



Railroad Commission of Texas

PROPRIETARY SOLE SOURCE SOLICITATION

REQUEST FOR OFFER No. 455-19-9037

**INFORMATION TECHNOLOGY SERVICES:
GROUND WATER PROTECTION COUNCIL'S
RISK BASED
DATA MANAGEMENT SYSTEM
(RBDMS®)**

ISSUED: July 25, 2019

OFFER DUE: On or before 3:00PM (CT) August 12, 2019

Sole Point of Contact:

Sonya Patterson, CTCM

Phone: (512) 463-6813

Email: sonya.patterson@rrc.texas.gov

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DEFINITIONS AND ACRONYMS

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

Addendum: A modification to this RFO, issued by RRC and posted to the Texas Comptroller of Public Accounts ESBD website (<http://www.txsmartbuy.com/sp>) prior to the due date of Offers.

Best Value: Factors to be considered in determining lowest overall cost and value in making state government procurements.

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

DCS: The Data Center Services program, overseen by Texas Department of Information Resource (“DIR”), that enables state agencies to access data center computing as a managed service, rather than owning hardware, software, and hiring staff to operate and maintain IT infrastructure at an individual agency level.

Deliverable: A unit or increment of work required by the Contract, including such items as goods, services, reports, or documents.

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

HUB: Historically Underutilized Business as defined by Texas Government Code Chapter 2161.

ISO: Information Security Officer; RRC’s Authorized Representative responsible for establishing and maintaining RRC’s enterprise strategies to ensure adequate protection of, for, and through information assets and technologies.

IT: Information technology; the design and implementation of computer networks for data processing and communication. IT may include designing hardware for processing information and connecting separate components and may include developing software that can efficiently and faultlessly analyze and distribute data.

O&G Division: The Oil and Gas Division of the Railroad Commission of Texas.

Offer: A response submitted to RRC as a result of this RFO solicitation.

Offer Documents: An Offeror’s documents submitted in response to this RFO, including all required documents, the acknowledgement of individual and all posted addenda, and any warranty documents required under the contract.

Offeror: An individual or entity who submits a response to this RFO.

PDF: Portable Document Format; a file format used to present documents in a manner independent of application software, hardware, and operating systems.

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

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

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

SLA: Service Level Agreement; part of a standardized service contract that formally defines specifications applicable to performance standards of services to be delivered under the agreement.

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

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

Vendor: The individual or business entity awarded a contract to deliver goods or services to RRC.

PART I: NOTICE TO OFFERORS

1. INTRODUCTION

In accordance with applicable provisions of Texas Government Code Chapters 2054, 2155, 2156, 2157 and 2261, the Railroad Commission of Texas issues this RFO to qualified entities to submit an offer to provide to RRC certain information technology services as further described herein and in accordance with all terms, conditions, and specifications contained within the Solicitation and Contract Documents. Offers shall be received by the Railroad Commission of Texas, Contract Management Section, 1701 N. Congress Avenue, Austin, TX 78701 until 3:00PM (CT), Thursday, June 27, 2019 for **RFO No. 455-19-9037, Information Technology Services: Ground Water Protection Council's Risk Based Data Management System (RBDMS®)**.

1.1 PROJECT GOODS AND SERVICES. The IT services RRC seeks include, but may not be limited to, performance of a comprehensive needs assessment and delivery of a needs assessment report related to RRC's O&G Division business processes and related technologies, an implementation Offer for selection, customization, integration, and implementation of one or more of the Ground Water Protection Council's ("GWPC") proprietary, Risk Based Data Management System ("RBDMS®") applications ("Implementation Offer"), development of one or more work plans and execution of the work necessary and appropriate to customize, integrate, and implement the RBDMS® applications selected by RRC, and hosting, maintenance, support, and training services solutions for RBDMS® applications adopted and implemented by RRC (collectively, the "Services.")

RRC BELIEVES THAT THE SERVICES SPECIFIED WITHIN THIS RFO MAY BE PROPRIETARY TO ONE VENDOR UNDER TEXAS GOVERNMENT CODE §2155.067; HOWEVER, RRC STRONGLY ENCOURAGES OFFERS FROM ALL QUALIFIED OFFERORS THAT MAY BE ABLE TO PROVIDE THE REQUESTED GOODS AND SERVICES IN ACCORDANCE WITH ALL TERMS, CONDITIONS, AND SPECIFICATIONS OF THE SOLICITATION AND CONTRACT DOCUMENTS.

