



INSTRUCTIONS TO RESPONDENTS

THE ATTACHED SOLICITATION SHOULD BE RETURNED AS FOLLOWS:

Place a label in the lower left-hand corner of all sealed envelope(s) or box(es) as shown in the below example.

Bid No.:
Bid Opening:
Purchaser:

HAND DELIVERY

or

COURIER SERVICE, UNITED STATES POSTAL SERVICE, FEDERAL EXPRESS,
UNITED PARCEL SERVICE OR OTHER MAIL DELIVERY SERVICE

Texas Department of Transportation

or

Responses may be submitted via e-mail if they are signed and in pdf format. Responses that are late, illegible, incomplete, or otherwise non-responsive will not be considered for award. TxDOT is not responsible for failure of electronic equipment or operator error.

USE OF NATIONAL INSTITUTE OF GOVERNMENTAL PURCHASING CODE

The Texas Department of Transportation (TxDOT) uses the National Institute of Governmental Purchasing, Inc., (NIGP) code to standardize purchases by conforming to the class, item, and group structure of the code. The NIGP code is used to select vendors for our master vendor file from the Texas Comptroller of Public Accounts (CPA) Centralized Master Bidders List (CMBL).

New suppliers and other vendors wishing to furnish materials, equipment, supplies and services to TxDOT should apply to be on the CMBL to receive bidding opportunities.

Existing TxDOT vendors need only be concerned that the information listed on the CMBL file is correct, and that the applicable NIGP class and item are selected for those you can provide.

CMBL information is available online at: <http://www.window.state.tx.us/procurement/prog/cmb/>, or by phoning 1-512-463-3459.

Early Payment Program - TxDOT is offering an important program to all respondents that provide prioritized invoice processing and payments (prior to the 30th day after receipt of a correct invoice). The program provides enrolled vendors enhanced benefits from improved invoice processing to priority handling to cash advancement and technology efficiencies.

Respondents offering a cash discount in exchange for TxDOT's priority invoice processing and early payment agreement, should complete and return the attached form entitled "Priority Invoice and Early Payment Program" with the response.

Additional information may be found at the following website: <http://www.txdot.gov/business/vendors/epp.html>.

Revised 10/02/2015



INVITATION FOR BID

Page 1

03/08/2016

SOLICITATION NO: 601320000012772

OPENING DATE 10:00 AM Mar 28, 2016

To: Blank Vendor for RFQs Only X Austin TX 78701	Return Sealed Response To: See Body of Solicitation for Specific Return Instructions
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VENDOR ID: 9999999999 - 999	BUYER: Trevino, Vidal PHONE: 956/712-7782
------------------------------------	--

Shows opening date and number in lower left hand corner of sealed response envelope and show return address of vendor. Vendor agrees to comply with the solicitation below and at terms and conditions. F.O.B. destination means vendor retain title to goods until delivered and the price quoted includes all freight charges.	Delivery in _____ Days Cash Discount _____ % _____ Days
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QUOTE F.O.B. DESTINATION						
Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
1	<p>SHIP TO THE FOLLOWING LOCATION UNLESS OTHERWISE NOTED PRO - SOUTH FIELD AREA RCS_INVOICES@TXDOT.GOV SOUTH RSC, ACCOUNTS PAYABLE 4615 NW LOOP 410 SAN ANTONIO TX 78229-0928 United States SEE SPECIFIC INSTRUCTIONS FOR EACH LINE ITEM</p> <p>SHIP THIS ITEM TO THE FOLLOWING LOCATION SERVICE TO BE PROVIDED AT THE LOCATION(S) REFERENCED IN THE BODY OF THE SOLICITATION/PO. United States</p> <p>UNIFORM - CAPTAIN</p> <p>NOTE: UNIT PRICE PER SET CONSISTS OF 11-SHIRTS, 11-PANTS, TWO JACKETS AND TWO LINERS.</p> <p>This line item shall be bid as follows: uniform rental service for approximately 30 sets per week.</p> <p>QUANTITY IS BASED ON 30 SETS X 52 (No. OF WEEKS/YEAR) = 1,560 SETS (TOTAL NUMBER OF UNIFORMS FOR THE ONE YEAR PERIOD OF SERVICE)</p> <p>Note: All environmental, surcharges and fuel fees shall be included on the unit price.</p>	1,560.00	SET			

IF RESPONDING, FORM MUST BE SIGNED. IF NOT RESPONDING, DO NOT RETURN THIS FORM.

Failure to sign
will disqualify
response.

Authorized Signature

Date

Printed Name

By signing solicitation, respondent certifies that if the Texas address is shown as the address of the respondent, respondent qualifies as a Texas Bidder as defined in 34 T AC Rule 20.32.



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Delivery in _____ Days
Cash Discount _____ % _____ Days

QUOTE F.O.B. DESTINATION

Item No.	Item Description	Quantity	Unit	Make/Model	Unit Price	Extended Price
2	<p>98386510253 RENTAL OF UNIFORMS FOR MEN AND WOMEN.COMPLET UNIFORM</p> <p>SHIP THIS ITEM TO THE FOLLOWING LOCATION SERVICE TO BE PROVIDED AT THE LOCATION(S) REFERENCED IN THE BODY OF THE SOLICITATION/PO. United States</p> <p>UNIFORM - DISPATCHER</p> <p>NOTE: UNIT PRICE PER SET, SET CONSISTS OF 11-SHIRTS, 11-PANTS, TWO JACKETS AND TWO LINERS.</p> <p>This line item shall be bid as follows: uniform rental service for approximately seven sets per week. unit price shall be per week for a one year period.</p> <p>QUANTITY IS BASED ON SEVEN SETS X 52 (No. OF WEEKS/YEAR) = 364 SETS (TOTAL NUMBER OF UNIFORMS FOR THE ONE YEAR PERIOD OF SERVICE)</p> <p>Note: All environmental, surcharges and fuel fees shall be included on the unit price.</p>	364.00	SET			
3	<p>98386510253 RENTAL OF UNIFORMS FOR MEN AND WOMEN.COMPLET UNIFORM</p> <p>SHIP THIS ITEM TO THE FOLLOWING LOCATION SERVICE TO BE PROVIDED AT THE LOCATION(S) REFERENCED IN THE BODY OF THE SOLICITATION/PO. United States</p> <p>UNIFORM - MAINTENANCE TECHNICIAN</p> <p>NOTE: UNIT PRICE PER SET, SET CONSISTS OF 11-SHIRTS, 11-PANTS, TWO JACKETS AND ONE LINER.</p>	572.00	SET			



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QUOTE F.O.B. DESTINATION

Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
4	<p>This line item shall be bid as follows: uniform rental service for approximately 11 sets per week. unit price shall be per set per week for a one year period.</p> <p>QUANTITY IS BASED ON 11 SETS X 52 (No. OW WEEKS/YEAR) = 572 SETS (TOTAL NUMBER OF UNIFORMS FOR THE ONE YEAR PERIOD OF SERVICE)</p> <p>Note: All environmental, surcharges and fuel fees shall be included on the unit price.</p> <p>98386510253 RENTAL OF UNIFORMS FOR MEN AND WOMEN.COMPLETE UNIFORM</p> <p>SHIP THIS ITEM TO THE FOLLOWING LOCATION SERVICE TO BE PROVIDED AT THE LOCATION(S) REFERENCED IN THE BODY OF THE SOLICITATION/PO. United States</p> <p>UNIFORM - WELDER</p> <p>NOTE: UNIT PRICE PER SET, SET CONSISTS OF 11-SHIRTS, 11-PANTS ONE JACKET WITH SEWED IN LINER AND ONE JACKET WITHOUT LINER.</p> <p>This line item shall be bid as follows: unifrom rental service for approximately one set per week. unit price shall be per set per week for a one year period.</p> <p>QUANTITY IS BASED ON ONE SET OF 52 (NO. OF WEEK/YEAR) = 52 SETS (TOTAL NUMBER OF UNIFORMS FOR THE ONE YEAR PERIOD OF SERVICE)</p> <p>Note: All environmental, surcharges and fuel fees shall be included on the unit price.</p>	52.00	SET			
5	<p>98386510253 RENTAL OF UNIFORMS FOR MEN AND WOMEN.COMPLETE UNIFORM</p>	20.00	EA			



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Delivery in _____ Days Cash Discount _____ % _____ Days
--

QUOTE F.O.B. DESTINATION						
Item No.	Item Description	Quantity	Unit	Make/Model	Unit Price	Extended Price
6	SHIP THIS ITEM TO THE FOLLOWING LOCATION SERVICE TO BE PROVIDED AT THE LOCATION(S) REFERENCED IN THE BODY OF THE SOLICITATION/PO. United States OVERSIZED GARMENT REFERENCE PARA. 9.4.4. MEN PANTS: SIZE 44 AND ABOVE AND/OR INSEAMS EXCEEDING 35" Note: All environmental, surcharges and fuel fees shall be included on the unit price.	10.00	EA			
	98386510253 RENTAL OF UNIFORMS FOR MEN AND WOMEN.COMplete UNIFORM					
7	SHIP THIS ITEM TO THE FOLLOWING LOCATION SERVICE TO BE PROVIDED AT THE LOCATION(S) REFERENCED IN THE BODY OF THE SOLICITATION/PO. United States OVERSIZED GARMENT REFERENCE PARA. 9.4.4. WOMEN PANTS: SIZE 22 AND ABOVE Note: All environmental, surcharges and fuel fees shall be included on the unit price.	60.00	EA			
	98386510253 RENTAL OF UNIFORMS FOR MEN AND WOMEN.COMplete UNIFORM					
	SHIP THIS ITEM TO THE FOLLOWING LOCATION SERVICE TO BE PROVIDED AT THE					



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Delivery in _____ Days
Cash Discount _____ % _____ Days

QUOTE F.O.B. DESTINATION

Item No.	Item Description	Quantity	Unit	Make/Model	Unit Price	Extended Price
8	<p>OVERSIZED GARMENT REFERENCE PARA. 9.4.4.</p> <p>SHIRTS: MEN'S - SIZE 3X AND ABOVE</p> <p>Note: All environmental, surcharges and fuel fees shall be included on the unit price.</p> <p>98386510253 RENTAL OF UNIFORMS FOR MEN AND WOMEN.COMPLET E UNIFORM</p> <p>SHIP THIS ITEM TO THE FOLLOWING LOCATION SERVICE TO BE PROVIDED AT THE LOCATION(S) REFERENCED IN THE BODY OF THE SOLICITATION/PO. United States</p>	60.00	EA			
9	<p>OVERSIZED GARMENT REFERENCE PARA. 9.4.4.</p> <p>SHIRTS: WOMEN - SIZE 3X AND ABOVE</p> <p>Note: All environmental, surcharges and fuel fees shall be included on the unit price.</p> <p>98386510253 RENTAL OF UNIFORMS FOR MEN AND WOMEN.COMPLET E UNIFORM</p> <p>SHIP THIS ITEM TO THE FOLLOWING LOCATION SERVICE TO BE PROVIDED AT THE LOCATION(S) REFERENCED IN THE BODY OF THE SOLICITATION/PO. United States</p>	50.00	EA			
	<p>OVERSIZED GARMENT REFERENCE PARA. 9.4.4.</p> <p>JACKETS: MEN AND WOMEN - SIZE 3X AND ABOVE</p>					



