See Section 10 of Publication 1075) For both the initial certification and the annual certification, the Contractor should sign, either with ink or electronic signature, a confidentiality statement certifying their understanding of the security requirements. The IRS and Comptroller shall have the right to send its officers and employees into the offices and plants of the Contractor for inspection of the facilities and operations provided for the performance of any work under this contract. On the basis of such inspection, specific measures may be required in cases where Contractor is found to be noncompliant with contract safeguards.

14.42 Duty to Disclose. If circumstances change or additional information is obtained regarding any of the representations and warranties, or any other disclosure statements, provided by Contractor subsequent to the date of this Contract, Contractor's duty to disclose continues throughout the term of this Contract.

14.43 Copies of Work; Partially Completed Work. No later than the first calendar day after the termination of this Contract, or at Comptroller's request, Contractor shall deliver to Comptroller all completed, or partially completed, work and any and all documentation or other products and results of these services. Failure to timely deliver such work or any and all documentation or other products and results of the services shall be considered a material breach of this Contract. Contractor shall not make or retain any copies of the Work or any and all documentation or other products and results of the services without the prior written consent of Comptroller.

14.44 Business Attire; Conduct; Comptroller guidelines. Contractor must ensure that its employees conduct themselves in a professional manner and are in appropriate business attire when on Comptroller's premises. In addition, Contractor must ensure that its employees comply with all guidelines established by Comptroller for independent contractors required to provide services on Comptroller's premises. These guidelines may address issues which include, but are not limited to, the following: building security, IT security, records, safety, professional conduct, use of State owned property, non-disclosure of confidential information, drug and alcohol free workplace rules, and other requirements for on-site independent contractors.

14.45 Use of State Property. Contractor is prohibited from using Comptroller's Equipment, Comptroller's location, or any other resources of Comptroller or the State of Texas for any purpose other than performing services under this Contract. For this purpose, Equipment includes, but is not limited to, copy machines, fax machines, information technology resources, and telephones using State of Texas long distance services. Comptroller information technology resources include any Comptroller-issued hardware (e.g., laptops, portable personal printers, cell phones, BlackBerry devices, external hard drives, Universal Serial Bus (USB) data storage devices and data

disks); any Comptroller-issued software or media (e.g., CD, DVD, diskette or tape); and Comptroller Virtual Private Network (VPN) client. Contractor shall not remove Comptroller Equipment from the United States. In addition, Contractor may not use any computing device to access Comptroller's network or e-mail while outside of the United States. During the time that Comptroller Equipment is in possession of Contractor, Contractor shall be responsible for reasonable repair or replacement charges for damage beyond normal wear and tear. Any charges incurred because of Contractor's use of Comptroller Equipment for any purpose other than performing services under this Contract must be fully reimbursed by Contractor to Comptroller immediately upon demand by Comptroller; such use shall constitute breach of contract and may result in termination of this Contract and other remedies available to Comptroller under the Contract and applicable law.

14.46 Discounts. If Contractor at any time during the term of this Contract provides a discount on the final negotiated Contract costs, Contractor will notify Comptroller in writing ten (10) business days prior to effective date of discount. Comptroller will generate a Purchase Order ("PO") Change Notice and send a corrected PO to the Contractor.

XV. Merger; Severability

This Contract contains the entire agreement between Contractor and Comptroller relating to the rights granted and the obligations assumed in it. Any oral representations or modifications concerning this Contract shall be of no force or effect unless contained in a subsequent writing, signed by both parties. In the event that any provision of this Contract is later determined to be invalid, void, or unenforceable, then the remaining terms, provisions, covenants, and conditions of this Contract shall remain in full force and effect, and shall in no way be affected, impaired, or invalidated.

XVI. Signatories

The undersigned signatories represent and warrant that they have full authority to enter into this Contract on behalf of the respective counterparts. This Contract may be executed in one or more counterparts, each of which is an original, and all of which constitute only one agreement between the parties.

**TEXAS COMPTROLLER OF PUBLIC
ACCOUNTS**

[CONTRACTOR]

By: _____
Mike Reissig
Deputy Comptroller

By: _____
Name:
Title:

Date: _____

Date: _____

ATTACHMENT A

STATEMENT OF SERVICES TO BE PERFORMED

- A. Contractor shall perform all of the services described in this Attachment A, or otherwise required by this Contract (“Services”). These Service include, but are not limited to, the furnishing of all personnel and the procurement of all equipment, supplies, and other items necessary to provide those services in compliance with this Contract. Contractor shall provide all services in accordance with the Standards of Performance of this Contract. Contractor shall review and implement Comptroller recommendations, as Comptroller adopts them from time to time, so that the Services may be expeditiously and satisfactorily completed. Contractor shall meet with Comptroller at such times as Comptroller may reasonably request to discuss the progress of deliverables and any other matters that may arise in regard to this Contract.

- B. Contractor shall provide the following Services during the period of this Agreement:

[To be inserted prior to Contract execution.]

- C. Comptroller may request additional records, information or reports related to the Services hereinafter described. At a minimum, the deliverables and milestones identified on in the following chart must be provided by Contractor to Comptroller by the specified due date:

Deliverables and Milestones	Schedule
------------------------------------	-----------------

[To be inserted prior to Contract execution.]

ATTACHMENT B

AUTHORIZED PERSONNEL AND PRICE SHEET

[This will include final agreed Authorized Personnel and Price Sheet, to be negotiated in accordance with terms of the RFP and Sample Contract.]

1. Personnel:

Contractor's authorized personnel are those individuals specified in the "Proposed Personnel" portion of its Proposal; however, Contractor may not use in its performance of this Contract any individuals whose services are prohibited by the following standard exceptions arising under State of Texas procurement law:

- a) Contractor understands that it may not use as personnel in its performance of this Contract any individual previously employed by Comptroller within the past twelve months. (Section 2252.901 of the Texas Government Code)
- b) Contractor understands that it may not use as personnel in its performance of this Contract any individual previously employed by Comptroller within the two (2) years prior to its proposal without making the disclosures required by Section 2254.033 of the Texas Government Code.
- c) Contractor represents and warrants that, in compliance with Section 669.003 of the Texas Government Code, Contractor (1) is not a person who is the executive head of a Texas state agency, (2) is not a person who was the executive head of a Texas state agency at any time within the four years prior to its execution of this Contract, and (3) does not employ a current or former executive head of a Texas state agency.

2. Price Sheet:

The following price sheet includes all costs for providing the Services as described in the Contract. Comptroller will not prepay any amounts. All costs are not-to-exceed.