1.2 BACKGROUND.

1.2.1 RRC has seen an increase in demand for agency services to be delivered through IT assets. RRC's O&G Division business processes are supported through a blend of methods including manual/paper-based processes, mainframe systems built in the 1960s, web based online filing systems implemented in the past twenty years, and RRC O&G Division's staff-supported desktop systems. Any contract arising from this RFO is intended to include work complementary to RRC's ongoing, committed effort to quickly and efficiently transition from cumbersome and time consuming, manually performed processes and existing outdated IT systems and processes into modernized RRC business operations and related IT that provides a flexible, scalable, and agile, web-based environment.

1.2.2 As a result of this RFO, RRC expects to receive and evaluate Offers and subsequently enter into negotiations that may culminate in a deliverables-based, multiphase contract between RRC and a single, successful Offeror (individually "Party"; collectively, "Parties".)

1.3 ANNOTATIONS.

1.3.1 PERFORMANCE PERIOD. RRC anticipates all work under any resulting multiphase contract shall be completed within an original contract term ending no later than August 31, 2021. However, original Contract term, to include Phase I and additional phases of work related to customization, implementation, and integration of RBDMS® applications selected by RRC, may result in an original Contract term through August 31, 2021, plus up to two (2), one-year optional extension terms, at RRC's discretion, through August 31, 2023.

1.3.2 MINIMUM QUALIFICATIONS. To be eligible for consideration of contract award, Offeror must meet all minimum qualification requirements as outlined in the Solicitation and Contract Documents, including requirements stated within any part of this RFO and the Statement of Work. An Offer must clearly demonstrate Offeror meets the following minimum qualifications:

- 1.3.2.1 Five (5) years' experience with customization, implementation, and/or integration of one or more of GWPC's RBDMS® applications with at least one (1) state regulatory agency in the U.S. similar in size to RRC and with IT systems and data similar in complexity to RRC's, as solely determined by RRC;
- 1.3.2.2 Completion of at least (3) projects, delivered by Offeror within past five (5) years, that include delivery of information technology services to a state oil and gas regulatory agency in the U.S., with emphasis on regulatory processes for operator, wells, and facility management. Offeror's projects may be three separate projects for a single state oil and gas regulatory agency in the U.S., or from separate projects delivered to more than a single state oil and gas regulatory agency in the U.S. Offeror may include projects that are 50% or more completed before Offer due date.

1.3.3 PRE-OFFER TELECONFERENCE. A Pre-Offer teleconference for this solicitation is scheduled as indicated in **TABLE 1: RFO No. 455-19-9037 Schedule of Events**. No later than three (3) days prior to the scheduled teleconference RRC shall issue an addendum that provides details for call in access to the teleconference.

1.3.4 COSTS OF OFFER PREPARATION. All costs associated with preparation and submission of an Offer, including costs associated with submission of all required documents and all copies of all documents and all costs associated with optional oral presentations, if required, are to be borne solely by the Offeror. All costs associated with performance and delivery of the Services as defined by this RFO must be included in the Offer. Offers that do not meet all requirements or contain all required documentation specified in this RFO shall be rejected as non-responsive.

1.3.5 POINT OF CONTACT. For technical information related to the RFO, the project, and information regarding this RFO and administration of any resulting contract, contact Sonya Patterson, Contract Manager (Phone: 512-463-6813; email: Sonya.Patterson@rrc.texas.gov).

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

PART II: INSTRUCTIONS TO OFFEROR

2. GENERAL OFFER INSTRUCTIONS

2.1 STRICT ADHERENCE TO SUBMISSION DEADLINE. Offers must be received in the Contract Management Section, Railroad Commission of Texas, Austin, Texas **NO LATER THAN** the date and time specified within this RFO, or as revised by Addenda, if any, to this RFO. **OFFERS RECEIVED AFTER THE DEADLINE DATE AND TIME WILL NOT BE CONSIDERED AND WILL BE RETURNED UNREVIEWED.** Offerors are advised RRC headquarters offices do not open until 8:00AM (CT). Offerors should plan their delivery method accordingly.