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QUOTE F.O.B. DESTINATION

Item No.	Item Description	Quantity	Unit	Make/Model	Unit Price	Extended Price
10	<p>Note: All environmental, surcharges and fuel fees shall be included on the unit price.</p> <p>98386510253 RENTAL OF UNIFORMS FOR MEN AND WOMEN.COMPLET E UNIFORM</p> <p>SHIP THIS ITEM TO THE FOLLOWING LOCATION SERVICE TO BE PROVIDED AT THE LOCATION(S) REFERENCED IN THE BODY OF THE SOLICITATION/PO. United States</p> <p>Replacement charges for loss of or unreturned Uniform. Please enter Unit Cost below:</p> <p>10-each Men and Women Shirt \$ _____ Price/Each</p> <p>10-each Men and Women Pants \$ _____ Price/Each</p> <p>10-each Denim Pants \$ _____ Price/Each</p> <p>10-each Men and Women Jackets \$ _____ Price/Each</p> <p>Once the award is made, the unit of measure will be converted to service units (SVC) in the amount TxDOT estimates to spend.</p> <p>Each SVC is price at \$1.00. A SVC is a TxDOT internal system unit of measure. Vendor will invoice at the price(s) indicated on the pricing IFB for the work authorized.</p> <p>The following comments apply to the entire Solicitation This solicitation is to provide rental uniforms for the Texas Department of Transportation, Port Aransas office, located at 619 W. Cotter, Port Aransas, TX 78373.</p>	1.00	EA			



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QUOTE F.O.B. DESTINATION

Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
	<p>Term of Service shall commence upon issuance of the purchase order or as otherwise indicated on the purchase order for a period of 12 months with the option to renew for three additional like periods of time at the same terms and conditions plus any approved changes.</p> <p>This solicitation is posted on the Electronic State Business Daily (ESBD).</p> <p>It is the responsibility of the interested parties to periodically check the Electronic State Business Daily (ESBD) for updates to the procurement prior to submitting a response. The respondent's failure to periodically check the ESBD will in no way release the selected vendor from "Addenda or additional information" resulting in additional costs to meet the requirements of the solicitation.</p> <p>HTTP://ESBD.CPA.STATE.TX.US</p> <p>Service shall be performed in accordance with the documents noted below. In the event of any conflict, terms contained in the documents shall prevail in the order listed below:</p> <p>*Solicitation 601320000012772</p> <p>*Statement of Work - Rental of Uniforms and Apparel Items</p> <p>*Schedule 1 - Respondent Qualifications and Experience</p> <p>*Attachment A - Uniform and Apparel Items</p> <p>*References</p> <p>*TxDOT Terms and Conditions, Revised December, 2014</p> <p>*Payment shall be in accordance with Part 4.04, Paras. (c) of the TxDOT Terms and Conditions.</p> <p>*Priority Invoice and Early Payment Program Form</p>					



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QUOTE F.O.B. DESTINATION

Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
	<p>Insurance shall be in accordance with Part 5 of the TxDOT Terms and Conditions:</p> <p>Insurance Required: *Worker's Compensation *Commercial General Liability *Business Automobile Policy *(Commercial Automobile Policy)</p> <p>*Form 1560, Certificate of Insurance for Services</p> <p>Worker's Compensation Insurance Worker's Compensation Insurance: Vendor shall provide form 1560 certificate of insurance for persons providing all or part of the services regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes but is not limited to, independent contractors, subcontractors, leasing companies, motor carriers, and owner-operators.</p> <p>Per part 5, Para. 5.01 of the TxDOT Terms and Conditions, the vendor shall provide the required TxDOT insurance form upon notice of award. Vendor shall not perform services under the purchase order until this form is received by TxDOT. Failure to provide proof of insurance within the time frame request by TxDOT may result in the vendor's response being declared non-responsive and the purchase order being awarded to the next responsive, responsible respondent.</p> <p>Texas HUB Subcontracting Plan Determination Not Probable</p> <p>TxDOT has determined that subcontracting opportunities are not probable in connection with this solicitation.</p> <p>Quantities are estimates only. No guarantee of any minimum or maximum purchase is made or implied. TxDOT will only order the amount needed to satisfy operating requirements, which may be more or less than indicated. The vendor will be notified in writing by purchase</p>					



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QUOTE F.O.B. DESTINATION						
Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
	<p>order change notice for any requirement changes.</p> <p>The State of Texas will permit "unit price" adjustments upwardly or downwardly when correlated with the price index specified herein. Unless otherwise indicated, the price index shall be the specified index as published by the Bureau of Labor Statistics, Washington, DC 20212. The baseline index shall be the index announced for the month in which the bids opened. Unit prices may be adjusted for each renewal period in accordance with changes in index. The allowable percent change shall be calculated by subtracting the baseline index from the index announced for the month in which the renewal option is exercised and dividing the result by the baseline index. The allowable percent change shall be rounded to the nearest one-hundredth of one percent and shall be the maximum unit price adjustment permitted, except that the vendor may offer price decreases in excess of the allowable percent change.</p> <p>Index to be used: Consumer Price Index - Urban Wage Earners and Clerical Workers (CPI-W)</p> <p>Provide a Vendor Point-of-Contact for Services: Name: Telephone: Fax Number: Email Address:</p> <p>For clarification of the specifications of this solicitation, respondents may contact: Purchaser: Vidal Trevino - CTPM Telephone: (956) 712-7782 Email Address: vidal.trevino@txdot.gov</p> <p>The individual listed above may be telephoned or visited for clarification of the specifications only. No authority is intended or implied that specifications may be amended or alternates accepted prior to solicitation opening without written approval.</p>					



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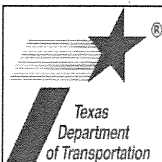
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Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
	<p>The bid opening will be held at the Texas Department of Transportation, 1817 Bob Bullock Loop, Laredo, TX 78043</p> <p>Return bids to: 1817 Bob Bullock Loop Laredo, TX 78043</p> <p>Attention: Vidal Trevino</p> <p>VENDOR TO PROVIDE CURRENT COMPANY NAME:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>VENDOR TO PROVIDE FEDERAL EIN:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>IF INVOICE WILL BE SUBMITTED BY, AND/OR PAYMENT MADE TO AN EIN OR COMPANY NAME DIFFERENT FROM THE VENDOR ON THE PURCHASE ORDER, VENDOR MUST COMPLETE THE FOLLOWING TO AUTHORIZE PAYMENT:</p> <p>_____</p> <p>EIN OF COMPANY AUTHORIZED TO INVOICE FOR VENDOR:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>NAME OF INVOICING COMPANY:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>EIN OF COMPANY AUTHORIZED TO RECEIVE PAYMENT:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>NAME OF COMPANY TO BE PAID:</p> <p>_____</p> <p>_____</p>					



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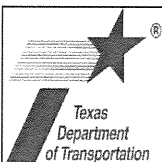
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QUOTE F.O.B. DESTINATION

Item No.	Item Description	Quantity	Unit	Make/Model	Unit Price	Extended Price
	<p>_____</p> <p>_____</p> <p>PREFERENCE AND VENDOR ID NUMBER. CHECK BELOW IF PREFERENCE CLAIMED UNDER RULE 34TAC 20.38. TIE-BID PREFERENCES:</p> <p>___ SUPPLIES, MATERIALS OR EQUIPMENT PRODUCED IN TEXAS OR OFFERED BY A TEXAS BIDDER</p> <p>___ AGRICULTURAL PRODUCTS PRODUCED OR GROWN IN TEXAS</p> <p>___ AGRICULTURAL PRODUCTS AND SERVICES OFFERED BY TEXAS BIDDER</p> <p>___ USA PRODUCED SUPPLIES, MATERIAL OR EQUIPMENT</p> <p>___ PRODUCTS PRODUCED AT FACILITIES LOCATED ON FORMERLY CONTAMINATED PROPERTY</p> <p>___ PRODUCTS AND SERVICES FROM ECONOMICALLY DEPRESSED OR BLIGHTED AREAS</p> <p>___ GOODS PRODUCED OR OFFERED BY A TEXAS BIDDER THAT IS OWNED BY A SERVICE DISABLED VETERAN WHO IS A TEXAS RESIDENT</p> <p>SOURCE PREFERENCES:</p> <p>___ PRODUCTS OF PERSONS WITH MENTAL OR PHYSICAL DISABILITIES</p> <p>___ VENDORS THAT MEET OR EXCEED AIR QUALITY STANDARDS. FOR CONTRACTS TO BE PERFORMED, IN WHOLE OR IN PART, IN A DESIGNATED NON-ATTAINMENT AREA OR AN AFFECTED COUNTY, AS THOSE TERMS ARE DEFINED BY HEALTH AND SAFETY CODE 386.001 TEXAS EMISSION REDUCTION PLAN</p> <p>___ MANUFACTURER THAT HAS A RECYCLE PROGRAM FOR COMPUTER EQUIPMENT</p> <p>___ CONTRACTOR PROVIDING FOODS OF HIGHER NUTRITIONAL VALUE</p> <p>SPECIFICATION PREFERENCES:</p> <p>___ POINT LINES MADE OF RECYCLED MATERIALS, REMANUFACTURED, OR ENVIRONMENTALLY SENSITIVE MATERIALS INCLUDING RECYCLED STEEL</p> <p>___ ENERGY EFFICIENT PRODUCTS</p> <p>___ RUBBERIZED ASPHALT PAVING MATERIALS</p> <p>___ RECYCLED MOTOR OIL AND LUBRICANTS</p> <p>IF THE NAME OF YOUR COMPANY IS NOT PRINTED ON THE HEADING OF THIS SOLICITATION, YOU MUST WRITE THE FULL</p>					



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QUOTE F.O.B. DESTINATION

Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
	<p>NAME OF COMPANY, FULL NAME OF SIGNER, MAILING ADDRESS AND RESPONDENT'S, EMPLOYER IDENTIFICATION NUMBER (EIN) ON THE FACE OF THE SOLICITATION. IN AN EFFORT TO MINIMIZE IDENTITY THEFT, EVERY COMPANY MUST HAVE AN EMPLOYER IDENTIFICATION NUMBER (EIN), ALSO KNOWN AS A FEDERAL TAX IDENTIFICATION NUMBER, PRIOR TO AWARD OF A PURCHASE ORDER.</p> <p>FOR INFORMATION ON OBTAINING YOUR EIN, YOU MAY CALL 800-829-4933 OR VISIT THE FOLLOWING WEBSITE: HTTP://WWW.IRS.GOV/BUSINESSES/SMALL/</p> <p>(NOTE: THIS LINK WILL NOT WORK IF CAPITALIZATION IS USED. TYPE IN NAVIGATION BAR USING LOWER CASE LETTERS)</p>					

TEXAS DEPARTMENT OF TRANSPORTATION
PROCUREMENT DIVISION

STATEMENT OF WORK – RENTAL OF UNIFORMS

1. SCOPE: This solicitation is to provide rental of uniform services for the following employees of the Texas Department of Transportation located at 619 W. Cotter St., Port Aransas, TX 78373.
2. DEFINITIONS OF TERMS AND ACRONYMS
 - 2.1. PM – Project Manager
 - 2.2. TxDOT – Texas Department of Transportation
3. APPLICABLE LAWS AND STANDARDS: The vendor shall provide the specified service requirements in accordance with all applicable federal, state and local laws, standards and regulations necessary to perform the services, including, but not limited to:
 - 3.1. Texas Health and Safety Code Chapter 374 and in Title 30
 - 3.2. Texas Administrative Code Chapter 337 (30 TAC 337)
4. RESPONDENT QUALIFICATIONS: The respondent shall:
 - 4.1. Be a company engaged in the business of providing rental uniform services for a minimum of three years within the last five years. Recent start-up businesses do not meet the requirements of this solicitation. Have a minimum of three year experience within the last five years providing all requirements for rental uniform services. Experience shall include but not be limited to managing and providing field personnel and equipment.

NOTE: A start-up business is defined as a new company that has no previous operational history or expertise in the relevant business and is not affiliated with a company that has that history or expertise. Two companies are affiliated if the two companies have a common parent company or if one is the parent or subsidiary of the other. (Ref. Schedule 1 – Respondent Qualifications and Experience).

NOTE: Field experience in rental uniform services as a PM, in lieu of business experience, is not acceptable, and will not be considered. TxDOT will be the sole judge of whether or not a company demonstrates acceptable experience.
 - 4.2. Be in good financial standing and current in payment of all taxes and fees such as state franchise fees. TxDOT reserves the right to request a copy of the respondent's audited or un-audited financial statement.

TxDOT may request a statement from the president, owner or financial officer on company letterhead certifying that the company is in good financial standing, current in payment of all taxes and fees.