Description	Estimated Budget
Project Management	
Trainer, Curriculum Development, Facility and Materials for Classroom Training Sessions	
Marketing and Promotion Plan	
Online Training Modules	
TOTAL	

ATTACHMENT C-1

DOE F 1600.5
(06-94)
All Other Editions Are Obsolete

OMB Control No.
1910-0400

U.S. DEPARTMENT OF ENERGY Assurance of Compliance Nondiscrimination in State Assisted Programs OMB Burden Disclosure Statement

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Office of Information Resources Management Policy, Plans, and Oversight, Records Management Division, HR-422-GTN, Paperwork Reduction Project (1910-0400), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585; and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-0400), Washington, DC 20503.

_____ (Hereinafter called the "Applicant") HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Section 16 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub. L. 93-438), Title IX of the Education Amendments of 1972, as amended (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), the Age Discrimination Act of 1977 (Pub. L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), the Department of Energy Organization Act of 1977 (Pub. L. 95-91), the Energy Conservation and Production Act of 1976, as amended, (Pub. L. 94-385) and Title 10 Code of Federal Regulations, Part 1040. In accordance with the above laws and regulations issued pursuant thereto, the Applicant agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Applicant receives Federal assistance from the Department of Energy.

Applicability and Period of Obligation

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance funding extended to the Applicant by the Department of Energy, this assurance obligates the Applicant for the period during which the Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant for the period during which the Federal assistance is extended to the Applicant by the Department of Energy.

Employment Practices

Where a primary objective of the Federal assistance is to provide employment or where the Applicant's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the Department of Energy, the Applicant agrees not to discriminate on the ground of race, color, national origin, sex, and disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment, advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs, or other forms of compensation and use of facilities.

Subrecipient Assurance

The Applicant shall require any individual, organization, or other entity with which it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws cited above. To this end, the subrecipient shall be required to sign a written assurance form; however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

Data Collection and Access to Records

The Applicant agrees to compile and maintain information pertaining to programs or activities developed as a result of the Applicant's receipt of Federal assistance from the Department of Energy. Such information shall include, but is not limited to the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be serviced by race, color, national origin, sex, and disability; (3) data regarding covered employment, including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by

beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; (5) the present or proposed membership by race, color, national origin, sex, and disability, in any planning or advisory body which is an integral part of the program; and (6) any additional written data determined by the Department of Energy to be relevant to the obligation to assure compliance by recipients with laws cited in the first paragraph of this assurance.

The Applicant agrees to submit requested data to the Department of Energy regarding programs and activities developed by the Applicant from the use of Federal funds extended by the Department of Energy. Facilities of the Applicant (including the physical plants, buildings, or other structures) and all records, books, accounts, and other sources of information pertinent to the Applicant's compliance with the civil rights laws shall be made available for inspection during normal business hours of request of an officer or employee of the Department of Energy specifically authorized to make such inspections. Instructions in this regard will be provided by the Director, Office of Civil Rights, U. S. Department of Energy.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereto, to the Applicants by the Department of Energy, including installment payments on account after such date of application for Federal assistance which are approved before such date. The Applicant recognizes and agrees that such Federal assistance will be extended in reliance upon the representations and agreements made in this assurance and that the United State shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, as well as the person(s) whose signature appears below and who is authorized to sign this assurance on behalf of the Applicant.

Applicant Certification

The Applicant certifies that it has complied, or that, within 90 days of the date of the grant, it will comply with all applicable requirements of 10 C.F.R. § 1040.5 (a copy will be furnished to the Applicant upon written request to DOE.)

Designated Responsible Employee

Name and Title (Printed or Typed)

Telephone Number

Signature

Date

Name of Organization

Telephone Number

Address

Authorized Official:

Name and Title (Printed or Typed)

Telephone Number

Signature

Date

ATTACHMENT C-2

DOE F 1600.5
(06-94)
All Other Editions Are Obsolete

OMB Control No.
1910-0400

U.S. DEPARTMENT OF ENERGY Assurance of Compliance Nondiscrimination in State Assisted Programs

OMB Burden Disclosure Statement

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Office of Information Resources Management Policy, Plans, and Oversight, Records Management Division, HR-422-GTN, Paperwork Reduction Project (1910-0400), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585; and to the Office of Management and Budget (OMB), Paperwork Reduction Project (1910-0400), Washington, DC 20503.

(Enter name of Borrower's Subcontractor)_____ (Hereinafter called the "Applicant") HEREBY AGREES to comply with Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), Section 16 of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), Section 401 of the Energy Reorganization Act of 1974 (Pub. L. 93-438), Title IX of the Education Amendments of 1972, as amended (Pub. L. 92-318, Pub. L. 93-568, and Pub. L. 94-482), Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), the Age Discrimination Act of 1977 (Pub. L. 94-135), Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284), the Department of Energy Organization Act of 1977 (Pub. L. 95-91), the Energy Conservation and Production Act of 1976, as amended, (Pub. L. 94-385) and Title 10 Code of Federal Regulations, Part 1040. In accordance with the above laws and regulations issued pursuant thereto, the Applicant agrees to assure that no person in the United States shall, on the ground of race, color, national origin, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity in which the Applicant receives Federal assistance from the Department of Energy.

Applicability and Period of Obligation

In the case of any service, financial aid, covered employment, equipment, property, or structure provided, leased, or improved with Federal assistance funding extended to the Applicant by the Department of Energy, this assurance obligates the Applicant for the period during which the Federal assistance is extended. In the case of any transfer of such service, financial aid, equipment, property, or structure, this assurance obligates the transferee for the period during which Federal assistance is extended. If any personal property is so provided, this assurance obligates the Applicant for the period during which it retains ownership or possession of the property. In all other cases, this assurance obligates the Applicant for the period during which the Federal assistance is extended to the Applicant by the Department of Energy.

Employment Practices

Where a primary objective of the Federal assistance is to provide employment or where the Applicant's employment practices affect the delivery of services in programs or activities resulting from Federal assistance extended by the Department of Energy, the Applicant agrees not to discriminate on the ground of race, color, national origin, sex, and disability, in its employment practices. Such employment practices may include, but are not limited to, recruitment, advertising, hiring, layoff or termination, promotion, demotion, transfer, rates of pay, training and participation in upward mobility programs, or other forms of compensation and use of facilities.

Subrecipient Assurance

The Applicant shall require any individual, organization, or other entity with which it subcontracts, subgrants, or subleases for the purpose of providing any service, financial aid, equipment, property, or structure to comply with laws cited above. To this end, the subrecipient shall be required to sign a written assurance form; however, the obligation of both recipient and subrecipient to ensure compliance is not relieved by the collection or submission of written assurance forms.