2.1.1 SCHEDULE OF EVENTS. **TABLE 1: RFO No. 455-19-9037 Schedule of Events** represents a list of critical dates applicable to this RFO. At the sole discretion of RRC, the Schedule of Events may be revised through written addendum posted to the Texas Comptroller's ESD website no later than the Offer due date and time. Award Date is estimated only; at sole discretion of RRC award may occur at any time after due date of Offer and completion of evaluation of Offers received.

TABLE 1: RFO No. 455-19-9037 Schedule of Events

| Event | Date |
|--|-------------------|
| Issuance of RFO | July 25, 2019 |
| Pre-Offer Teleconference (2:00PM CT) | August 1, 2019 |
| Deadline for Submission of Written Inquiries (no later than 3:00PM CT) | August 2, 2019 |
| Response to Written Inquiries, if any (Addendum posted to ESD) | August 5, 2019 |
| Offer Due Date (no later than 3:00PM CT) | August 12, 2019 |
| Award Date (estimated only) | September 1, 2019 |

2.2 OFFER LABELING/PACKAGING. Offers shall be placed in an envelope/package and labeled with **RFO No. 455-19-9037**, Contract Manager's name (see section 2.2.1), and the Offer due date and time. If submitting responses to multiple RFOs, each RFO response must be submitted in a separate envelope/package with correct labeling on the outside of each Offer envelope/package. It is the Offeror's responsibility to properly label and deliver the Offer to RRC by the specified date and time for this RFO.

2.2.1 OFFER DELIVERY. ANY OFFER SUBMITTED BY EMAIL OR BY FACSIMILE WILL BE REJECTED. Offers shall be submitted to RRC either by US Postal service, overnight delivery, or hand delivery. It is the sole responsibility of an Offeror to select their preferred method of delivery from the delivery methods permitted herein. Offerors using hand delivery method are reminded RRC's Austin office does not open until 8:00AM (CT). Offerors shall use the following address labeling information most applicable to Offeror's chosen delivery method:

| | |
|--|--|
| <p><u>US Postal Service:</u> RFO No. 455-19-9037 Railroad Commission of Texas Contract Management Section Sonya Patterson, Contract Manager PO Box 12967 Austin, TX 78711-2967</p> | <p><u>Overnight or Hand Delivery:</u> RFO No. 455-19-9037 Railroad Commission of Texas Contract Management Section Sonya Patterson, Contract Manager 1701 N. Congress Ave. Room: 10.180C Austin, TX 78701</p> |
|--|--|

2.3 PROHIBITED COMMUNICATIONS; SOLE POINT OF CONTACT

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

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

The sole point of contact for this RFO No. 455-19-9037 is Sonya Patterson, Contract Manager, whose contact information is:

| Mailing Address | Hand Delivery Address | Email |
|---|--|---|
| Railroad Commission of Texas Contract Management Section Sonya Patterson, Contract Manager PO Box 12967 Austin, TX 78711-2967 | Railroad Commission of Texas Contract Management Section Sonya Patterson, Contract Manager 1701 N. Congress Avenue Room 10.180 Austin, TX 78701 | Sonya.Patterson@rrc.texas.gov OFFERORS MAY <u>NOT</u> USE THIS EMAIL TO SUBMIT AN OFFER OR RESPONSE TO THIS RFO! |
| | | Phone |
| | | 512-463-6813 |

2.4 INQUIRIES AND ADDENDA

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

2.4.2 Offerors submitting inquiries must reference the relevant RFO page and section and should submit all questions by the inquiry deadline stated within **TABLE 1: RFO No. 455-19-9037 Schedule of Events**. RRC reserves the right to respond to questions received after deadline for submission of written questions. When issuing response to questions submitted, RRC shall issue Addenda posted to the Texas Comptroller's ESBD website.

2.4.3 Addenda issued, if any, shall be posted by RRC to the Texas Comptroller's ESBD website (<http://www.txsmartbuy.com/sp>). RRC in its sole discretion may respond to questions received after the deadline. RRC reserves the right to amend answers prior to the Offer submission deadline. It is the sole responsibility of Offeror to check the Texas Comptroller's ESBD website for any and all updates to the RFO. An Offeror's failure to check the Texas Comptroller's ESBD website for updates shall not release Offeror from the requirements of Addenda or additional information published within any Addenda.