When financial statements are requested, TxDOT will review the respondent's audited or un-audited financial statement in accordance with Texas Government Code, Title 10, Subtitle D, Section 2156.007 to evaluate the sufficiency of the respondent's financial resources and ability to perform the contract or provide the service required in the solicitation. TxDOT will be the sole judge in determining the sufficiency of the respondent's financial resources and ability to perform the contract or provide the service. Factors to be reviewed include:

- 4.2.1. Balance sheets.
 - 4.2.2. Net working capital.
 - 4.2.3. Current asset ratio.
 - 4.2.4. Liquidity ratio.
 - 4.2.5. Auditor(s) notes.
 - 4.2.6. Any notes to the financial statements.
- 5. RESPONDENT REFERENCES: The respondent should submit a minimum of three references to substantiate the qualifications and experience requirements for similar services completed for three years within the last five years. References shall illustrate respondent's ability to provide the services outlined in the specification. References shall include name, point of contact, telephone number, and dates services were performed. The response may be disqualified if TxDOT is unable to verify qualification and experience requirements from the respondent's references. The response may be disqualified if TxDOT receives negative responses. TxDOT will be the sole judge of references (Ref. Respondent References)
- 6. RESPONDENT PERSONNEL QUALIFICATIONS: The respondent shall provide the following key personnel:
 - 6.1. The PM shall:
 - 6.1.1. Have a minimum of three year experience within the last five years in project management for similar services.
 - 6.1.2. Possess a valid Driver License acceptable in the state of Texas.
 - 6.2. TECHNICIANS: (Include all personnel driving to and from TxDOT work locations) shall:
 - 6.2.1. Have a minimum of one year of experience within the last two years in the services.
 - 6.2.2. Possess a valid Driver License acceptable in the state of Texas.
 - 6.2.3. Have no Driving Under Influence (DUI) or Driving While Intoxicated (DWI) incidents on driving record within the past three years.
- 7. VENDOR REQUIREMENTS: The vendor shall:
 - 7.1. Adhere to the TxDOT Terms and Conditions identified on the solicitation.
 - 7.2. Provide all labor, materials and equipment necessary to meet requirements of the specified services throughout the term of the purchase order.
 - 7.3. Provide a primary PM.
 - 7.4. Include all travel, environmental fees and surcharges to the unit price.
 - 7.5. Provide color brochure or data sheets identifying apparel to be provided under the bid. Quality of items must meet or exceed current Brand specifications on the Attachment A.
- 8. RESPONDENT PERSONNEL REQUIREMENTS

- 8.1. The PM's primary responsibility shall be the day-to-day operation of the service in accordance with the requirements of the purchase order.
- 8.2. The PM shall be a permanent staff employee and shall serve as a constant primary point of contact for TxDOT.
- 8.3. All personnel shall:
 - 8.3.1. Have the knowledge to develop and implement the service requirements in this solicitation
 - 8.3.2. Be fluent in English with the ability to receive, give and understand written and oral instructions.
 - 8.3.3. Communicate verbally in English, speaking in a manner used in most office environments.
- 8.4. Not be excessively loud or use personal multi-media devices while performing services for TxDOT unless furnished by the vendor to facilitate communication with TxDOT or the vendor.

9. SERVICE REQUIREMENTS:

- 9.1. Vendor shall begin work within 30 calendar days of the award of the purchase order or on the agreed upon date between TxDOT and the vendor.
- 9.2. Vendor shall be responsible for the sizing, cleaning, repairing and the pick-up and delivery of the uniforms.
- 9.3. For measurement date: Shall be mutually agreed upon between the vendor and an authorized TxDOT representative.
- 9.4. Initial Start-up – Measurement, Sizing and Outfitting
 - 9.4.1. New uniforms will be provided to personnel during the initial outfitting. If any additional personnel are hired after the initial outfitting of uniforms, they will be furnished with new uniforms. Used uniforms are unacceptable.
 - 9.4.2. Vendor shall have thirty (30) days after notification of award to complete the initial outfitting and delivery of new uniforms to all employees.
 - 9.4.3. Vendor shall be required to perform all fittings on-site at the Texas Department of Transportation (Ferry Operations) located at 619 W. Cotter Street, Port Aransas, TX 78373.
 - 9.4.4. Oversized garments will be paid in a separate line of the invoice. (Ref. Solicitation Line Items 5, 6, 7, 8 and 9). Unit Price shall be a one-time fee unless item is replaced due to damaged or loss garment.
 - 9.4.5. The uniform fabric should be of a material and weave that tends to limit or minimize injuries from slicing or impact.
- 9.5. Regular weekly maintenance of the uniforms will include:

- 9.5.1. Cleaning/Laundrying: All uniforms must be washed in full accordance with State and Federal Regulations and requirements governing commercial and industrial industries. All uniforms must be treated for mildew prevention and laundered using detergents or cleaners that leave the garments odor free. Uniforms that retain an offensive smell or residual odor after laundering will not be acceptable.
- 9.5.2. Protection: All shirts and pants must be covered in clear plastic bags to prevent from being soiled during transportation.
- 9.5.3. Wrinkle – Free: All uniforms must be delivered wrinkle-free and delivered one garment per hanger. Per the type of uniform article, pressing of uniforms will be performed in accordance with industry standards.
- 9.5.4. Repairs: Uniforms needing general repairs, such as zippers, buttons, seams etc., are the responsibility of the vendor at no extra charge. Repair tags must be provided by the vendor at the start-up of the contract and as needed throughout the term of the contract. Any uniform item tagged for repaired must be returned in a repaired condition or be replaced with a new item within one week (by next scheduled delivery).
- 9.5.5. Uniform Replacement: Uniforms must be replaced when signs of extreme wear exist.).
- 9.6. Other Service Requirements:
 - 9.6.1. Uniform Replacement Cost: The vendor will provide a replacement cost for each uniform article that is lost, not returned or damaged from abuse. Replacement costs will be fixed for the entire period of the original contract and extension (Ref. Solicitation Line Items 10.).
 - 9.6.2. Uniform Returns: It is intended that all uniform articles will be returned to the vendor within 30 business days when an employee leaves TxDOT employment. Likewise, at the end of the contract term, it is intended that all uniform articles will be returned. Uniform articles not returned will be charged at the uniform cost specified. (Ref. Solicitation Line Items 10.).
 - 9.6.3. Each individual garment must have a non-removable identification patch that states the uniform's, name, title and agency. Patch must be stitched.
 - 9.6.4. All shirts, jackets and coveralls shall include one each:
 - 9.6.4.1. Name Patch (First Name)
 - 9.6.4.1.1. Name Patch shall be located on left side 1" above pocket.
 - 9.6.4.1.2. Name Patch shall be rectangular shaped (1.5" x 3.5") with Navy Blue border, white background and Navy Blue block lettering.
 - 9.6.4.2. Title Patch
 - 9.6.4.2.1. Title Patch shall be located on right side 1" above pocket.

9.6.4.2.2. Title Patch shall be rectangular shaped (1.5" x 3.5") with Navy Blue border, white background and Navy Blue block lettering.

9.6.4.3. TxDOT Logo Patch, Logo Patch shall be located on the upper left sleeve 2" below shoulder seam.

NOTE: Vendor is advised that a trademark license is required for the printing of the TxDOT logo. Should awarded vendor not currently hold a trademark license, the vendor shall either purchase the patches from a licensed vendor or obtain a trademark license by the contract start date. Vendor shall either maintain the trademark license or purchase patches from a licensed vendor throughout the term of the contract.

9.7. Uniform Apparel Requirements: Please refer to Attachment A.

9.8. Each individual garment must have a non-removable identification tag that states the Uniform Company's name.

9.9. No rental charges shall be incurred by TxDOT for uniforms turned in to be on hold for an employee needing to be out (Due to unforeseen circumstances) for an extended period of time.

9.10. New Hire Employee: Vendor shall have new set of uniforms within two weeks after TxDOT request new uniforms for new hire employee.

10. VENDOR DELIVERABLES: The vendor shall deliver all uniforms to the Texas Department of Transportation facility at the Port Aransas complex at 619 W. Cotter Ave., Port Aransas, TX 78373 between the hours of 6:30 A.M. and 7:00 A.M., every Wednesday. If a schedule delivery date falls on a State or Federal holiday, the vendor must schedule a pick-up and delivery prior to the holiday day. Vendor shall provide written notice of rescheduled delivery date.

11. VENDOR PERFORMANCE: Vendor performance will be monitored on a regular basis by TxDOT. TxDOT may consider the following performance by the vendor as unsatisfactory performance.

11.1. An unsatisfactory performance determination includes, but is not limited to:

One service "call back" to correct the same problem within 30 calendar days.

NOTE: Unsatisfactory performance may result in a negative vendor performance report, or cancellation of the purchase order or both.

11.2. An exceptional performance determination includes, but is not limited to:

11.2.1. Deliverables made early upon TxDOT member request.

11.2.2. Product upgrade substitution suggested and accepted at no additional cost to TxDOT.

11.2.3. Vendor commended for exceptional customer service, exceptional service provided.

12. BUILDING RESTRICTIONS

- 12.1. PARKING: The vendor shall make arrangements with the designated TxDOT representative prior to off-loading uniforms at the job site. The vendor shall park only in spaces assigned by the designated TxDOT representative.
- 12.2. SECURITY: The PM shall provide an updated list of all vendor personnel or subcontractors at each job site and comply with all security measures required by TxDOT.
- 12.3. ACCESS: The PM shall make prior arrangements with the designated TxDOT representative for access to the building(s) for performance of the service.

13. PERSONNEL CONTINUITY AND REPLACEMENT

- 13.1. TxDOT recognizes that events beyond the control of the vendor such as the death, physical or mental incapacity, long-term illness, or the voluntary termination of employment of the PM will require the vendor propose a replacement. In the event such a replacement is necessary, vendor agrees that personnel shall not begin work on the project without prior written approval from TxDOT.
- 13.2. The PM shall remain available for the entire term of the purchase order as long as that individual is employed by the vendor.
- 13.3. If TxDOT determines the PM, a technician or other key or respondent personnel, etc. is unable to perform in accordance with the service requirements or to communicate effectively; the vendor shall immediately remove that person.

14. SUBCONTRACTING

- 14.1. Subcontractors providing service under the purchase order shall meet the same qualifications, and service requirements and provide the same quality of service required of the vendor.
- 14.2. No subcontract under the purchase order shall relieve the primary vendor of responsibility for the services.
- 14.3. The vendor shall be the only contact for TxDOT and subcontractor(s).
- 14.4. The vendor shall manage all quality and performance, project management, and schedules for subcontractors. The vendor shall be held solely responsible and accountable for the completion of all work for which the vendor has subcontracted.
- 14.5. TxDOT retains the right to check subcontractor's background and make a determination to approve or reject the use of submitted subcontractor(s). Any negative responses may result in disqualification of the subcontractor.
- 14.6. TxDOT reserves the right to request the removal of vendor's subcontractor staff deemed unsatisfactory by TxDOT.
- 14.7. Subcontracting shall be at the vendor's expense.
- 14.8. During the term of the purchase order, if the vendor determines a need for a subcontractor change, TxDOT shall be notified in writing by the vendor within 10 calendar days of any proposed change. The vendor shall be required to provide references and work history for any proposed subcontractor to TxDOT. No change will be allowed without written authorization by TxDOT.