Data Collection and Access to Records

The Applicant agrees to compile and maintain information pertaining to programs or activities developed as a result of the Applicant's receipt of Federal assistance from the Department of Energy. Such information shall include, but is not limited to the following: (1) the manner in which services are or will be provided and related data necessary for determining whether any persons are or will be denied such services on the basis of prohibited discrimination; (2) the population eligible to be serviced by race, color, national origin,

sex, and disability; (3) data regarding covered employment, including use or planned use of bilingual public contact employees serving beneficiaries of the program where necessary to permit effective participation by beneficiaries unable to speak or understand English; (4) the location of existing or proposed facilities connected with the program and related information adequate for determining whether the location has or will have the effect of unnecessarily denying access to any person on the basis of prohibited discrimination; (5) the present or proposed membership by race, color, national origin, sex, and disability, in any planning or advisory body which is an integral part of the program; and (6) any additional written data determined by the Department of Energy to be relevant to the obligation to assure compliance by recipients with laws cited in the first paragraph of this assurance.

The Applicant agrees to submit requested data to the Department of Energy regarding programs and activities developed by the Applicant from the use of Federal funds extended by the Department of Energy. Facilities of the Applicant (including the physical plants, buildings, or other structures) and all records, books, accounts, and other sources of information pertinent to the Applicant's compliance with the civil rights laws shall be made available for inspection during normal business hours of request of an officer or employee of the Department of Energy specifically authorized to make such inspections. Instructions in this regard will be provided by the Director, Office of Civil Rights, U. S. Department of Energy.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts (excluding procurement contracts), property, discounts or other Federal assistance extended after the date hereto, to the Applicants by the Department of Energy, including installment payments on account after such date of application for Federal assistance which are approved before such date. The Applicant recognizes and agrees that such Federal assistance will be extended in reliance upon the representations and agreements made in this assurance and that the United State shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the Applicant, its successors, transferees, and assignees, as well as the person(s) whose signature appears below and who is authorized to sign this assurance on behalf of the Applicant.

Applicant Certification

The Applicant certifies that it has complied, or that, within 90 days of the date of the grant, it will comply with all applicable requirements of 10 C.F.R. § 1040.5 (a copy will be furnished to the Applicant upon written request to DOE.)

Designated Responsible Employee of Subcontractor

Name and Title (Printed or Typed)	Telephone Number
Signature	Date

Subcontractor:

Name of Organization	Telephone Number
Address	

Authorized Official of Subcontractor:

Name and Title (Printed or Typed)	Telephone Number
Signature	Date

ATTACHMENT D
**Certification Regarding Debarment, Suspension, Ineligibility,
and Voluntary Exclusion-Lower Tier Covered Transactions**

Instructions for Certification

1. The prospective lower tier participant is required to sign the attached certification.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to whom this application is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principle," "application," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to which this application is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this application that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this application that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
 - (1) The prospective lower tier participant certifies, by submission of this application, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this application.

Organization Name

Name and Title of Authorized Representative

Signature

Date

ATTACHMENT E
CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER
RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Energy determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or

entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period receding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

3. DRUG-FREE WORKPLACE

This certification is required by the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D) and is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989, and May 25, 1990.

ALTERNATE 1 (SUB-RECIPIENTS OTHER THAN INDIVIDUALS)

(1) The Sub-recipient certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Sub-recipient's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about:
 - (1) The dangers of drug abuse in the workplace;
 - (2) The Sub-recipient's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing, of his or her conviction for a violation of criminal

drug statute occurring in the work-place not later than five calendar days after such conviction;

- (e) Notifying the agency, in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to energy grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
- (f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - (1) Taking appropriate actions against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act 9f 1973, as amended; or
 - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;
- (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

(2) The Sub-recipient may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance:

(Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here.

ALTERNATE II (SUB-RECIPIENTS WHO ARE INDIVIDUALS)

- (1) The Sub-recipient certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substances in conducting any activity with the grant.
- (2) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated persons or person in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational, or recreational purposes.

4. LOBBYING DISCLOSURE ACT OF 1995, SIMPSON-CRAIG AMENDMENT

Applicant organization which are described in section 501 (c)(4) of the Internal Revenue Code of 1986 and engage in lobbying activities after December 31, 1995, shall not be eligible for the receipt of Federal funds constituting an award, grant, or loan. Section 501(c)(4) of the Internal Revenue Code of 1986 covers:

As set forth in the Lobbying Disclosure Act of 1995 (Public Law 104-65, December 19, 1995), as amended [“Simpson-Craig Amendment,” see Section 129 of The Balanced Budget Down payment Act, I (Public Law 104-99, January 26, 1996)], lobbying activities is defined broadly. (See section 3 of the Act.)

The undersigned certifies, to the best of his or her knowledge and belief, that: it IS NOT an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986: OR that it IS an organization described in section 501 (c)(4) of the Internal Revenue Code of 1986, which, after December 31, 1995, HAS NOT engaged in any lobbying activities as defined in the Lobbying Disclosure Act of 1995, as amended.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Name of Applicant

Pre/Award Number and/or Project Name

Printed Name and Title of Authorized Representative

Signature

Date

ATTACHMENT F

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

<p>1. Type of Federal Action: _____</p> <p>a. contract</p> <p>b. grant</p> <p>c. cooperative agreement</p> <p>d. loan</p> <p>e. loan guarantee</p> <p>f. loan insurance</p>	<p>2. Status of Federal Action: _____</p> <p>a. bid/offer/application</p> <p>b. initial award</p> <p>c. post award</p>	<p>3. Report Type: _____</p> <p>a. initial filing</p> <p>b. material change</p> <p>For Material Change Only:</p> <p>year _____ quarter _____</p> <p>date of last report _____</p>
<p>4. Name and Address of Reporting Entity:</p> <p>Name _____</p> <p>Address _____</p> <p>_____ Prime _____ Subawardee</p> <p>Tier, if known: _____</p>		<p>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: _____</p>
<p>6. Federal Department/Agency: _____</p>	<p>7. Federal Program Name/Description CFDA Number, if applicable: _____</p>	
<p>8. Federal Action Number, If known: _____</p>	<p>9. Award Amount, if known: _____</p>	
<p>10.a. Name and Address of Lobbying Entity: (if individual, last name, first name, MI): (attach Continuation Sheet(s) SF-LLL-A, if necessary)</p>	<p>10.b. Individual Performing Services (including address if different from No. 10A) (last name, first name, MI): _____</p>	
<p>11. Amount of Payment (check all that apply):</p> <p>\$ _____ actual _____</p> <p>Planned _____</p>	<p>12. Form of Payment (check all that apply):</p> <p>a. cash _____</p> <p>b. in-kind; specify: nature _____ value _____</p>	
<p>13. Type of Payment (check all that apply):</p> <p>_____ a. retainer _____ c. commission _____ e. deferred</p> <p>_____ b. one-time fee _____ d. contingent fee _____ f. other; specify _____</p>		
<p>14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment indicated in Item 11: _____</p>		
<p>15. Continuation Sheet(s) SF-LLL-A attached: _____ Yes _____ No</p>		
<p>16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annual and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure</p>	<p>Authorized Representative: _____</p> <p>Title: _____</p> <p>Signature: _____</p> <p>Telephone: _____ Date: _____</p>	

ATTACHMENT G

ASSURANCES -- NON-CONSTRUCTION PROGRAMS OMB Approval No. 0348-0040

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, Comptroller, the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction sub-agreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93- 234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469 a-1 et seq.)
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

ATTACHMENT H

Intellectual Property Provisions

AUTHORIZATION AND CONSENT (41 CFR 9-9.102-1)

The Government hereby gives its authorization and consent (without prejudice to any rights of indemnification) for all use and manufacture, in the performance of this grant or any part hereof or any amendment hereto or any subcontract hereunder (including all lower-tier subcontracts hereunder), of any invention described in and covered by a patent of the United States.