2.5 HISTORICALLY UNDERUTILIZED BUSINESSES (HUB) REQUIREMENTS

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

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

2.5.1.1 ALL OFFERORS, INCLUDING TEXAS CERTIFIED HUBS, MUST SUBMIT A COMPLETED HUB SUBCONTRACTING PLAN ("HSP") FORM (SEE ATTACHMENT 3) WITH THE OFFER FOR THE OFFER TO BE CONSIDERED RESPONSIVE. AN OFFEROR'S FAILURE TO INCLUDE A COMPLETED HSP FORM WILL BE DEEMED A MATERIAL FAILURE TO COMPLY WITH RFO REQUIREMENTS AND SHALL RESULT IN RRC'S REJECTION OF THE OFFER AND RENDERING THE OFFER INELIGIBLE FOR AWARD OF A CONTRACT ARISING FROM THIS RFO.

2.5.1.2 OFFERORS MUST SUBMIT A COMPLETED HSP FORM *ON THE SPECIFIED HSP FORM INCLUDED AS ATTACHMENT 3 TO THIS RFO*; NO ALTERNATE FORMS, INCLUDING ALTERNATE OR PRIOR VERSIONS OF HSP FORMS, WILL BE ACCEPTED.

2.5.2 GOOD FAITH EFFORT REQUIRED. In accordance with 34 Texas Administrative Code §20.285(d), any person submitting a bid, Offer, offer or other applicable expression of interest in obtaining a contract with the state shall submit a completed HUB subcontracting plan demonstrating evidence of good faith effort in developing that plan. Good faith effort shall be in full conformance with all directions for demonstration and submission specified in the HSP form (see Attachment 3).

2.5.3 PROBABLE HUB SUBCONTRACTING OPPORTUNITIES. RRC has identified potential areas of subcontracting opportunities which are listed within **TABLE 2** to this RFO. Full commodity and services descriptions may be found on the Texas Comptroller's website at: <https://comptroller.texas.gov/purchasing/nigp/>. The list is for information purposes only and is not intended as an exhaustive list of subcontracting opportunities related to this RFO. It is the sole responsibility of an Offeror to determine what, if any, subcontracting opportunities are most applicable to the Offeror's business in performance of work under a Contract arising from this RFO. Offeror is not required to include within an HSP form any or all the commodities or services listed in **TABLE 2** to this RFO. Offerors should review the HSP form (see Attachment 3) for instructions that require identification of specific commodities or services intended for subcontracting.

TABLE 2: POTENTIAL HUB SUBCONTRACTING NIGP CODES

| NIGP Class | NIGP Item | Description (Commodities and Services) |
|-------------------|------------------|---|
| 920 | 07 | Applications Software for Microcomputer Systems: Business |
| 920 | 14 | Applications Software for Minicomputer Systems |
| 920 | 28 | Emergency Back-Up Services and Facilities for Data Processing |
| 920 | 39 | Processing System Services, Data (Not Otherwise Classified) |
| 920 | 40 | Programming Services, Computer |
| 920 | 64 | System Implementation and Engineering Services |
| 958 | 23 | Computer Management Services |

2.5.4 HUB SUBCONTRACTING PLAN (HSP) PRIME CONTRACTOR PROGRESS ASSESSMENT REPORT.

Pursuant to 34 Texas Administrative Code §20.285(f)(1), as a condition of payment, a prime contract shall maintain business records documenting compliance with the HUB subcontracting plan and shall submit a compliance report to the state contracting agency each month. Therefore, as a condition of payment under the Contract, from start date of Contract through completion date of Contract, a prime Contractor (Vendor) awarded a Contract arising from this RFO shall monthly submit a HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report prior to RRC's approval of payment under the Contract (see Attachment 6.)

2.5.5 RRC'S HUB PROGRAM ADMINISTRATION. For explanation of the RRC's HUB program, for assistance in completing the HSP form, and to obtain HUB lists if web access is not available, Offerors are encouraged to contact RRC's HUB Administration (Phone: 512-463-7211; or email: hub@rrc.texas.gov.)

2.6 OFFER REQUIREMENTS

2.6.1 REQUIRED NUMBER OF OFFER ORIGINALS AND COPIES. Offeror must submit one (1) paper original, plus three (3) paper copies of the Offer. The paper original must include an original ink signature (electronic signatures will not be accepted), and the name and title of the individual signing who must possess the authority to legally bind the Offeror. RRC reserves the right to require an Offeror to furnish documentary evidence of Offeror's signature authority. Offeror must also submit one (1) electronic copy of the Offer on either compact disc (CD) or USB storage device; the Offer file must be readable using Adobe Acrobat Reader DC®, and neither the file nor the electronic storage device (CD, USB) shall be encrypted. CDs and USBs must be labeled with Offeror's name.