- 14.9. SOLICITATIONS OVER \$100,000: TxDOT will make an initial determination of whether subcontracting is probable. It is the respondent's determination to choose to subcontract any of the work under this purchase order with a Texas certified Historically Underutilized Business (HUB) or other businesses.
- 14.9.1. If TxDOT has determined that subcontracting opportunities are probable, the class and items in which HUBs may be registered will be noted in the solicitation.
- 14.9.2. The respondent shall identify all proposed HUB and other subcontractors at the time of response submittal. The required forms with video instructions can be found at the following website:
- <http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>
- 14.9.3. **RESPONSES THAT DO NOT INCLUDE A COMPLETED HUB SUBCONTRACTING PLAN AS INDICATED ON THE SOLICITATION SHALL BE REJECTED PURSUANT TO TEXAS GOVERNMENT CODE §2161.252(B).**
- 14.10. HUB SUBCONTRACTING PLAN (HSP) PRIME CONTRACTOR PROGRESS ASSESSMENT REPORT: After award of the purchase order, the vendor shall report all HUB and non-HUB subcontractor information using the HSP Prime Contractor Progress Assessment Report form. The report shall be submitted to the TxDOT contract manager monthly. The report shall be submitted monthly even during the months the vendor is not invoicing TxDOT. All payments made to subcontractors shall be reported. TxDOT may verify the amounts being reported as paid by requesting copies of cancelled checks paid to subcontractors.
- 14.11. REVISING THE HSP DURING THE TERM OF THE PURCHASE ORDER: Vendors may need to revise the original HSP submitted with the response during the term of the purchase order to add additional subcontractors or change existing subcontractors. The additional subcontractor shall be approved by TxDOT prior to beginning work. If the vendor is replacing a HUB subcontractor with another HUB, no Good Faith Effort is required. If the vendor is replacing a HUB with a non-HUB, a Good Faith Effort is required and the rules which apply to notifying HUBs of the subcontracting opportunity apply.
15. CONFLICT OF INTEREST: The vendor, vendor's personnel and vendor's subcontractor(s) shall affirm not to have, nor acquire any interest during the term of the purchase order that would conflict in any manner with the performance of the vendor's obligations in regards to services authorized.
16. INVOICING INSTRUCTIONS: The vendor shall provide:
- 16.1. ORIGINAL INVOICE: A comprehensive and detailed invoice with reference to the line item on the purchase order for each item charged. The original invoice shall be e-mailed to rsc_Invoices@txdot.gov unless otherwise shown on the purchase order to ensure timely payment and shall include the following:
- 16.1.1. Complete 16-digit purchase order number.
- 16.1.2. Vendor Federal Employer Identification Number (EIN).
- 16.1.3. Date and time of service of delivery.
- 16.1.4. Location of service.
- 16.1.5. Number of uniform sets and detailed on each vendor invoice.

NOTE: Invoices requiring correction shall be re-submitted with a new invoice date.

16.2. COPY OF INVOICE AND SUPPORTING DOCUMENTATION: A copy of the invoice and original supporting documentation that validates the invoice charges.

17. TxDOT RESPONSIBILITIES: TxDOT will:

17.1. Provide a point of contact.

17.2. Provide the number of uniforms needed for the weekly delivery.

17.3. At the time of sizing and outfitting, TxDOT will notify the vendor the number of short and/or long sleeve shirts needed for each set.

17.4. Provide office space at TxDOT facilities to deliver uniforms.

17.5. Be sole judge of whether or not for replacing worn or end-of-life uniforms.

18. RESPONSE SUBMISSION

18.1. The following **shall** be submitted with the response. Failure by the respondent to submit the documentation listed below will disqualify the respondent from further consideration:

18.1.1. Original, signed, dated, and completed Invitation For Bid (IFB)

18.1.2. Respondent Qualifications, Ref. Para. 4.1.

18.2. Respondent References

18.3. Color brochure or data sheets, Ref. Para. 7.5.

19. AWARD: TxDOT reserves the right to award a single purchase order to the most responsive, responsible respondent meeting the specification.

20. CONTRACT ADMINISTRATION: Administration of the purchase order is the responsibility of TxDOT. TxDOT Procurement Division staff will be responsible for administering the contractual business relationship with the vendor.

20.1. Any proposed changes to work to be performed, whether initiated by TxDOT or the vendor, must receive final written approval in the form of a Purchase Order Change Notice signed by the authorized TxDOT purchasing agent.

20.2. Upon issuance of purchase order, TxDOT will designate an individual to serve as the Contract Manager and point of contact between TxDOT and the vendor. The Contract Manager does not have any express or implied authority to vary the terms of the purchase order, amend the purchase order in any way or waive strict performance of the terms or conditions of the purchase order. This individual's contract management and contract administration responsibilities include, but are not limited to:

20.2.1. Monitoring the vendor's progress and performance and ensuring services conform to established specification requirements.

20.2.2. Managing the financial aspects of the contract including approval of payments.

- 20.2.3. Meeting with the vendor as needed to review progress, discuss problems and consider necessary action.
- 20.2.4. Identifying a breach of contract by assessing the difference between contract performance and non-performance.
- 20.2.5.** Other areas as identified by the Comptroller of Public Accounts Contract Management Guide, latest edition.

ATTACHMENT A

UNIFORM AND APPAREL ITEMS

This attachment describes the minimum requirements for the uniform and apparel items to be provided by the respondent and will be responsible and acceptable quality that will endure regular industrial work activities. For purposes of this specification, the uniform and apparel items will be used as the minimum specification. The respondent can propose uniform and apparel items of equal or better quality. If equal or better are proposed the respondent must supply specification sheet of garment(s). TxDOT will be solely responsible determining if the proposed items are an acceptable equal or better. The Red Kap brand or Bulwark for uniform and apparel items will be used as the minimum specification.

1. Shirts: Captain

Blend: 60% Cotton / 40% Polyester

Closure: Seven-button front, including button at neck

Collar: Two-piece, lined, banded, topstitched, button-down

Fabric: 5 oz. Yarn-dyed Oxford

Facing: Lined Center Front Placket

Finish: Easy Care

Pocket: Left Chest Pocket; One Hemmed, Spade-Style, with triangular stitched corners

Sleeves: Long or Short Sleeves (Ref. Par. 16.3), long sleeves with two-button adjustable cuffs or short sleeve hemmed

Color: White

Brand/Model: Red Kap/SR60WH

2. Shirts: Dispatchers

Blend: 65% Polyester / 35 % Cotton

Closure: Seven-button front, including button at neck

Collar: Two-piece, lined, banded, topstitched with sewn-in stays

Fabric: 4.25 oz. Poplin

Facing: Center Front Placket

Finish: Pre-cure durable press with soil release and wickable finish

Pocket: Two Button-thru functional flapped pockets with angled bartacks, sewn-down pencil stall on left pocket

Color: Tan

Brand/Model: Red Kap/SP50LT Short or Long Sleeve, Solid Dress Uniform

3. Shirts: Maintenance

Blend: 100% Cotton

Closure: Seven-button front, including button at neck

Collar: Two-piece, lined, sewn-in stays

Fabric: 6 oz. Poplin

Facing: Stitched-down Front

Finish: Pre-cure durable press

Pocket: Two Button-thru, hex-style pockets with angled bartacks, bartacked pencil stall on left pocket

Color: Navy Blue

Brand/Model: Red Kap/SC30NV Short Sleeve or Long Sleeve, Wrinkle Resistant Cotton Work Shirt

4. Pants: Captain

Blend: 65% / 35% Cotton

Closure: Heavy-Duty Brass ratcheting zipper, button closure

Fabric: 7.5 oz. Twill

Finish: Durable press

Pocket: Two slack-style front pockets, two set-in hip pockets, left has button closure, darts over hip pockets for better fit.

Color: Black

Brand/Model: Red Kap/PT20BK

5. Pants: Dispatcher

Blend: 65% Polyester / 35% Cotton

Closure: Heavy-duty brass ratcheting zipper, button closure

Fabric: 7.5 oz. Twill

Finish: Durable Press

Pocket: Two slack style front pockets, two set-in hip pockets, left has button closure, darts over hip pockets for better fit

Color: Black

Brand/Model: Red Kap/PT20BK

6. Pants: Maintenance

Fabric: Flame-Resistant 12.5 oz. Twill, 100% Cotton

Protection: Arc Rating ATPV 10.6 calories/cm² HRC 2

NFPA 2112

Color: Dark Denim

Brand/Model: Bulwark/PEJ2DD

7. Jackets:

Blend: Shell: 65% Polyester/35% Cotton

Lining: 100% Polyester

Insulation: 100% Polyester

Closure: Solid Brass Zipper

Collar: Two-piece, topstitched, with sewn-in stays

Fabric: 7.25 oz. Twill

Finish: Pre-cure durable press

Pocket: Two lower inset on-seam pockets and utility pocket on left sleeve

Color: Captain – Black

Dispatchers – Black

Maintenance – Navy Blue

RESPONDENT REFERENCES
SOLICITATION NO. 601320000012772

RESPONDENT NAME _____

Company Name:		
Address:		
City:	State:	Zip Code:
Phone Number:	Fax Number:	
Point of Contact:	Dates Services Were Performed:	

Reference Response (to be filled in by TxDOT):

Company Name:		
Address:		
City:	State:	Zip Code:
Phone Number:	Fax Number:	
Point of Contact:	Dates Services Were Performed:	

Reference Response (to be filled in by TxDOT):

Company Name:		
Address:		
City:	State:	Zip Code:
Phone Number:	Fax Number:	
Point of Contact:	Dates Services Were Performed:	

Reference Response (to be filled in by TxDOT):

THIS PAGE OR A REASONABLE FACIMILIE SHOULD BE RETURNED WITH THE RESPONSE. FAILURE TO RETURN THIS PAGE OR A REASONABLE FACSIMILE MAY RESULT IN THE RESPONSE BEING CONSIDERED NON-RESPONSIVE. ANY NEGATIVE RESPONSE(S) MAY RESULT IN DISQUALIFICATION OF THE RESPONSE.

**TEXAS DEPARTMENT OF TRANSPORTATION
TERMS AND CONDITIONS**

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TEXAS DEPARTMENT OF TRANSPORTATION TERMS AND CONDITIONS

PART 1. INTRODUCTION

1.01 GENERAL: These Terms and Conditions shall apply to all solicitations for goods and/or services [including without limitation any Request for Quote (RFQ), Invitation for Bids (IFB), Request for Offer (RFO) and Request for Proposal (RFP)] offered by the Texas Department of Transportation (TxDOT) ("solicitations") and any purchase order issued by TxDOT ("purchase order"). The term "respondent" shall mean any party who responds to a solicitation for goods and/or services offered by TxDOT, including the vendor. The term "vendor" shall mean the party listed as vendor on the purchase order.

1.02 STATUTORY AUTHORITY: This procurement falls under the statutory authority of Government Code Chapter 2151 (commonly known as the "Purchasing Act"), Chapter 2155 (Purchasing: General Rules and Procedures), Chapter 2157 (Purchasing Methods) and Chapter 2161 (Historically Underutilized Businesses, "HUBs"). The purchasing procedures include statutory requirements and those requirements established by rule of the Texas Comptroller of Public Accounts (CPA), Texas Procurement and Support Services Division (TPASS) as contained in 34 TAC §20.31 and other applicable Federal and State statutes and rules herein cited.

1.03 TITLE VI ASSURANCE: TxDOT, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4, hereby notifies all respondents that it will enforce compliance with this law, investigate alleged violations and affirmatively ensure that in any purchase order entered into pursuant to TxDOT procurements, minority business enterprises will be afforded full opportunity to submit responses and will not be discriminated against on the grounds of race, color, national origin, sex, age or disability in consideration for an award.

Nondiscrimination programs require that federal-aid recipients, sub-recipients, and contractors prevent discrimination and ensure nondiscrimination in all of their programs and activities, whether those programs and activities are federally-funded or not.

1.04 ENVIRONMENTAL IMPACT: It is the intent of TxDOT to purchase goods, equipment, and services having the least adverse environmental impact within the constraints of statutory purchasing requirements, departmental need, availability, and sound economical considerations in accordance with 34 TAC §20.38.

1.05 COMPLIANCE WITH LAWS: The vendor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of the purchase order, including if applicable, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, prompt payment and licensing laws and regulations. The vendor shall maintain all required licenses, certifications, etc. throughout the term of the purchase order. When required, the vendor shall furnish TxDOT with satisfactory proof of its compliance.