- (a) embodied in the structure or composition of any article, the delivery of which is accepted by the Government under this grant, or
- (b) utilized in the machinery, tools, or methods, the use of which necessarily results from compliance by the Subrecipient or the using subcontractor with
 - (i) specifications or written provisions now or hereafter forming a part of this grant, or
 - (ii) specific written instructions given by the Contracting Officer directing the manner of performance.

The entire liability to the Government for infringement of a patent of the United States shall be determined solely by the provisions of the indemnity clauses, if any, included in this grant or any subcontract hereunder (including all lower-tier subcontracts hereunder), and the Government assumes liability for all other infringement to the extent of the authorization and consent herein above granted.

PATENT INDEMNITY (41 CFR 9-9.103-1)

If the amount of this contract is in excess of \$10,000 the contractor shall indemnify the Government and its officers, agents, and employees against liability, including costs, for infringement of any United States letters patent (except U.S. letters patent issued upon an application which is now or may hereafter be kept secret or otherwise withheld from issue by order of the Government) arising out of the manufacture or delivery of supplies or out of construction, alteration, modification, or repair of real property (hereinafter referred to as "construction work") under this contract, or out of the use or disposal by or for the account of the Government of such supplies or construction work. The foregoing indemnity shall not apply unless the contractor shall have been informed as soon as practicable by the Government of the suit or action alleging such infringement, and shall have been given such opportunity as is afforded by applicable laws, rules, or regulations to participate in the defense thereof; and further, such indemnity shall not apply to: (a) an infringement resulting from compliance with specific written instructions of the Contracting Officer directing a change in the supplies to be delivered or in the materials or equipment to be used, or directing a manner of performance of the contract not normally used by the contractor; (b) an infringement resulting from addition to or change in, such supplies or components furnished or construction work performed which addition or change was made subsequent to delivery or performance by the contractor; or (c) a claimed infringement which is settled without the consent of the contractor, unless required by final decree of a court of competent jurisdiction.

NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT (41 CFR 9-9.104(b))

The provisions of this clause shall be applicable only if the amount of this loan exceeds \$10,000.

- (a) The Borrower shall report to the Contracting Officer, promptly and in reasonable written detail, each notice of claim of patent or copyright infringement based on the performance of this grant of which the Subrecipient has knowledge.
- (b) In the event of any claim or suit against the Government on account of any alleged patent or copyright infringement arising out of the performance of this grant or out of the use of any supplies furnished or work or services performed hereunder, the Borrower shall furnish to the Government, when requested by the Contracting Officer, all evidence and information in possession of the Borrower pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Government except where the Borrower has agreed to indemnify the Government.
- (c) This clause shall be included in all contracts and subgrants under this grant.

REPORTING OF ROYALTIES (41 CFR 9-9.110)

If this grant is in an amount which exceeds \$10,000 and if any royalty payments are directly involved in the grant or are reflected in the grant price to the Government, the Borrower agrees to report in writing to the Patent Counsel (with notification by Patent

Counsel to the Contracting Officer) during the performance of this grant and prior to its completion of final settlement the amount of any royalties or other payments paid or to be paid by it directly to others in connection with the performance of this grant together with the names and addresses of licensors to whom such payments are made and either the patent numbers involved or such other information as will permit the identification of the patents or other basis on which the royalties are to be paid. The approval of DOE of any individual payments or royalties shall not stop the Government at any time from contesting the enforceability, validity or scope of, or title to, any patent under which a royalty or payments are made.

RIGHTS IN TECHNICAL DATA (SHORT FORM)

(a) Definitions. The definitions of terms set forth in DEAR 927.401 apply to the extent these terms are used herein.

(b) Allocation of Rights.

(1) The Government shall have:

- (i) Unlimited rights in technical data first produced or specifically used in the performance of this grant;
- (ii) The right of the Contracting Officer or his representatives to inspect, at all reasonable times up to three years after final payment under this grant, all technical data first produced or specifically used in the grant (for which inspection the Borrower or its contractor shall afford proper facilities to DOE); and
- (iii) The right to have any technical data first produced or specifically used in the performance of this grant delivered to the Government as the Contracting Officer may from time-to-time direct during the progress of the work, or in any event as the Contracting Officer shall direct upon completion or termination of this grant.

(2) The Borrower shall have:

The right to use for its private purposes, subject to patent, security or other provisions of this grant, technical data it first produces in the performance of this loan provided the date requirements of this loan have been met as of the date of the private use of such data. The Borrower agrees that to the extent it receives or is given access to proprietary data or other technical, business or financial data in the form of recorded information from DOE or a DOE contractor or subcontractor, the Borrower shall treat such data in accordance with any restrictive legend contained thereon, unless use is specially authorized by prior written approval of the Contracting Officer.

(c) Copyrighted Material.

(1) The Borrower agrees to, and does hereby grant to the Government, and to others acting on its behalf:

- (i) A royalty-free, nonexclusive, irrevocable, worldwide license for Governmental purposes to reproduce, distribute, display, and perform all copyrighted material first produced or composed in the performance of this loan by the Borrower, its employees or any individual or concern specifically employed or assigned to originate and prepare such material and to prepare derivative works based thereon; and
- (ii) A license as aforesaid under any and all copyrighted or copyrighted work not first produced or composed by the Borrower in the performance of this loan but which is incorporated in the material furnished under the loan, provided that such license shall be only to the extent the Borrower now has, or prior to completion or close-out of the loan, may acquire the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(2) The Borrower agrees that it will not knowingly include any material copyrighted by others in any written or copyrighted material furnished or delivered under this loan without a license as provided for in subparagraph (c)

(1) (ii) of this section, or without the consent of the copyright owner, unless it obtains specific written approval of the Contracting Officer for the inclusion of such copyrighted material.

RIGHTS TO PROPOSAL DATA (TECHNICAL) (48 CFR 52.227-23)

It is agreed that as a condition of award of this loan or modification and notwithstanding the conditions of any notice appearing on the proposal(s), the Government shall have the right to use, duplicate, and disclose and have others to do so for any purpose whatsoever, the technical data contained in the proposal(s) upon which the loan or modification is based.