2.6.2 CONFIDENTIAL INFORMATION; PUBLIC INFORMATION ACT DISCLOSURES. RRC is a governmental body subject to the Texas Public Information Act ("PIA"), Texas Government Code Chapter 552. Any Offer and other information submitted to RRC by Offeror are subject to release as public information by RRC. An Offer and other submitted information are presumed subject to disclosure unless a specific exception to disclosure under the PIA applies. If it is necessary for Offeror to include proprietary or otherwise confidential information in its Offer or other submitted information, the Offeror must clearly label that proprietary or confidential information and identify the legal basis for confidentiality. Merely making a blanket claim that the entire Offer is protected from disclosure because it contains some proprietary information is not acceptable and will make the entire Offer subject to release under the PIA. In order to trigger the process of seeking an Attorney General opinion on the release of proprietary or confidential information, the specific provisions of the Offer that are considered by the Offeror to be proprietary or confidential must be clearly labeled as described above. Any information which is not clearly identified by the Offeror as proprietary or confidential will be deemed subject to disclosure pursuant to the PIA. Offeror will be deemed to have irrevocably waived, and to have agreed to fully indemnify the State of Texas and the RRC against, any claim of infringement by RRC regarding the intellectual property rights of Offeror or any third party for any materials appearing in the Offer.

Offeror is required to make any information created or exchanged with a state governmental entity (as defined by Texas Government Code §2252.907(d)) pursuant to this Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in at least one of the following formats that is accessible by the

public at no additional charge to the State of Texas and/or RRC: *.pdf format compatible with the latest version of Adobe Acrobat®; Microsoft Word®; Microsoft Excel®; or, hard copy (paper).

If Offeror's Offer contains any information which Offeror claims is confidential and not subject to release under the PIA Offeror must prepare and deliver to RRC four CDs or USB storage devices containing the following information:

Two (2) CDs or USB storage devices containing complete copies of all of Offeror's submissions pursuant to this RFO. Offeror must mark these **"Complete Offer Documents, [Offeror's Name], RRC RFO No. 455-19-9037. CONTAINS CONFIDENTIAL INFORMATION."**

Two (2) CDs or USB storage devices, each containing copies of all of Offeror's submissions with all information claimed as confidential excised, blacked out, or otherwise redacted. Each of these CDs or USB storage devices must also contain an Appendix which contains clear references to all redacted information including a general description of the redacted information. Offeror must mark these CDs or USB storage devices **"For Public Release: Redacted version of [Offeror's Name], RRC RFO No. 455-19-9037."**

2.7 EXCEPTION TO PROVISIONS

Offeror is strictly prohibited from taking blanket exception to this entire RFO. Any Offer that includes blanket exception to this entire RFO or that does not include proposed alternative language to exceptions taken, may be disqualified from consideration of contract award. Any exception taken may result in a contract not being awarded to Offeror. **Within the Executive Summary (Tab A) of the Offer, Offeror must explicitly state either "Offeror takes no exception to any part of this RFO" or specifically and clearly declare any and all exceptions taken.**

2.8 ORGANIZATION OF OFFER

All Offers submitted must be bound, organized, and arranged to correspond directly with the identified tabs of this RFO. Offers shall be complete, concise, and include all required information; vague and general responses shall be considered nonresponsive and disqualified from contract award. All pages shall be numbered. Failure to order the Offer in the manner set forth in this RFO may result in disqualification. Conciseness and clarity of content must be emphasized. Offeror must provide all information that the Offeror believes would be helpful to RRC in establishing Offeror's ability to perform the services described in this RFO and to comply with the requirements of this RFO and the Contract.

2.8.1 TITLE PAGE (TAB A). The Title Page must include the following information:

- RRC's RFO ID Number: RFO No. 455-19-9037
- Offeror's Name and Address
- Offeror's State of Texas Taxpayer Number (if available)
- Offeror's Federal Employer's Identification Number
- Offeror's Authorized Agent's Signature, Printed Name, Title, and Date signed.