PART 2. GENERAL INSTRUCTIONS

2.01 SPECIFICATIONS

- (a) The respondent shall carefully examine the solicitation. The respondent shall be responsible for securing any additional information from the TxDOT purchaser needed to gain a clear and full understanding of TxDOT's requirements.
- (b) TxDOT will not be bound by any oral statement or representation contrary to the written specifications of this solicitation. Any revision, clarification, or interpretations pertaining to this solicitation will be in writing and issued by TxDOT as an Addendum. Any changes or interpretation not in an Addendum will not legally bind TxDOT.

* This Revision Supersedes Previous Revision, Revised November 2014.

- (c) The goods furnished or services performed shall be in accordance with the specifications set forth in the solicitation and with these Terms and Conditions. TxDOT will provide clarifications of the specifications and determine the quality and acceptability of goods products furnished or work performed. If the solicitation is for a service, TxDOT will determine the manner of performance, the rate of progress of the work and whether the vendor's performance of the service is acceptable.
- (d) Any catalog, brand name or manufacturer's reference used in the solicitation is descriptive only (not restrictive), and is used to indicate type and quality desired. Responses on brands of like nature and quality will be considered unless advertised as proprietary or sole source under Texas Government Code Section 2155.067. The respondent shall show manufacturer, brand or trade name, and other description of the product offered in response to the solicitation. If offer is for other than example(s) shown in the solicitation, include illustration(s) and complete description(s) of product(s) in the response to the solicitation. If respondent takes no exception to specifications or reference data in the response, the vendor will be required to furnish brand names, numbers, etc., as specified.
- (e) Unless otherwise specified, all goods offered shall be new and in first class condition, including shipping and storage containers. Verbal agreements to the contrary will not be recognized.
- (f) Manufacturer's standard warranty shall apply unless otherwise stated in this solicitation.
- (g) All electrical items shall meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC, or NEMA.

2.02 RESPONSE SUBMISSIONS

- (a) Respondent shall submit the number of responses required in the manner stated in the specification or on the solicitation.
- (b) Response should be submitted on the solicitation form. If submitting multiple responses, each response should be placed in a separate envelope, correctly identified with the solicitation number and opening or closing date. If no solicitation form is provided, responses shall be submitted as required in the specification.
- (c) Response must be time stamped in TxDOT's Mail Room or hand delivered to the address on the solicitation before the hour and date specified for the solicitation opening or closing. Late responses will not be considered under any circumstances. Late responses will be returned unopened to the respondent.
- (d) Documentation provided with the response should be complete and comprehensive. TxDOT will not be responsible for locating or securing information not included in the response. Failure to furnish required documentation with the response may result in the response being deemed incomplete and non-responsive, resulting in rejection. TxDOT will not be responsible for any expenses relating to responses or development of documentation that may result from this solicitation.
- (e) Failure to sign the solicitation manually will disqualify the response. The person signing the response must have authorization to contractually bind the company. The solicitation response shall include an Employer Identification Number (EIN), full firm name and address of company. The EIN should be entered in the space provided on the solicitation.
- (f) Facsimile (FAX) responses may be submitted to the FAX number provided in the solicitation for procurements less than \$25,000, unless otherwise stated in the solicitation. For procurements \$25,000 and greater, FAX responses will not be considered unless otherwise stated in the solicitation. TxDOT will not be responsible for failure of electronic equipment or operator error. Responses that are late, illegible, incomplete, or otherwise non-responsive will not be considered.
- (g) E-mailed responses may be accepted if stated on the solicitation. E-mailed responses must be in Portable Document Format (pdf), signed by the respondent and attached to the e-mail to be considered for award.

- (h) **RESPONDENT EXCEPTIONS OR CONDITIONED RESPONSES:** Exceptions taken by the respondent to TxDOT's Terms and Conditions or respondent's Terms and Conditions attached to a response will not be considered unless specifically referred to and clearly identified as such within the response.
- (i) TxDOT reserves the right to accept or reject all or any part of any response, waive minor technicalities and make an award to best serve the interests of the State. TxDOT reserves the right to reject any response not prepared and submitted in accordance with the solicitation requirements.
- (j) Response should indicate number of days required to deliver goods, or begin service (if required), at TxDOT's designated location. Failure to indicate delivery time obligates vendor to complete delivery in fourteen (14) calendar days.
- (k) Samples, when requested must be furnished at no cost to TxDOT. TxDOT may perform tests on samples. If not destroyed in testing, samples will be returned upon request at respondent's expense. Each sample shall be marked with respondent's name and address, and TxDOT solicitation number. Samples shall not be enclosed or attached to a response unless specified in the solicitation.

2.03 PRICING

- (a) TxDOT's automated purchasing system requires pricing to be submitted per unit, multiplied by the quantity and extended. Unit prices shall govern in the event of extension errors. If a trade discount is offered on the solicitation response, it should be deducted and net line extensions should be shown.
- (b) All prices shall be firm for thirty (30) days from the solicitation response date unless otherwise stated in the solicitation. "Discount from list" pricing is not acceptable unless requested. Cash discounts are acceptable, but are not considered in making an award.
- (c) All purchases are on a firm, fixed price basis unless otherwise stated in the solicitation.
- (d) Price(s) shall not increase during the term of the purchase order unless otherwise stated in the solicitation. Vendor shall give price reductions to TxDOT that result from reduced cost to the vendor during the term of the purchase order.
- (e) All prices shall be F.O.B. destination, freight prepaid and allowed. This means the vendor shall prepay and include the freight charges in the unit price.
- (f) Purchases made for State use are exempt from the State and Local Sales tax and Federal Excise tax. Do not include tax in response pricing unless otherwise specified in the solicitation. State Sales tax and Federal Excise Tax Exemption Certificates will be furnished by TxDOT on request.
- (g) The purchase order may contain a "Total Cost Not to Exceed" statement. Vendor shall not perform any work that may exceed either the purchase order total or the not-to-exceed total without prior written authorization from TxDOT.
- (h) Consistent and continued tie response pricing may lead to rejection of the response by TxDOT and investigation for antitrust violations.

2.04 ADA CONSIDERATIONS AND NOTIFICATION: Persons with special needs or disabilities who plan to attend any pre-response conference or bid opening and who require auxiliary aids or service should contact the purchaser noted on the solicitation as the point of contact a minimum of three (3) days prior to the meeting so arrangements can be made.

2.05 RECEIPT OF PROPOSALS AND BID OPENINGS

- (a) **NEGOTIATED SOLICITATIONS:** At the time of opening or closing for RFOs or RFPs, only the names of respondents will be announced. Prices will not be disclosed.
- (b) **NON-NEGOTIATED SOLICITATIONS:** At the time of opening or closing for IFBs, names of respondents will be announced. Prices will be disclosed.

- (c) **DISCLOSURE OF RESPONSE:** All information submitted in an accepted response must be retained by TxDOT for the period specified in TxDOT's record retention schedule created under Government Code Section 441.180, et sequitur. The information will not be returned to the respondent. The Public Information Act (PIA), Government Code Chapter 552, allows the public to have access to information in the possession of a governmental body through an open records request. Therefore, the respondent shall clearly identify in the response any confidential or proprietary information. Proprietary information identified by the respondent in the response, will be kept confidential by TxDOT to the extent permitted by state law. TxDOT merely raises the exception on behalf of the vendor. TxDOT takes no legal position on disclosure. TxDOT will use best efforts to give the respondent or the awarded vendor an opportunity to present to the Office of the Attorney General its arguments for non-disclosure of its identified confidential or proprietary information.

2.06 ALTERATIONS OR WITHDRAWAL OF RESPONSES

- (a) Any alterations to a response made before the opening or closing date and time shall be initiated by respondent or authorized agent. Response cannot be altered or amended after the opening or closing date and time.
- (b) A response may be withdrawn if requested in writing prior to the opening or closing date and time. A response may be withdrawn from consideration after the opening or closing date only with the approval of TxDOT based on respondent's written, acceptable reason. The response will not be considered for award but will be retained by TxDOT according to the response information confidentiality provision referenced in Section 2.05 (c).

2.07 DETERMINING AWARD: A response to a solicitation is an offer to contract with TxDOT based upon the terms, conditions and specifications contained in the solicitation. Responses do not become contracts unless and until they are accepted through an authorized TxDOT designee by issuance of a purchase order. In determining the best value for the state, the purchase price and whether the goods or services meet specifications are the most important considerations, unless otherwise stated in the solicitation.

- (a) **BEST VALUE CRITERIA FOR PURCHASE OF GOODS OR SERVICES:** When specified in the solicitation, the factors listed in Government Code Section 2155.074 will be considered in making a best value award. This section allows TxDOT to apply best value criteria in order to obtain goods and services that provide the best value for TxDOT. Under these guidelines, a respondent is not automatically awarded a purchase order if they submit the lowest bid response. TxDOT will be the sole judge as to which response is the most advantageous and in the best interest of TxDOT.

In determining best value, factors other than price may be considered in making an award. Those factors are:

- (1) life cycle costs;
- (2) the quality and reliability of goods and services;
- (3) the delivery terms;
- (4) indicators of probable vendor performance;
- (5) cost of employee training associated with a purchase;
- (6) the effect of a purchase on agency productivity; and
- (7) other factors relevant to determining best value for the state in the context of a particular purchase.

- (b) **BEST VALUE CRITERIA FOR RFO PURCHASES:** Best value criteria will be used on all information technology equipment or service purchases. Those best value criteria include but are not limited to:
 - (1) compatibility to facilitate exchange of existing data;
 - (2) capacity for expansion and upgrading to more advanced levels of technology;
 - (3) quantitative reliability factors;
 - (4) level of training required to bring end-users to a stated level of proficiency;
 - (5) technical support requirements for maintenance of data across a network platform and management of the networks hardware and software;
 - (6) items, features, etc., which are in addition to requirements listed, as well as factors which, in TxDOT's opinion, add value to the product or service but are not specifically required within the solicitation.
- (c) **NEGOTIATIONS FOR RFO AND RFP PURCHASES:** TxDOT reserves the right to conduct formal negotiations with respondent(s) judged to have the best offer pertaining to price, goods, services and terms.
- (d) TxDOT reserves the right to reject a response from a respondent whose goods or services to TxDOT or other state agencies have been documented as unsatisfactory in providing the same goods or service.
- (e) **TIE RESPONSES:** In case of tie responses, one or more preferences described in Government Code Chapter 2155 and 34 TAC §20.36 and §20.38 will be used to make an award. Tie responses which cannot be resolved by application of one or more preferences shall be made by drawing lots.

2.08 PREFERENCES: A respondent may claim a preference under 34 TAC §20.38. To claim a preference, a respondent shall identify the preference on the solicitation or on the Execution of Proposal. If the appropriate area on the solicitation is not marked, a preference will not be granted unless other documents included in the response show a right to the preference.

2.09 DELIVERY: No substitutions or cancellations will be permitted without written approval from TxDOT.

- (a) If delay is foreseen, vendor shall give written notice to TxDOT. TxDOT has the right to extend delivery or service date if reasons appear valid. Vendor shall keep TxDOT advised at all times of the status of the order. Default in promised delivery or service date (unless vendor has received a written extension of the delivery or service date which has been signed by TxDOT), or failure to meet specifications, authorizes TxDOT to purchase goods or services elsewhere and charge the full increase, if any, in cost and handling to defaulting vendor.
- (b) Delivery shall be made between 8 AM and 4 PM Monday through Friday except on regularly observed state or federal holidays, unless prior approval has been obtained from TxDOT or otherwise stated in the solicitation.
- (c) Receipt of goods or services does not constitute acceptance.
- (d) Goods and materials shall be properly packaged. Damaged goods and materials will not be accepted. If the damage is not readily apparent at the time of delivery, the goods shall be returned to the vendor at no cost to TxDOT. TxDOT reserves the right to inspect goods at a reasonable time subsequent to delivery where circumstances or conditions prevent effective inspection of the goods at the time of delivery.

2.10 INSPECTIONS AND TESTS: Goods will be subject to inspection and test by TxDOT to the extent practicable at all times and places. Tests will be performed on samples taken from regular shipment. In the event samples tested fail to meet all conditions and requirements of the specification, the cost of the sample used and the cost of the testing shall be borne by the vendor. Goods which have been delivered and rejected in whole or in part may, at TxDOT's option, be returned to the vendor or held for disposition at vendor's risk and expense. Latent defects may result in revocation of acceptance. Acceptance of services shall be based on attainment of performance in accord with specifications and the purchase order.