Organization Name

Name and Title of Authorized Representative

Signature

Date

ATTACHMENT I

SUBCONTRACTING PROVISIONS; MANDATORY FLOWDOWN PROVISION

Contractor, if subcontracting any of its performance hereunder, shall legally bind subcontractors to perform and make such Subcontractors subject to all the duties, requirements, and obligations of Contractor under this Contract. Contractor shall be jointly and severally liable for all performances under this Contract, including, but not limited to, the performance of its Subcontractors to the extent permitted under the Constitution and laws of the State of Texas.

Contractor represents and warrants that it has obtained all necessary permits, licenses, easements, waivers and permissions of whatsoever kind required for its performance and the performance of its Subcontractors under this Contract. In no event shall any provision of this Attachment I, including, but not limited to, the requirement that Contractor obtain the prior approval of Comptroller on Contractor's proposed subcontracts, be construed as relieving Contractor of the responsibility for ensuring that all services rendered under any subcontracts comply with all the terms and provisions of this Contract as if they were rendered by Contractor. Contractor shall, upon request, furnish Comptroller with copies of all proposed subcontracts and all proposed amendments, assignments, cancellations or terminations of said subcontracts no later than thirty (30) days prior to the proposed effective date of such contracts, amendments, assignments, cancellations or terminations; provided, however, that this thirty (30) day period may be shortened by written agreement of the parties. Upon request from Comptroller, Contractor shall provide any and all documentation deemed necessary by Comptroller to evidence Subcontractors compliance with all terms, conditions and performance pertaining to the Contract and all applicable law.

As the duly authorized representative of the Contractor, I hereby certify that Contractor and subcontractor will comply with the above requirements.

CONTRACTOR:

By: _____

Printed Name: _____

Date: _____

ATTACHMENT J

Comptroller's RFP

Comptroller's RFP No. 212o, issued July 24, 2015, and Comptroller's Official Responses to Questions from Potential Proposers issued _____ (collectively "RFP"), are incorporated by reference for all purposes into this Contract as Attachment J of this Contract. In the event of a conflict between Comptroller's RFP and a RFP Addendum, the RFP Addendum shall control.

ATTACHMENT K

HUB Subcontracting Plan

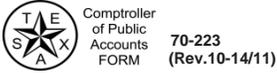
Contractor shall comply with the final executed HUB Subcontracting Plan which is incorporated by reference for all purposes into this Contract as part of this Attachment K of this Contract.

ATTACHMENT L

Contractor's Proposal

Contractor's Proposal dated [insert date], is incorporated by reference for all purposes into this Contract as Attachment L of this Contract.

ATTACHMENT M



Texas Comptroller of Public Accounts Confidential Treatment of Information Acknowledgement (CTIA)

I have read and understand the Comptroller’s Summary Public Information Disclosure Manual, a copy of which has been made available to me. I understand that confidential information made available to me by the Comptroller’s office may include the Comptroller’s own information and information held by the Comptroller’s office from other entities. I understand that confidential information is to be held in strictest confidence, and I will act in accordance with applicable federal and state laws, regulations and Comptroller policy with regard to the safekeeping and disclosure of confidential information. I understand that I am not to use such information to the detriment of the Comptroller’s office or the State of Texas.

I understand that it is my responsibility to consult with the Comptroller’s office and obtain approval to disclose confidential information made available to me, and to ensure that any and all disclosures I make are made to people or entities authorized to receive such information.

I understand that I shall either return to the Comptroller’s office or destroy any confidential information in my possession according to Comptroller guidelines, when I no longer require such information for authorized purposes.

I understand that computer system password(s) I receive or devise to access computer systems, which may be made available to me for my use by the Comptroller’s office, are confidential. I will not disclose to any unauthorized person any password(s) which I am given or devise, and I will not write such password(s) or post them where they may be viewed by unauthorized people. I understand that I am responsible for any computer transactions performed as a result of access authorized by use of my password(s). I understand that use of a password not issued specifically to me, or to a group of which I am a member, is expressly prohibited.

I understand that criminal and/or civil penalties and/or civil damages may apply if I obtain unauthorized access to, or make an unauthorized disclosure or inspection of, certain types of confidential information (e.g., IRS Federal Taxpayer Information, Protected Health Information, Sensitive Personal Information). Such penalties and/or damages may include, but are not limited to, the following:

- a misdemeanor, punishable by up to 1 year in jail and/or up to a \$4,000 fine (Texas Labor Code §301.085);
- a misdemeanor, punishable by up to 1 year in jail and/or up to a \$1,000 fine (Texas Tax Code §171.361);
- a misdemeanor, punishable by up to 180 days in jail and/or up to a \$2,000 fine (Texas Tax Code §22.27(c));
- a felony, punishable by up to 5 years in prison and/or a fine of up to \$5,000 (26 USC. §7213);
- a misdemeanor, punishable by up to 1 year in jail and/or up to a \$1,000 fine (26 USC §7213A);
- civil damages equal to sum of the greater of \$1,000 for each unauthorized inspection/disclosure or sum of actual damages sustained plus punitive damages for gross negligence, and the cost of action (26 USC §7431); and
- civil and criminal penalties related to criminal justice information (28 CFR §20.25).

I understand that an attempt to circumvent any computer security system or other security control by any means is a violation of Comptroller policy. I also understand that failure to observe these restrictions may constitute a "Breach of Computer Security" as defined in Texas Penal Code, Section 33.02(b), and that such an offense constitutes a Class B misdemeanor, a state jail felony, or a felony of the first, second or third degree.

I understand that any copyrighted material including, but not limited to, commercial computer software, which may be made available to me for my use by the Comptroller’s office, is protected by copyright laws and is not to be copied for any reason without permission from the copyright owner. I understand that the violation of copyright laws, including computer software, may result in fines and/or imprisonment.

By my signature hereon, I acknowledge my understanding of the contents of this form and the continued applicability of these provisions after my access to confidential information and computer systems has been terminated.

Printed name of person requesting access	Name of employer
Signature of person requesting access sign here ➤	Date
Work phone (<i>Area code and number</i>)	Work email address

For general questions regarding this form, contact the Comptroller’s Information Security Office by calling 512-936-5671.
Under Ch. 559, Government Code, you are entitled to review, request and correct information we have on file about you, with limited exceptions in accordance with Ch. 552, Government Code. To request information for review or to request error correction, contact us at 1-800-531-5441, ext. 6-6057.