2.8.2 EXECUTIVE SUMMARY (TAB B). To be eligible for consideration, Offeror must clearly demonstrate Offeror's ability to provide and/or perform all goods and services described in the RFO. Offeror must provide, at a minimum, information that is comprehensive, clear, and that sufficiently supports a determination that Offeror has available the required qualified personnel, knowledge, skills, abilities, organization, facilities, materials, products, and equipment to fulfill all requirements of this RFO and the Contract.

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

- a. High-level overview of Offer, including identification and brief summary of goods, services and information technology included in the Offer and explanation of how, in Offeror's opinion, the goods, services, and information technology offered meet or exceed the RFO requirements and objectives;

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

2.8.2.2 If Offer includes any services beyond or alternate to those specifically requested, the additional goods and/or services must be clearly identified, defined, and explained within the Offer. If Offeror is proposing alternate goods and/or services that do not meet the specific requirements of this RFO, but in the opinion of the Offeror are equivalent or superior to those specifically requested, Offeror must identify and explain in detail within the Executive Summary the alternate goods and/or services and Offeror's belief of the specific features and qualities attributable warranting designation of the alternate goods and/or services as equivalent or superior to those specified within this RFO.

Offeror should note: failure to provide sufficient detail and evidence of Offeror's ability to provide all goods and/or services required under the Contract and in accordance with specifications within the SOW shall result in disqualification of the Offer.

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

2.8.3.1 MINIMUM QUALIFICATIONS. Offeror shall include examples and detailed description of at least three (3) projects delivered by Offeror within past five (5) years that demonstrate Offeror's ability and qualifications to deliver the goods and services required under a contract arising from this RFO. Offeror shall include projects that represent delivery of information technology services, similar in size and scope to that of the project within this RFO, and that were delivered to one or more state oil and gas regulatory agencies in the U.S.

2.8.3.2 Offeror shall include one or more projects that demonstrate Offeror's experience with customization, implementation, and/or integration of one or more of GWPC's RBDMS® applications delivered to at least one (1) state regulatory agency in the U.S.

- a. Offer shall include discussion of significant issues encountered on one or more projects or project milestones similar in scope and size to that of RRC's project. Offer shall include details that identify the issue(s) and detailed discussion of Offeror's approach in mitigating and/or resolving the identified significant issues.

2.8.3.3 Offeror shall include within Tab C an explanation of any variances, 5% or greater, positive or negative, in completion time and/or costs of any project listed in Tab C and/or Tab E documentation.

2.8.3.4 Offeror shall include within Tab C a list of Offeror's proposed project team key personnel. Offeror shall include a resumé for each project team key member as well as staff members who shall be assigned project management and operations management (day to day) roles or such other assignments to critical project activities and/or segments. Information required includes:

- a. List of all Offeror's personnel, including sub vendors, by name and title, who shall be assigned to RRC's project in a project management or operations management role and/or such other

assignments to critical project activities and/or segments. Offeror's list under this requirement shall include, at a minimum, identification of Offeror's senior project staff within the following types of roles: Project Manager, Project Technical Architect, Project Technical Director, Project Business Analyst, Project Quality Assurance Manager, Project Contract Manager.;

- b. Organizational chart representative of Offeror's project team members, including Offeror's staff and Offeror's subcontractor's staff, titles/roles, chain of command within project structure, and proposed interfacing within Offeror's team and with RRC project team.
- c. Resumé for each of Offeror's project team key personnel, including sub vendors, who are assigned to the project, are assigned to a project management or operations management role on the project, and/or are assigned to critical project activities and/or work segments. Offer shall include, at a minimum, resumé for all Offeror's personnel identified on Offeror's list submitted for compliance with paragraph 2.8.3.4.a. of this RFO. Resumés shall include, but not be limited to the following required information:
 - Relevant certifications and/or licenses;
 - Detailed description of experience, including quantity (months/years), projects, roles, and type of tasks;
 - Detailed information related to time in service with Offeror, including quantity (months/years), projects, roles, and types of tasks; and
 - Relevant education.

2.8.4 OFFEROR'S APPROACH TO MEETING RFO REQUIREMENTS AND OBJECTIVES (TAB D). Contents of Tab D shall include elaboration of, and details related to, Offeror's approach to meeting the objectives of the RFO. Offeror's approach shall demonstrate Offeror's experience, expertise, and ability to plan and complete all work required under a Contract arising from this RFO. RRC is required to follow the State of Texas DIR Project Delivery Framework, including Framework Extensions, therefore any Offer shall include creation of artifacts required under the Texas DIR Project Delivery Framework.