2.11 VENDOR PERFORMANCE: State agencies shall report a vendor's performance on any purchase of \$25,000 or more from contracts administered by the commission or any other purchase made through an agency's delegated authority or a purchase made pursuant to the authority in Government Code, Title 10, Subtitle D or a purchase exempt from CPA/TPASS procurement rules and procedures.

Past Performance: A Respondent's past performance will be measured based upon pass/fail criteria, in compliance with applicable provisions of §2155.074, 2155.075, 2156.007, 2157.003, and 2157.125, Government Code. Respondents may fail this selection criterion for any of the following conditions:

- A score of less than 90% in the Vendor Performance System,
- Currently under a Corrective Action Plan through the CPA,
- Having repeated negative Vendor Performance Reports for the same reason,
- Having purchase orders that have been cancelled or terminated in the previous 12 months for non-performance (i.e. late delivery, etc.).

Vendor performance information is located on the CPA web site at:

http://www.window.state.tx.us/procurement/prog/vendor_performance/

TxDOT 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) TxDOT 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. Any such investigations shall be at the sole discretion of TxDOT, and any negative findings, as determined by TxDOT, may result in non-award to the Respondent.

PART 3. RESPONDENT AFFIRMATIONS

3.01 FALSE STATEMENTS: Respondent represents and warrants and all statements and information prepared and submitted in response to the solicitation are current, complete, true and accurate. Signing the solicitation with a false statement is a material breach of contract and shall void the submitted response or any resulting contracts, and may result in removal of the respondent from the Centralized Master Bidders List.

3.02 CONFORMANCE: The respondent warrants to TxDOT that all goods and services furnished shall conform in all respects to the terms of this purchase order, including any drawings, specifications or standards incorporated herein, and any defects in materials, workmanship, and free from such defects in design. In addition, respondent warrants that goods and services are suitable for and will perform in accordance with the purposes for which they are intended.

3.03 GRATUITIES: The respondent has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response to the solicitation.

3.04 CERTAIN BIDS AND CONTRACTS PROHIBITED: Under Government Code Section 2155.004, the respondent certifies that the individual or business entity named in this bid or contract is eligible to receive the specified contract and acknowledges that this contract may be terminated or payment withheld if this certification is inaccurate.

3.05 ANTITRUST LAWS: Neither the respondent nor the firm, corporation, partnership, or institution represented by the respondent, or anyone acting for such firm, corporation or institution has violated the antitrust laws of the State of Texas, or the Federal Antitrust Laws, nor communicated directly or indirectly the solicitation made to any competitor or any other person engaged in such line of business.

3.06 DECEPTIVE TRADE PRACTICES; UNFAIR BUSINESS PRACTICES: The respondent represents and warrants that it has not been the subject of allegations of deceptive trade practices violations under Business & Commerce Code Chapter 17, or allegations of any unfair business practice in any administrative hearing or court suit and that respondent has not been found to be liable for such practices in such proceedings. Respondent certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of deceptive trade practices violations or allegations of any unfair business practices in an administrative hearing or court suit and such officers have not been found to be liable for such practices in such proceedings.

3.07 COLLUSION: The respondent has not colluded with, nor received any assistance from, any person who was paid by TxDOT to prepare specifications or a solicitation on which a respondent's bid is based and will not allow any person who prepared the respective specifications or solicitation to participate financially in any contract awarded.

3.08 INELIGIBILITY UNDER FAMILY CODE: Under Section 231.006, Family Code, the vendor certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate. Any respondent subject to Section 231.006 must include names and Social Security numbers of each person with at least 25% of ownership of the business entity submitting the response. This information must be provided prior to award.

NOTE: Pursuant to Government Code Section 403.055 and Family Code Section 231.006, a contract will not be issued to a respondent and warrants will be held by CPA if the vendor owes delinquent child support payment(s), a delinquent state tax, or other tax collected by the CPA.

3.09 CONTRACTING WITH EXTxDOT EXECUTIVE DIRECTOR: Under Government Code Section 669.003, TxDOT may not enter into a contract with the executive director of TxDOT, an individual who was the executive director of TxDOT during the four years before the date of the contract, or with anyone who employs a current or former executive head of a state agency affected by Section 669.003 unless the Transportation Commission approves the contract in an open meeting and notifies the Legislative Budget Board, not later than the fifth day before the date of the vote, of the terms of the proposed contract.

NOTE: If Section 669.003 applies, respondent must provide the following information as an attachment to this solicitation response: Name of former TxDOT executive director, date of separation from TxDOT, position with respondent, and date of employment with respondent. This information is subject to public disclosure under Section 660.004.

3.10 DEBT TO THE STATE: Respondent agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

3.11 RESPONDENT ELIGIBILITY

- (a) Respondent certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subject 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.epls.gov>.

- (b) Respondent certifies that Respondent has not been: (i) convicted of a felony in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina or any other disaster occurring after September 24, 2005; or (ii) assessed a penalty in a federal civil or administrative action in connection with a contract awarded by the federal government for relief, recovery, or reconstruction efforts as a result of Hurricane Rita, as defined by Section 39.459, Utilities Code, Hurricane Katrina, or any other disaster occurring after September 24, 2005
- (c) Respondent certifies that it is not:
 - (1) A person required to register as a lobbyist under Government Code Chapter 305.
 - (2) A public relations firm.
 - (3) A government consultant.

3.12 NEPOTISM DISCLOSURE

- (a) In this section, the term “relative” means:
 - (1) a person's great grandparent, grandparent, parent, aunt or uncle, sibling, niece or nephew, spouse, child, grandchild, or great grandchild, or
 - (2) the grandparent, parent, sibling, child, or grandchild of the persons spouse.
- (b) A notification required by this section shall be submitted in writing to the person designated to receive official notices under this purchase order and by first-class mail addressed to Contract Services Section, General Services Division, Texas Department of Transportation, 125 East 11th Street, Austin Texas 78701. The notice shall specify the vendor's firm name, the name of the person who submitted the notification, the purchase order number, the district, division, office or regional service center of TxDOT that is principally responsible for the purchase order, the name of the relevant vendor employee, the expected role of the vendor employee on the project, the name of the TxDOT employee who is a relative of the vendor employee, the title of the TxDOT employee, and the work location of the TxDOT employee.
- (c) By signing the solicitation the respondent is certifying that the respondent does not have any knowledge that any of its employees or any employees of a subcontractor who are expected to work under this purchase order has a relative who is employed by TxDOT unless the respondent has notified TxDOT of each instance as required by subsection (b).
- (d) If the vendor learns at any time that any of its employees or that any of the employees of a subcontractor who are performing work under this purchase order have a relative who is employed by TxDOT, the vendor shall notify TxDOT under subsection (b) of each instance within thirty days of obtaining that knowledge.
- (e) If the vendor violates this section, TxDOT may terminate the purchase order immediately for cause, may impose any sanction permitted by law, and may pursue any other remedy permitted by law.

PART 4. GENERAL TERMS AND CONDITIONS

4.01 ORDERS

- (a) Only authorized TxDOT purchasers have the authority to place orders for goods and services. Purchase orders must be issued by a TxDOT purchaser prior to a vendor providing the goods or service. The only exceptions are payment card orders and bona fide emergencies. In the case of an emergency, the Purchasing Section will confirm such orders with a signed purchase order.
- (b) Vendor acceptance of a purchase order and delivery of goods or services without an approved purchase order number or release number issued by TxDOT may result in the rejection of delivery, return of goods at the vendor's cost and also result in non-payment.

4.02 FUNDING: Any purchase order resulting from this solicitation is contingent upon the availability of funding, and is subject to termination without penalty, either in whole or in part, if funds become unavailable through lack of appropriations, legislative or executive budget cuts, amendment of the Appropriations Act, state agency consolidations, or any other disruptions of current appropriations.

4.03 INVOICING

- (a) Invoices must be submitted not later than the 15th day of the month after the goods have been delivered or services have been provided. No payment shall be made under the purchase order without the prior submission of detailed, correct invoices which comply with the requirements set forth in this Section 4.03. Invoices should be sent to the address shown on the purchase order. The vendor may receive more detailed instructions on invoicing after award.
- (b) The invoice must at a minimum show the following:
 - (1) Vendor name as it appears on the purchase order.
 - (2) Remit to address.
 - (3) Employer identification number (EIN) Federal Tax I.D.
 - (4) The complete PO number.
 - (5) Telephone number.
 - (6) Description of item or services as it appears on the PO in the same order as listed on purchase order. Item numbers must correspond with the item numbers on the PO.
 - (7) Unit, unit price and extended price of each line item.
 - (8) Grand total.
 - (9) Shipment date of merchandise or date of service.
 - (10) Any additional requirements as stated in the solicitation or specification.

4.04 PAYMENT: Payment for goods or services purchased with State-appropriated funds is made by warrants or by Direct Deposit from the State Treasury. Direct Deposit is the preferred method of payment. No penalty for late payment will be incurred by TxDOT if payment is made in thirty (30) days or less from receipt of goods, services or a correct invoice, whichever is later. Payments under this contract are subject to the availability of appropriated funds.

Additional information and a Direct Deposit Authorization application may be found at:
<https://fm.x.cpa.state.tx.us/fm/payment/index.php>.

Payment will be made in accordance with Government Code Chapter 2251:

- (a) On a monthly basis and within thirty (30) days from receipt of a correct invoice for TxDOT accepted goods or services.

OR

- (b) As otherwise stated in the solicitation document.

OR

- (c) The service was completed to the satisfaction of TxDOT, and within thirty (30) days from receipt of a correct invoice or billing statement.

NOTE: Texas Department of Transportation (TxDOT) offers an opportunity to participate in its Early Payment Program to accelerate payments in exchange for a discount. Additional information may be found at the following website: <http://www.txdot.gov/business/vendors/epp.html>

4.05 INTELLECTUAL PROPERTY

- (a) All intellectual property developed and created in the course of the services rendered pursuant to the purchase order are works for hire and all intellectual property rights, including but not limited to publication rights, copyrights, trademarks, patents and trade secrets, to all products and materials developed and created pursuant to the purchase order shall be owned by TxDOT.
- (b) Vendor shall ensure that TxDOT's intellectual property rights, including but not limited to publication rights, copyrights, trademarks, patents and trade secrets, are secured from all suppliers, contractors and subcontractors.
- (c) When applicable, each vendor shall obtain necessary licenses, copyrights, trademarks or patents for TxDOT's use.
- (d) The vendor shall not assert rights at common law or in equity or establish any claim to TxDOT's intellectual property, including, but not limited to, licenses, claiming common law ownership of intellectual property, obtaining registrations for copyrights, trademarks, trade secrets or patents for any intellectual property developed in performance of the services authorized.
- (e) THE VENDOR AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND TXDOT AND THE STATE FROM CLAIMS INVOLVING INFRINGEMENT OF THIRD PARTIES' LICENSES, TRADEMARKS, COPYRIGHTS OR PATENTS AT THE VENDOR'S EXPENSE.

4.06 ELECTRONIC AND INFORMATION RESOURCES ACCESSIBILITY STANDARDS: As required by 1 TAC Chapter 213:

- (a) Effective September 1, 2006 state agencies and institutions of higher education shall procure products which comply with the State of Texas Accessibility requirements for Electronic and Information Resources specified in 1 TAC Chapter 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. Vendor represents and warrants that technology to be provided to TxDOT and for TxDOT is in compliance with these requirements.
- (b) Vendor shall provide TxDOT with the URL to its Voluntary Product Accessibility Template (VPAT) for reviewing compliance with the State of Texas Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act), or indicate that the product or service accessibility information is available from the General Services Administration "Buy Accessible Wizard" (<http://www.buyaccessible.gov>). Vendors not listed with the "Buy Accessible Wizard" or supplying a URL to their VPAT must provide the Texas Department of Information Resources with a report that addresses the same accessibility criteria in substantively the same format. Additional information regarding the "Buy Accessible Wizard" or obtaining a copy of the VPAT is located at: <http://www.section508.gov/>.