EXHIBIT B
EXECUTION OF PROPOSAL

1. By signature hereon, Respondent represents and warrants that the provisions in this Execution of Proposal 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 otherwise are interested in this RFP or any contract resulting from it.
2. By signature hereon, Respondent represents and warrants that it has read and understood and shall comply with Comptroller's Anti-Fraud Policy, located on Comptroller's website at <http://www.window.texas.gov/ssv/ethics.html>, as such Policy currently reads and as it is amended throughout the term of any resulting contract.
3. By signature hereon, Respondent represents and warrants that each employee, including "replacement employees", will possess the qualifications, education, training, experience and certifications necessary to perform the services in the manner required by this RFP.
4. By signature hereon, Respondent represents and warrants that it has no actual or potential conflicts of interest in providing the requested items to Comptroller under the RFP and any resulting contract, if any, and that Respondent's provision of the requested items under the RFP and any resulting contract, if any, would not reasonably create an appearance of impropriety.
5. By signature hereon, pursuant to Section 2155.003 of the Texas Government Code, Respondent represents and warrants that it has not given, 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 submitted Proposal.
6. By signature hereon, Respondent represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171 of the Texas Tax Code.
7. By signature hereon, Respondent hereby represents and warrants that, pursuant to 15 U.S.C. Sec. 1, *et seq.* and Tex. Bus. & Comm. Code Sec. 15.01, *et seq.*, neither Respondent nor the firm, corporation, partnership, or institution represented by Respondent, nor anyone acting for such a firm, corporation or institution has violated the antitrust laws of this state, federal antitrust laws or communicated directly or indirectly the Proposal made to any competitor or any other person engaged in such line of business.
8. By signature hereon, Respondent represents and warrants that all statements and information prepared and submitted in response to this RFP are current, complete, and accurate.
9. By signature hereon, Respondent represents and warrants that the individual signing this document and the documents made part of this RFP is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any contract which may result from the submission of Respondent's Proposal.
10. By signature hereon, Respondent represents and warrants that if a Texas address is shown as the address of Respondent, Respondent qualifies as a Texas Bidder as defined by 34 Texas Administrative Code §20.32(68).
11. Check below if preference claimed under 34 Texas Administrative Code §20.38:
 - Goods produced or offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - Goods produced in Texas or offered by a Texas bidder that is not owned by a Texas resident service-disabled veteran
 - Agricultural products grown in Texas
 - Agricultural products offered by a Texas bidder
 - Services offered by a Texas bidder that is owned by a Texas resident service-disabled veteran
 - Services offered by a Texas bidder that is not owned by a Texas resident service disabled veteran
 - Texas Vegetation Native to the Region
 - USA produced supplies, materials or equipment
 - Products of persons with mental or physical disabilities
 - Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel
 - Energy Efficient Products
 - Rubberized asphalt paving material
 - Recycled motor oil and lubricants

- Products produced at facilities located on formerly contaminated property
- Products and services from economically depressed or blighted areas
- Vendors that meet or exceed air quality standards
- Recycled or Reused Computer Equipment of Other Manufacturers
- Foods of Higher Nutritional Value
- Commercial production company or advertising agency located in Texas

12. By signature hereon, under Section 231.006, Texas Family Code, regarding child support, Respondent certifies that the individual or business named in the Proposal 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, any Respondent subject to Section 231.006, Texas Family Code, must include names and Social Security numbers of each person with at least 25% ownership of the business entity submitting the Proposal. This information must be provided prior to award. Enter the Name and Social Security Number for each person below:

Name: _____ SSN: _____
 Name: _____ SSN: _____
 Name: _____ SSN: _____

FEDERAL PRIVACY ACT NOTICE: This notice is given pursuant to the Federal Privacy Act. Disclosure of your Social Security Number (SSN) is required under Section 231.006(c) and Section 231.302(c)(2), Texas Family Code. The SSN will be used to identify persons that may owe child support. The SSN will be kept confidential to the fullest extent allowed under Section 231.302(e), Texas Family Code.

13. By signature hereon, Respondent represents and warrants that no relationship, whether by relative, business associate, capital funding contract or by any other such kinship exists between Respondent and an employee of any Comptroller component, and Respondent has not been an employee of any Comptroller component within the immediate twelve (12) months prior to Respondent's Proposal. By signature hereon, Respondent certifies that it is in compliance with Section 669.003 of the Texas Government Code, relating to contracting with executive head of a state agency. Enter the name of any current or former executive head of a Texas State Agency that is currently employed by Respondent below:

Name of Former Executive: _____
 Name of State Agency: _____
 Date of Separation from State Agency: _____
 Position with Respondent: _____
 Date of Employment with Respondent: _____

All such disclosures will be subject to administrative review and approval prior to Comptroller entering into any contract with Respondent. Respondent acknowledges that any contract resulting from this RFP may be terminated at any time, and payments withheld, if this information is false.

14. By signature hereon, pursuant to Section 2155.004(a) of the Texas Government Code, Respondent represents and warrants that neither it nor any person or entity which will participate financially in any contract resulting from this RFP has received compensation for participation in the preparation of specifications for this RFP. Further, under Section 2155.004(b) of the Texas Government Code, Respondent certifies that the individual or business entity named in this Proposal or any contract resulting from this RFP is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate.
15. By signature hereon, Respondent represents and warrants that all articles and services quoted in response to this RFP meet or exceed the safety standards established and promulgated under the *Federal Occupational Safety and Health Law* and its regulations in effect or proposed as of the date of this solicitation.
16. By signature hereon, Respondent represents and warrants its compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
17. By signature hereon, in accordance with Section 2155.4441 of the Texas Government Code, 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.

18. By signature hereon, Respondent represents and warrants that Comptroller's payments to Respondent and Respondent's receipt of appropriated or other funds under any contract resulting from this RFP are not prohibited by Sections 556.005, 556.0055, or 556.008 of the Texas Government Code.
19. By signature hereon, Respondent represents and warrants that the offering entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state, or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.sam.gov>.
20. Sections 2155.006 and 2261.053 of the Texas Government Code, prohibit state agencies from awarding a contract to any person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Texas Government Code occurring after September 24, 2005. Under Section 2155.006 of the Texas Government Code, Respondent certifies that the individual or business entity named in its Proposal is not ineligible to receive the specified contract and acknowledges that any contract resulting from this RFP may be terminated and payment withheld if this certification is inaccurate.
21. By signature hereon, Respondent represents and warrants that it 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 Part 1 of this document within the five (5) calendar years immediately preceding the submission of Respondent's Proposal in response to this RFP 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 COMPTROLLER's consideration of Respondent's Proposal. If Respondent is unable to make the preceding representation and warranty, then Respondent instead represents and warrants that it has included as a detailed attachment in its Proposal a complete disclosure of any such court or governmental agency actions, proceedings or investigations, etc. that would or could impair Respondent's performance under any contract resulting from this RFP, relate to the solicited or similar goods or services, or otherwise be relevant to COMPTROLLER's consideration of Respondent's Proposal. In addition, Respondent represents and warrants that it shall notify COMPTROLLER 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 COMPTROLLER shall constitute breach of contract and may result in immediate termination of any agreement resulting from this RFP.
22. By signature hereon, Respondent represents and warrants that it has read and agrees to all terms and conditions of this RFP, unless Respondent specifically takes an exception and offers an alternative provision in Respondent's Proposal as provided in Part III, Section 3.2. (Transmittal Letter) of this RFP.