2.8.4.1 NEEDS ASSESSMENT AND REPORT. Offeror's approach shall include an overview and detailed explanation of Offeror's approach to conducting and completing the comprehensive needs assessment of RRC O&G Division and delivering the Phase I deliverable, Needs Assessment Report. Offeror is encouraged to provide:

- a. Overview and scope of the comprehensive needs assessment and Needs Assessment Report;
- b. Detailed description of Offeror's approach, including:
 - Planned activities,
 - Templates and forms to be used, and
 - Techniques to be employed;
- c. Timeline associated with conducting and completing the comprehensive needs assessment;
- d. Offeror's project team key staff who will participate in the needs assessment, and their roles, responsibilities, and related experience for the assignment on the RRC project; and
- e. Assumptions made about project scope that inform the project approach and cost Offer included within the Offer.

2.8.5 PROPOSED PRICING (TAB E).

2.8.5.1 An Offer shall include pricing information applicable to Phase I known deliverables identified within the Statement of Work. Pricing information shall be reported as line item, lump sum, with a grand total, and shall include all costs to complete and deliver each and all Phase I deliverables. The known deliverables within Phase I of a Contract arising from this RFO include:

- Comprehensive Needs Assessment;
- Needs Assessment Report; and
- Implementation Offer.

2.8.5.2 Project and contract delivery shall be through a multiphase contract; progression to each phase subsequent to Phase I is dependent on results of Phase I or later. Therefore, *an Offer shall include proposed pricing to complete only Phase I deliverables.*

2.8.5.3 As part of completion of Phase I, Offeror shall provide within the Implementation Offer proposed pricing for Offeror's recommendation of RBDMS® applications deemed most appropriate to accommodate RRC O&G Division's needs and the applicable pricing for delivering the customization, integration, and implementation of Offeror's recommended RBDMS® applications.

2.8.6 OFFEROR'S SUBMITTALS (TAB F).

2.8.6.1 REQUIRED RRC RFO ATTACHMENTS. Within the Offer's section titled "Offeror's Submittals" an Offer shall include a properly completed copy of Required RRC RFO Attachments. Failure to include each and all the Required RRC RFO Attachments may result in the Offer being deemed nonresponsive to the RFO and disqualified from consideration of Contract award. The Required RRC RFO Attachments applicable to this RFO include:

- Attachment 1: Execution of Offer
- Attachment 2: Offeror Qualifications Statement
- Attachment 3: HUB Subcontracting Plan form

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

TABLE 3. RRC RFO ATTACHMENTS

| Attachments | Return with Offer? |
|---|--------------------|
| Attachment 1: Statement of Work (Includes Appendix A) | No |
| Attachment 2: Execution of Offer | <i>Yes</i> |
| Attachment 3: Vendor Information Security Agreement | <i>Yes</i> |
| Attachment 4: Offeror's Qualifications Statement | <i>Yes</i> |
| Attachment 5: HUB Subcontract Plan (HSP) form | <i>Yes</i> |
| Attachment 6: HUB Subcontract Plan (HSP) Prime Contractor Progress Assessment Report | No |
| Attachment 7: Progress Payment Affidavit | No |
| Attachment 8: Final Payment Affidavit | No |
| Attachment 9: Sample RRC Contract | No |
| Attachment 10: Deliverable Acceptance Voucher | No |
| Attachment 11: RRC's Work Order Process | No |

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

2.9 MANDATORY DISCLOSURES

2.9.1 CONFLICTS OR POTENTIAL CONFLICTS OF INTEREST. Offeror must provide a statement of any conflicts or potential conflicts of interest for the Offeror or the Offeror's employees, who will or may provide services under the Contract. Failure to disclose all conflicts or potential conflicts of interest may result in the Offeror being disqualified and may result in cancellation of any Contract awarded.

2.9.2 CHANGES IN OWNERSHIP CONDITIONS. The Offer must include Offeror's certification that Offeror will notify the RRC of any ownership change. If Offeror experiences a substantial change in ownership during the period prior to Contract award, or if Offeror experiences a substantial change in ownership during the term of the Contract or any extension thereof, Offeror must notify the RRC in writing, immediately on or before the change in ownership occurs or is identified. Failure of Offeror and/or Vendor to notify the RRC as required herein shall be sufficient grounds for rejection of an Offeror's Offer and/or termination of the Contract.