4.07 SITE VISITS: Prior to and after award of the purchase order, designated TxDOT representatives may conduct unannounced visits to inspect the vendor's and its subcontractor's facilities during normal business hours to monitor compliance in accordance with TxDOT specifications or carry out performance audits of the service.

4.08 NON-WAIVER OF RIGHTS: Nothing in this contract shall be construed as a waiver of the state's sovereign immunity. This contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas 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. TxDOT does not waive any privileges, rights, defenses, or immunities available to TxDOT by entering into this contract or by its conduct prior to or subsequent to entering into this contract.

4.09 LIMITATION ON AUTHORITY; NO OTHER OBLIGATIONS: Vendor shall have no authority to act for or on behalf of TxDOT or the State of Texas except as expressly provided for in this purchase order. Vendor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State of Texas or TxDOT.

4.10 VENUE AND JURISDICTION; APPLICABLE LAW: Venue for any suit concerning this solicitation and any resulting purchase order shall be in a court of competent jurisdiction in Travis County, Texas. The solicitation and any resulting purchase order shall be governed, construed and interpreted under the laws of the State of Texas.

4.11 VENDOR ASSIGNMENTS: Vendor hereby assigns TxDOT any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States (15 U.S.C.A. Chapter 1)), and which arise under the antitrust laws of the State of Texas (Business & Commerce Code, Title 2, Chapter 15).

4.12 FORCE MAJEURE: TxDOT may grant relief for time only from performance of the purchase order if the vendor is prevented from performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the vendor (any such event or cause referred to herein as "force majeure"). The burden of proof for the need of such relief shall rest upon the vendor. To obtain relief based on force majeure, the vendor shall file a written request with TxDOT describing the events, dates and effect of the events on vendor's ability to perform according to the purchase order. Vendor must inform TxDOT in writing within 3 business days of the existence of such force majeure; failure to do so will waive the defense provided in this Section 4.13.

4.13 RIGHT TO AUDIT

- (a) The State Auditor's Office and TxDOT's internal auditors (individually or collectively "state auditor") may conduct an audit or investigation (Government Code Section 2262.003) of any entity or person receiving funds from the state directly under this purchase order or indirectly through a subcontract under this purchase order. Acceptance of funds directly under this purchase order or indirectly through a subcontract under this purchase order acts as acceptance of the authority of the state auditor to conduct an audit or investigation in connection with those funds. Any entity subject to an audit or investigation by the state agrees to provide access to any information the state auditor considers relevant to the investigation or audit.
- (b) TxDOT has the right to audit the vendor's books and records pertaining to the service during normal work hours.
- (c) Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Vendor and the requirement to cooperate is included in any subcontract it receives.

4.14 INDEMNIFICATION: Acts or Omissions

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, VENDORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

Infringement:

- (a) Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, VENDORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF VENDOR PURSUANT TO THIS CONTRACT. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.
- (b) Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by:
 - (1) use of the product or service for a purpose or in a manner for which the product or service was not designed,
 - (2) any modification made to the product without Vendor's written approval,
 - (3) any modifications made to the product by the Vendor pursuant to Customer's specific instructions,
 - (4) any intellectual property right owned by or licensed to Customer, or
 - (5) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.
- (c) If Vendor becomes aware of an actual or potential claim, or Customer provides Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against Customer, shall), at Vendor's sole option and expense;
 - (1) procure for the Customer the right to continue to use the affected portion of the product or service, or
 - (2) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing.

Taxes/Workers' Compensation/Unemployment Insurance – Including Indemnity

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

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

4.15 DAMAGE TO TXDOT PROPERTY: The vendor shall be liable for damage to TxDOT's equipment, workplace and its contents resulting from the vendor's or the vendor's subcontractors work or negligence in performance of the work by the vendor's or subcontractor's personnel or equipment.

4.17 CONFIDENTIALITY CLAUSE: TxDOT is governed by laws and regulations that make certain information confidential as well as specifying how public information is released (see Government Code Chapter 552). The vendor, its employees or subcontractors shall not divulge any information relative to TxDOT business at any time to a third party without the prior written approval of TxDOT. The vendor will notify TxDOT within 24 hours of receipt of any third party requests for information that was provided by TxDOT for use in performing the purchase order, including this purchase order. All information created by or accessible to a vendor while providing a good or service for TxDOT is confidential. If applicable to a service, upon award of a purchase order, the vendor may be required to complete and sign TxDOT Form 1828b, Information Resource Security Compliance and Confidentiality Agreement.

4.18 BUY TEXAS: Pursuant to Section 2155.4441 of the Government Code, the vendor shall buy Texas products and materials for use in providing services authorized in this contract when such products and materials are available at a comparable price and in a comparable period of time when compared to non-Texas products and materials.

4.19 COMPETENCE OF VENDOR: To be entitled to consideration, the vendor shall have available, the necessary organization and facilities to fulfill all the requirements under the purchase order. Only personnel trained to perform the solicited services or, if applicable, licensed to perform such services shall be employed under and for the purchase order. Vendor shall obtain any other licenses or permits or both as required for the performance of the service.

4.20 CHANGES IN WORK: If TxDOT determines it necessary to require corrections to completed work due to errors made by the vendor, the vendor shall correct the work at no additional cost to TxDOT. For negotiated contracts, if TxDOT requires changes in previously approved and completed work, the vendor shall make such changes as directed by TxDOT and will be compensated for such at the same rates established by each vendor's hourly rates. Any changes must be approved in advance in writing through a purchase order change notice.

4.21 IT SERVICE CONTRACTS SECURITY: The vendor will implement appropriate administrative, physical and technical safeguards which reasonably and appropriately protect the confidentiality, integrity, and availability of services provided to TxDOT. The vendor will immediately report to TxDOT any security incident which it becomes aware. The vendor will submit for approval by TxDOT and conform its policies and procedures relating to the implementation of security safeguards to comply with TxDOT's information resources security program pursuant to Title 1, Texas Administrative Code, Section 202.

4.22 NOTICES: Any written notices required under the resulting purchase order will be by either hand delivery to Vendor's office address specified on Page 1 of the purchase order or by U.S. Mail, certified, return receipt requested, to TxDOT, 125 E. 11th Street, Austin, TX 78701-2483. 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.

4.23 ACCESS TO INFORMATION: The vendor is required to make any information created or exchanged with TxDOT pursuant to this purchase order, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to TxDOT. At a minimum the formats are to include portable document format (PDF) and HTML.

PART 5. INSURANCE

5.01 PRIOR TO PURCHASE ORDER AWARD: The vendor shall provide the required TxDOT insurance form upon written notice from TxDOT. Vendor shall not perform services under the purchase order until this form is received by TxDOT. Failure to provide proof of insurance within the time frame requested by TxDOT may result in the vendor's response being declared non-responsive and the purchase order being awarded to the next responsive, responsible respondent.

5.02 DURING TERM OF PURCHASE ORDER: The vendor shall maintain all required insurance coverage throughout the term of the purchase order. The vendor shall provide a correct TxDOT insurance form each time its insurance is renewed or updated. Failure to provide this form promptly may be cause for discontinuance of the work and termination of the purchase order.

5.03 WAIVER OF SUBROGATION ENDORSEMENT: The vendor's Worker's Compensation insurance policy shall have a waiver of subrogation endorsement in favor of TxDOT. TxDOT will allow deductible policies. The vendor shall pay the deductible amount.

5.04 WORKERS' COMPENSATION INSURANCE: Amounts of coverage are minimums and notice provisions are statutory (Texas Labor Code Chapter 406 and Title 28 Texas Administrative Code Chapter 110). The vendor is responsible for both Federal and State Unemployment Insurance coverage and Standard Workers' Compensation Insurance coverage:

5.05 WORKERS' COMPENSATION INSURANCE FOR BUILDING AND CONSTRUCTION SERVICES: The vendor is responsible for providing Workers' Compensation Insurance for Building and Construction Services. Building or construction includes:

- (c) erecting or preparing to erect a structure, including a building, bridge, roadway, public utility facility, or related appurtenance;
- (d) remodeling, extending, repairing, or demolishing a structure; or
- (e) otherwise improving real property or an appurtenance to real property through similar activities.

The vendor shall provide workers' compensation insurance for building and construction services in accordance with Title 28 Texas Administrative Code §110.110(c)(7).

(a) Definitions (applicable only to this Section 5.05):

- (3) Certificate of coverage ("certificate") – A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
- (4) Duration of the project - includes the time from the beginning of the work on the project until the vendor's/person's work on the project has been completed and accepted by the governmental entity.

- (5) Persons providing services on the project ("subcontractor" in §406.096) - includes all persons or entities performing all or part of the services the vendor has undertaken to perform on the project, regardless of whether that person contracted directly with the vendor and regardless of whether that person has employees. This includes, without limitation, independent vendors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- (b) The vendor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the vendor providing services on the project, for the duration of the project.
- (c) The Vendor must provide a certificate of coverage to TxDOT prior to being awarded the purchase order.
- (d) If the coverage period shown on the vendor's current certificate of coverage ends during the duration of the project, the vendor must, prior to the end of the coverage period, file a new certificate of coverage with TxDOT showing that coverage has been extended.
- (e) The vendor shall obtain from each person providing services on a project, and provide to TxDOT:
 - (1) a certificate of coverage, prior to that person beginning work on the project, so TxDOT will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (2) no later than seven days after receipt by the vendor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- (f) The vendor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- (g) The vendor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the vendor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- (h) The vendor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- (i) The vendor shall contractually require each person with whom it contracts to provide services on a project, to:
 - (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the vendor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (3) provide the vendor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

- (4) obtain from each other person with whom it contracts, and provide to the vendor:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
 - (6) notify TxDOT in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
 - (7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.
- (j) By signing the purchase order or providing or causing to be provided a certificate of coverage, the vendor is representing to TxDOT that all employees of the vendor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the vendor to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- (k) The vendor's failure to comply with any of these provisions is a breach of contract by the vendor which entitles TxDOT to declare the purchase order void if the vendor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

5.06 COMMERCIAL GENERAL LIABILITY INSURANCE: Bodily Injury/Property Damage. Required coverage shall at a minimum, be inclusive of the limits listed on the insurance form noted on the solicitation

5.07 COMMERCIAL AUTOMOBILE POLICY: Required coverage shall at a minimum, be inclusive of the limits listed on the insurance form noted on the solicitation.

PART 6. VENDOR PERSONNEL MANAGEMENT

6.01 INDEPENDENT CONTRACTOR: It is expressly understood and agreed to by both parties that TxDOT is contracting with the vendor as an independent contractor. As such, vendor understands and agrees that individuals performing services in connection with the purchase order are not state employees, and that the vendor shall be responsible and liable for the safety, injury, and health of its and its subcontractor's working personnel while its employees or subcontractor's employees are performing work for TxDOT. Should the vendor subcontract any of the services required in the purchase order, the vendor expressly acknowledges and agrees that TxDOT is in no manner liable to any subcontractor of the vendor.

6.02 WORK HOURS: All work by the vendor shall be performed between the hours of 8:00 AM and 5:00 PM, Monday through Friday except on regularly observed state or federal holidays unless otherwise specified in the solicitation.

6.03 ALCOHOL, DRUG, AND FIREARM FREE WORKPLACE: TxDOT is committed to maintaining an alcohol, drug, and firearm free workplace. Possession or use of firearms, or possession, use of or being under the influence of alcohol or controlled substances by vendor's employees while in the performance of any service is prohibited. Violation of this requirement shall constitute grounds for termination of the purchase order. Vendor's employees shall comply with TxDOT's policy prohibiting smoking in TxDOT buildings.

6.04 REPLACEMENT OF PERSONNEL: If TxDOT determines a vendor's employee or vendor subcontractor performing under this purchase order is unable to perform in accordance with the service requirements or to communicate effectively, or is in the opinion of TxDOT, otherwise objectionable, the vendor shall immediately remove that employee or subcontractor.