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

Signature of Authorized Representative	Date Signed
Printed Name and Title of Authorized Representative	Phone Number
Organization Name ("Respondent")	Fax Number
Federal Employer Identification Number	Email Address
Physical Street Address	City, State, Zip Code
Mailing Address, if different	City, State, Zip Code

EXHIBIT C
HUB SUBCONTRACTING PLAN (HSP)

Rev. 10/14



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 have a continuous contract* in place for five (5) years or less 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 have a continuous contract* in place for five (5) years or less 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 indicated 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, 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 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) §20.13 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 §20.14(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 contracts that have been in place for five years or less shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.

The Texas Comptroller of Public Accounts is fully committed to increasing contracting opportunities with HUBs by contracting directly with HUBs or indirectly through subcontracting opportunities. Therefore, we ask that you please consider utilizing HUBs in subcontracting areas which are listed below, but in no way should this list be considered exhaustive.

If your bid/proposal/offer does not contain a complete HSP and supporting documentation, your bid will be considered non-responsive and will be disqualified. Once awarded, respondent will be subject to debarment pursuant to Texas Gov't Code §2161.253(d) if any modifications are made to the HSP without PRIOR approval from this agency.

For assistance in completing the HSP, contact the CPA HUB Administrator at cassandra.johnson@cpa.texas.gov or 800-531-5441 Ext. 34120, or visit the following website for step by step information: <http://www.window.texas.gov/procurement/prog/hub/hub-subcontracting-plan>.

If you are not subcontracting any portion of the contract, the self-performance justification statement (Section 3) must be completed.

If you are subcontracting, your supporting documentation of "Good Faith Effort" must be demonstrated in either Method A (Attachment A) or Method B (Attachment B).

PLEASE NOTE: As the Texas Comptroller of Public Accounts continues its commitment to promote the HUB program, we are extending our "Good Faith Efforts" by also requiring an HSP on contracts with an expected value of \$25,000 to \$99,999. Therefore, we ask that you also consider utilizing HUBs in subcontracting areas which are listed below.

Class	Item	Description
924	05	Advisory Services, Educational
924	16	Course Development Services, Instructional/Training
924	18	Educational Services, Alternative
924	41	Instructor-led, Classroom Training (Non-Technical)
924	60	Not-For-Credit Classes, Seminars, Workshops, etc...
924	64	Partnering Workshop Facilitation Services

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 SUBCONTRACTING INTENTIONS RESPONDENT

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 goods and services, will be subcontracted. Note: In accordance with 34 TAC §20.11., an "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. (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 have a <u>continuous contract*</u> in place for five (5) years or less.	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> 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		%	%	%
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 <http://window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>)

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 have a continuous contract* in place with for five (5) years or less 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.

SECTION 3 SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.)

Check the appropriate box (Yes or No) that indicates whether your response/proposal contains an explanation demonstrating how your company will fulfill the entire contract with its own resources.

- Yes (If Yes, in the space provided below list the specific page(s)/section(s) of your proposal which explains how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)
- No (If No, in the space provided below explain how your company will perform the entire contract with its own equipment, supplies, materials and/or employees.)

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 <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature	Printed Name	Title	Date (mm/dd/yyyy)
-----------	--------------	-------	----------------------

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

HSP Good Faith Effort - Method B (Attachment B)

Rev. 10/14

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 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 <http://comptroller.texas.gov/procurement/prog/hub/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 this 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, to 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 <http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan>.

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 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 your submitting your bid response to the contracting agency. When searching for Texas certified HUBs, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) and Historically Underutilized Business (HUB) Search directory located at <https://mycpa.cpa.state.tx.us/passcmbsearch/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 Vendor ID (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	VID Number	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to two (2) or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>.
- d. List two (2) trade organizations or development centers you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

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

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

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 VID number, the approximate dollar value of the work to be subcontracted, the expected percentage of work to be subcontracted, and indicate whether the company is a Texas certified HUB.

Company Name	Texas certified HUB	VID Number <small>(Required if Texas certified HUB)</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- 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

Rev. 10/14

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, §20.14 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 serve members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code §20.11(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 .

_____ Central Time Date (mm/dd/yyyy)

*In accordance with 34 TAC §20.14, 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, §20.11(19)(C).
(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)*

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:

- Not Applicable

4. Bonding/Insurance Requirements:

- Not Applicable

5. Location to review plans/specifications:

- Not Applicable

**EXHIBIT D
CRIMINAL CONVICTION CERTIFICATION**

This Criminal Conviction Certification Form is incorporated as part of Respondent's proposal and any resulting Agreement for all purposes.

Respondent represents and warrants that it shall comply with all of the following requirements:

Respondent must take appropriate steps and perform due diligence -- at a minimum, as described in this Exhibit D -- to become informed as to each assigned employee's felony criminal convictions, if any, and must promptly inform Comptroller's Contract Administrator of any such felony criminal convictions for any assigned employee. At a minimum, Respondent must take these appropriate steps and perform due diligence at each of these three (3) intervals: (1) within the seven (7) business days immediately prior to submission of Respondent's proposal; (2) within the seven (7) business days prior to the proposed effective date of any renewal or extension of this Agreement; and (3) within the seven (7) business days prior to requesting approval for assignment of a new employee (such as a substitute employee). Respondent must inform Comptroller in writing within three (3) business days of Respondent's receipt of any information on any felony convictions of assigned employees obtained from any of these steps at any of these intervals.

At each of the above three (3) intervals, Respondent must take minimum steps to review and perform due diligence of every assigned employee's criminal history. Respondent's minimum steps shall include, at a minimum, (1) Respondent's compliance with Respondent's published employee policies and procedures for background and criminal checks of Respondent's employees and (2) Respondent's comprehensive search of the public information portion of an online criminal conviction database, such as the DPS criminal conviction database at: <https://records.txdps.state.tx.us/DpsWebsite/>. If such DPS criminal conviction database is not appropriate for a particular assigned employee, Respondent must submit with its proposal, its renewal or extension, or with its request for assignment, as appropriate, sufficient documentation that an equivalent or more extensive search was conducted and that the alternative is appropriate for that assigned employee.

Upon request by Comptroller's Criminal Investigations Division, Respondent must provide to Comptroller's Criminal Investigations Division, no later than five (5) business days after receiving such request, the written results of these minimum steps for all assigned employees.

For purposes of this Exhibit D, "assigned employees" includes, without limitation, all employees or personnel, for example, who will or may (1) be assigned as lead or key employees or personnel under this Agreement; (2) interact on site at Comptroller's premises with any Comptroller personnel, assets, records or resources in connection with this Agreement; or (3) otherwise access or interact with any assets, records or resources of Comptroller in connection with this Agreement.