6.05 LABOR/MATERIAL/EQUIPMENT: The vendor shall provide all labor, material, and equipment necessary to furnish the goods or perform the service(s) throughout the term of the purchase order. All employees of the vendor shall be a minimum of seventeen (17) years of age and experienced in the type of work to be performed. No visitors, wives, husbands, children or other relatives of the vendor's employees will be allowed on state property during working hours, unless they are bona fide employees of the vendor.

6.06 ENGLISH SPEAKING STAFF: The vendor shall at all times have a minimum of one English speaking employee on the job. All employees shall be well-groomed and appropriately dressed when on TxDOT property.

6.07 FELONY CRIMINAL CONVICTIONS: Vendor represents and warrants that vendor or vendor's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, vendor has fully advised TxDOT as to the facts and circumstances surrounding the conviction and vendor agrees to defense, hold harmless, indemnify TxDOT from any loss or claim due to any such employees.

6.08 SUBCONTRACTING REQUIREMENTS: In accordance with Government Code Sections 2161.181-182 and 34 TAC §20.11 and pursuant to the CPA Historically Underutilized Business (HUB) Rules, 34 TAC, §20.14, and Transportation DBE/HUB/SBE Rules, 43 TAC 9.50-.57 (relating to Disadvantaged Business Enterprises, HUB and Small Business Enterprises, DBE/HUB/SBE) all state agencies entering into a contract with an expected value of \$100,000 or more over the life of the contract (including renewals) shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine if it is probable for subcontracting opportunities under the contract. If subcontracting opportunities are probable the state agency will state such probability in its bids, proposals, offers, or other applicable expression of interest and require the submission of a HUB Subcontracting Plan (HSP). The HSP, if acceptable to the agency, will be a provision of the contract. The HSP, if required, may be found at: <http://www.dot.state.tx.us/gsd/purchasing/purchasing.htm>.

6.09 PAYMENT OF SUBCONTRACTORS: As provided by Government Code Section 2251.022 Time for Payment by Vendor:

- (a) A vendor who receives a payment from a governmental entity shall pay a subcontractor the appropriate share of the payment not later than the 10th day after the date the vendor receives the payment.
- (b) The appropriate share is overdue on the 11th day after the date the vendor receives the payment.

6.10 VENDOR TITLE VI AFFIRMATIONS: The vendor affirms the following, with regard to the work performed by it under the purchase order:

- (a) Vendor and its subcontractors shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The vendor shall not participate either directly or indirectly in any discriminatory employment practices. Failure by the vendor to carry out these requirements is a material breach of any contract awarded and may result in the termination of the contract or such other remedy as TxDOT deems appropriate.
- (b) In any solicitations for subcontractors, including procurements of materials or leases of equipment and in all solicitations either by competitive bidding or negotiation made by the vendor for work to be performed under a subcontract, each potential subcontractor or supplier shall be notified by the vendor of the vendor's and subcontractor's obligations under its purchase order relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability.

- (c) During the performance of this purchase order, the vendor, for itself, its assignees and successors in interest (hereinafter referred to as the "vendor") agrees as follows:
- (1) Compliance with Regulations: The vendor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations (CFR), Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this purchase order.
 - (2) Nondiscrimination: The vendor, with regard to the work performed by it during the purchase order, shall not discriminate on the grounds of race, color, national origin, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The vendor shall not participate either directly or indirectly on the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the purchase order covers a program set forth in Appendix B of the Regulations.
 - (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all solicitations either by procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the vendor's obligations under this purchase order and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, or disability. The assurances in (2) above must appear in all subcontracts.
 - (4) Information and Reports: The vendor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the TxDOT or the Federal Highway Administration (FHWA) to be pertinent and to ascertain compliance with such Regulations, orders and instructions. Where any information required of a vendor is in the exclusive possession of another who fails or refuses to furnish this information the vendor shall certify to the TxDOT or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.
 - (5) Sanctions for Noncompliance: In the event of the vendor's noncompliance with the nondiscrimination provisions of this purchase order, TxDOT shall impose such sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - a) withholding of payments to the vendor under the purchase order until the vendor complies; or
 - b) cancellation, termination, or suspension of the purchase order, in whole or in part.
 - (6) Incorporation of Provisions: The vendor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.
- (d) The vendor shall take such action with respect to any subcontract or procurement as TxDOT or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided however, that, in the event a vendor becomes involved in, or is threatened with, litigations with a subcontractor or supplier as a result of such direction, the vendor may request TxDOT enter into such litigation to protect the interests of TxDOT, and, in addition, the vendor may request the United States to enter into such litigation to protect the interests of the United States.

6.11 E-VERIFY: Pursuant to Executive Order RP-80, Vendor certifies and ensures that for all contracts for services, Vendor shall, to the extent permitted by law, utilize the United States Department of Homeland Security's E-Verify system during the term of this agreement to determine the eligibility of:

- (a) All persons employed by Vendor during the term of this agreement to perform duties within the State of Texas; and
- (b) All persons, including subcontractors, assigned by Vendor to perform work pursuant to this agreement.

Violation of this provision constitutes a material breach of this agreement.

PART 7. DISPUTE RESOLUTION

7.01 DISPUTE RESOLUTION: TxDOT has established a dispute resolution process under 43 TAC §9.1 and §9.2 to resolve disputes that may arise between TxDOT and the vendor under any purchase order resulting from this solicitation. The dispute resolution process provided for in Government Code Chapter 2260 must be used by TxDOT and the vendor to resolve disputes arising under the purchase order, including without limitation any claim for breach of contract. The contested case process provided in Chapter 2260 is the vendor's sole and exclusive process for seeking a remedy for an alleged breach of contract by TxDOT if the parties are unable to resolve their disputes as described above. Notwithstanding any provision of the purchase order to the contrary, unless otherwise agreed in writing by TxDOT, the vendor shall continue performance and shall not be excused from performance during the period of contract claim or dispute is pending; however, the vendor may suspend performance during the pendency of such claim or dispute if the vendor has complied with all provisions of Section 2251.051, Texas Government Code, and such suspension of performance is expressly applicable and authorized under that law.

PART 8. CONTRACT TERMS

8.01 TERM OF CONTRACT: The term of the contract shall be as stated on the purchase order.

8.02 ORDER OF PRECEDENCE: In the event of conflicts or inconsistencies between this contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the order specified on the purchase order.

8.03 TERMINATION OF A PURCHASE ORDER

- (a) **FOR CAUSE:** If vendor fails to provide a good or service according to the provisions of the purchase order or fails to comply with any term or condition of the purchase order, or if any representation or certification made in the purchase order or any related document is false, incomplete or inaccurate, TxDOT may terminate the purchase order upon written notice to the vendor and either re-solicit or award the purchase order to the next lowest responsive and responsible respondent. The defaulting vendor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work unless the specification or scope of work is significantly changed. If vendor defaults on the purchase order, TxDOT may purchase the goods or service elsewhere and charge any increase in cost to the defaulting vendor. TxDOT may impose sanctions, debar or suspend the vendor for abandonment or default(s) on the purchase order. This provision does not limit any other remedies TxDOT may have at law or equity.
- (b) **FOR CONVENIENCE:** The purchase order may be terminated in whole or in part, without penalty, by either party by providing thirty (30) days written notice to the other party. TxDOT will pay the vendor the purchase order price prorated for acceptable service performed up to the date specified in the notice of termination. Termination under this paragraph shall not relieve the vendor of any obligation or liability that has occurred prior to termination. The vendor shall refund any balance of unused prepaid funds.

8.04 SALE OR ASSIGNMENT: The purchase order is void if sold or assigned to another company without written approval from TxDOT. Written notification of changes to company name, address, telephone number, etc. shall be provided to TxDOT as soon as possible but not later than thirty (30) days from the date of change.

8.05 RENEWAL OF BLANKET PURCHASE ORDER FOR GOODS: A blanket purchase order for goods may be renewed for up to three additional like periods of time at the original price, terms and conditions, and any approved changes. Any changes will be clearly detailed in the amended purchase order.

8.06 RENEWAL OF PURCHASE ORDER FOR SERVICES: The purchase order may be renewed for up to three additional like periods of time at the same terms and conditions, or as otherwise stated in the solicitation, provided both parties agree in writing to do so prior to the expiration of the purchase order.

8.07 RENEWAL OF PURCHASE ORDER FOR NEGOTIATED GOODS OR SERVICES

- (a) The purchase order may be renewed for up to three additional like periods of time at the same terms and conditions, or as otherwise stated in the solicitation, provided both parties agree in writing to do so prior to the expiration of the purchase order.
- (b) For purchase orders issued using the RFP or RFO method of purchase, TxDOT reserves the right to negotiate additional time if circumstances require. TxDOT and the vendor may negotiate additional time and price based on the deliverable or need in the best interest of the state and TxDOT.

8.08 EXTENSION OF PURCHASE ORDERS

- (a) TxDOT reserves the right to extend a purchase order for time only past the stated term to allow the vendor to complete the requirements or to accommodate unanticipated events or requirements prior to the expiration of the purchase order.
- (b) A purchase order in its final renewal period may be further extended for time and money for a period up to ninety (90) days at the option of TxDOT.
- (c) The vendor may request a time only extension of a purchase order by submitting written justification to TxDOT. TxDOT will approve or decline the request for extension in writing.

8.09 SEVERABILITY CLAUSE: In the event that any provision(s) of this purchase order may later be determined to be invalid, void, or unenforceable, then the remaining provisions of this purchase order shall remain in full force and effect.

8.10 BINDING EFFECT AND SURVIVAL OF OBLIGATIONS

- (a) By executing this purchase order, the vendor binds itself, its respective successors and assignees, to the faithful performance of the terms and conditions and provisions of the purchase order.
- (b) Expiration or termination of this purchase order for any reason shall not release vendor from any liabilities or obligations set forth in the terms and conditions and purchase order or any work order that are expressly stated to survive any such expiration or termination or which by their nature are intended to be applicable following such expiration or termination, including any and all provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, invoice and fees verification.
- (c) The term of service stated on the purchase order is binding on the vendor regardless of the term on the originating agency contract or its purchase order.



PRIORITY INVOICE AND EARLY PAYMENT PROGRAM

TxDOT is offering an important program to all bidders that provide you the opportunity to prioritize your invoice processing and receive payments sooner. The program gives enrolled vendors enhanced benefits from improved invoice processing to priority handling to cash advancement and technology efficiencies:

1. Your electronic invoice submissions are sent to one (1) centralized mailbox as opposed to multiple regional or divisional mailbox locations; simplifying submission and tracking.
2. You will receive invoice data validation or rejection notices within 24 hours; providing quick feedback on your submission.
3. Your invoices will receive priority processing with Accounts Payable; getting your invoice paid faster.
4. Your payments will be accelerated from your contractual terms; providing you cash sooner.
5. You will receive detailed remittance statements; providing an easy reconciliation of invoice payments.

Bidders/contractors that participate must select one of the options below, populate the required information and sign. TxDOT does not set the Priority Invoice Processing and Early Payment Discount percentage (%) rate. TxDOT is permitting you the flexibility to determine the acceleration discount percentage (%) rate that best fits your business requirements.

Option 1

☐ I am already enrolled and participating in the program and receiving its many e-Invoicing and early payment benefits.

Option 2

☐ Yes, I would like to enroll in the Priority Invoice Processing and Early Payment program at the following proposed acceleration discount percentage(%) rate: _____ %10 Days/Net 30*

Option 3

☐ No, I do not want to take advantage of the Priority Invoice Processing and Early Payment program at this time.

Vendor Information

First Name: _____ Last Name: _____
Title: _____ eMail: _____
Telephone: _____ Signature: _____
Company: _____

*TxDOT reserves the right to approve or reject any proposed rates. To learn more about the program and its benefits, visit <http://www.txdot.gov/business/vendors/epp.html> To speak with a program specialist, call (844) TxDOTEP (844.893.6837) or via email at earlypay@txdot.gov

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