By signing this form and initialing the appropriate space, Respondent represents and warrants that it took the above minimum steps and performed due diligence as required by this Exhibit D to become informed as to each assigned employee's felony convictions. If one or more proposed individuals have felony convictions, Respondent must describe the nature and timing of each conviction in a separate letter as part of Respondent's proposal (and in its renewal or extension, request for assignment, etc., as appropriate).

If Comptroller becomes aware that the completed certification form is false, or if Respondent fails to promptly advise Comptroller of a felony criminal conviction occurring after the certification becomes effective, Respondent shall be in breach of this Agreement and Comptroller shall have the option to terminate the Agreement without further obligation to Respondent and may pursue all other remedies and rights available to Comptroller under this Agreement, at law, or in equity.

Respondent must have an authorized company representative initial and sign this document in the blanks provided below, and must return the initialed and signed form along with the other required paperwork with its proposal (and as appropriate, its renewal or extension, or with its request for assignment).

Respondent shall indicate, by initialing in the space provided to the left of Items 1-2 below, its intent to comply with these provisions. Respondent **shall initial below EITHER Item 1 or Item 2 as applicable. DO NOT INITIAL BOTH ITEMS.** Additionally, Respondent shall sign, date, and provide the title of the person executing this Criminal Conviction Certification on its behalf in the space provided below at the end of this document.

1.____Respondent represents and warrants that it performed all minimum steps and due diligence described in this Exhibit D and that all currently assigned employees and all employees proposed for assignment have no felony criminal convictions. (If Respondent cannot make this unqualified representation and warranty, Respondent must initial Item 2 below and provide detailed information requested in Item 2 as a separate attachment to this Exhibit D, detailing and explaining any such convictions.) Further, Respondent represents and warrants that it shall notify Comptroller’s Contract Administrator in writing if any future proposed employee (for example, a substitute or other newly assigned employee) has any felony criminal conviction or if any information for any previously assigned employee has changed, no later than three (3) business days prior to such proposed employee’s proposed assignment starting date or no later than three (3) business days after Respondent’s receipt of such changed information, whichever is applicable.

OR

2.____Respondent represents and warrants that the attached detailed information describes the nature and timing of each felony conviction for each employee listed. Respondent represents and warrants that it shall notify Comptroller’s Contract Administrator in writing of any changes or updates to the information provided with this Exhibit D or subsequently provided no later than three (3) business days after Respondent’s receipt of such changed or updated information. Respondent represents and warrants that it provided with this Exhibit D a separate attached document detailing and explaining these convictions. Further, Respondent represents and warrants that it shall notify Comptroller’s Contract Administrator in writing if any future proposed employee (for example, a substitute or other newly assigned employee) has any felony criminal conviction or if any information for any previously assigned employee has changed, no later than three (3) business days prior to such proposed employee’s proposed assignment starting date or no later than three (3) business days after Respondent’s receipt of such changed information, whichever is applicable.

Signature of Authorized Representative

Date Signed

Printed Name of Authorized Representative

Title of Authorized Representative

EXHIBIT E
NONDISCLOSURE AGREEMENT

In consideration of Texas Comptroller of Public Accounts (“CPA”) communicating with the undersigned Respondent regarding a potential contract resulting from the referenced solicitation (e.g., RFP, RFO, IFB) and because of the sensitivity of certain information provided to Respondent, both parties agree that all information regarding CPA or gathered, produced, collected or derived from or related to the potential contract, or provided to Respondent under a resulting contract (“Confidential Information”) must remain confidential subject to release only upon prior written approval of CPA, and more specifically agree as follows:

1. The Confidential Information may be used by Respondent only to assist Respondent in connection with the business relationship contemplated in the solicitation or performance of a contract with CPA resulting from the solicitation.
2. Respondent shall not, at any time, use the Confidential Information in any fashion, form, or manner except in its capacity as proposed consultant or independent contractor to CPA.
3. Unless otherwise provided in the solicitation or resulting contract, Respondent agrees to maintain the confidentiality of all Confidential Information in the same manner that it protects the confidentiality of its own materials of like kind, but in no event less than reasonable care. Respondent shall take reasonable precautions to protect the Confidential Information including, but not limited to, not disclosing Confidential Information in any manner to any person, firm, or entity, except for authorized employees, agents, or contractors of Respondent with a need to know who are bound by confidentiality obligations at least as stringent as those contained in this agreement prior to any disclosure of such Confidential Information.
4. The Confidential Information may not be copied, reproduced, disclosed, distributed, or otherwise divulged without CPA's prior written approval. Confidential Information and any copies thereof shall be CPA's exclusive property.
5. All Confidential Information made available to Respondent, including copies thereof, must be returned to CPA upon the first to occur of (a) expiration or termination of any contract resulting from the solicitation, or (b) request by CPA.
6. The foregoing does not prohibit or limit Respondent's use of the information (including, but not limited to, ideas, concepts, know-how, techniques and methodologies) (a) previously known to it, provided such prior knowledge was not subject to a confidentiality obligation, (b) independently developed by it, (c) acquired by it from a third party under no obligation of confidentiality to CPA, (d) which is or becomes part of the public domain through no breach by Respondent of this nondisclosure agreement or other contractual obligations to CPA, or (e) approved by CPA in writing for unrestricted disclosure.
7. If Respondent is required by applicable law, regulation, or legal process to disclose any Confidential Information, then Respondent shall provide CPA with prompt notice of any such requirement prior to delivery of the Confidential Information to allow CPA a reasonable opportunity to seek a protective order or equivalent.
8. This nondisclosure agreement shall become effective as of the date Confidential Information is first made available to Respondent and shall survive the expiration or termination of any contract resulting from the solicitation and be a continuing requirement.
9. The breach of this nondisclosure agreement by Respondent shall entitle CPA to immediately terminate any contract with Respondent resulting from the solicitation upon written notice to Respondent for such breach. The parties acknowledge that the measure of damages in the event of a breach of this nondisclosure agreement may be difficult or impossible to calculate, depending on the nature of the breach. Regardless of whether CPA elects to terminate any contract with Respondent resulting from the solicitation upon the breach hereof, CPA may require Respondent to pay to CPA the sum of \$5,000 for each breach as liquidated damages. This amount is not intended to be in the nature of a penalty, but is intended to be a reasonable estimate of the amount of damages to CPA in the event of a breach hereof by Respondent of this nondisclosure agreement. CPA does not waive any right to seek additional relief, either equitable or otherwise, concerning any breach of this nondisclosure agreement.
10. This nondisclosure agreement is governed by and construed under the laws of the State of Texas. Any and all obligations of this agreement are due in Travis County, Texas and venue is proper in only such county.

Signature of Authorized Representative

Date Signed

Printed Name & Title of Authorized Representative

Company Name (“Respondent”)

EXHIBIT F
CONFLICT OF INTEREST STATEMENT

[To be prepared and signed by Respondent (Refer to Section 4.2.p of the RFP)]

Signature of Authorized Representative

Date Signed

Printed Name of Authorized Representative

Title of Authorized Representative