2.9.3 LEGAL ACTIONS. Offeror must identify any pending or completed legal actions against Offeror during the past five (5) years related to services performed. Offeror must specifically describe any legal actions related to failure to perform contracted services, breach of contract, or general mismanagement of a contract that have been brought against the Offeror or any of the individuals who will be working with RRC. The Offeror must also state whether during the last five (5) years the Offeror has been assessed any penalties or liquidated damages under any existing or past contract with any governmental entity. If so, the Offeror must indicate the public jurisdiction, the reason for the penalty or liquidated damages, and the penalty or liquidated damage amount of each incident.

2.10 OFFER EVALUATION AND CONTRACT AWARD

2.10.1 REVIEW PHASES. Offers shall undergo a minimum of two (2) review phases prior to Contract award, if any. The first review shall be an administrative review of Offers to determine responsiveness based upon the Offer satisfactorily meeting all submission requirements stipulated in this RFO. The second review will be an evaluation of Offers deemed responsive by RRC. The second review shall be an evaluation conducted by an appointed committee with members using a scoring system set forth within this RFO. During the second review, RRC solely shall determine whether negotiations or Best and Final Offers are appropriate and/or necessary. RRC may, but not must, invite selected Offerors to deliver oral presentations of Offers and demonstrations of products/solutions included within the Offer. Following completion of both review phases, RRC may, but not must, issue a Notice of Award to the selected Vendor. RRC reserves the right to conduct studies and other investigations as necessary to evaluate any Offer and reserves the right to reject any or all Offers and to waive any or all informalities in connection therewith. Submission of Offers confers no legal rights upon any Offeror.

2.10.2 EVALUATION CRITERIA. In evaluation of responsive Offers, RRC shall consider the best value standard for purchases of automated information goods or services as set forth in Texas Government Code §2157.003. Factors considered in determining best value shall include pricing, compliance with advertised specifications, terms and conditions, and offer requirements, and the qualifications of the Offeror and its personnel. The evaluation will include review and scoring using evaluation criteria listed in **TABLE 4: EVALUATION CRITERIA**, of this RFO. Scoring shall include relative weight of each criterion as indicated by the maximum possible score, in points, as indicated within **TABLE 4: EVALUATION CRITERIA**.

2.10.2.1 Offer with the lowest price shall receive 100% of 30 maximum points possible for Price/Cost. All other Offers shall be awarded Price/Cost points based on the following formula:

$$(\text{Lowest price Offer} / \text{Offeror's price}) \times \text{available points} = \text{Offer Price/Cost score}$$

Example: Offer with lowest price (Offeror A) offers price of \$65,000, and Offeror B offers price of \$100,000, and the total points available = 30, Price/Cost points are allocated as follows:

Offer A (lowest price Offer) receives 30 points;

Offer B = $(\$65,000/\$100,000) \times 30 = 19.5$ points.

2.10.2.2 Evaluation and scoring of Offeror's Approach to RFO shall include, but not be limited to, examination of Offeror's approach to organization and presentation of Offer, including but not limited to demonstration of understanding of RFO requirements; and shall include, but not be limited to, examination of Offeror's approach to the project in accordance with requirements of Attachment 1 Statement of Work and the specifications therein.

2.10.2.3 Evaluation and scoring of Offeror's Qualifications shall include, but not be limited to, examination of qualifications of Offeror's key personnel, Offeror's comparable (as judged by RRC) experience and success, Offeror's subcontractor's comparable (as judged by RRC) experience for roles assigned, Offeror's Texas CPA Vendor Performance Tracking System score (if any).

TABLE 4: EVALUATION CRITERIA

| Criteria | Maximum Possible Score |
|--------------------------------------|------------------------|
| Price/Cost | 30 |
| Offeror's Approach to RFO | 50 |
| Offeror's Qualifications | 20 |
| Total Base Points | 100 |
| Oral Presentations (Optional) | 15 |
| Grand Total Maximum Score | 115 |

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

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

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

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

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

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

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

- a. A “natural break” in the scores will determine the competitive range; or the point difference between the first and second ranked Offer is less than three points.
- b. The number of Offerors, if any, invited to oral presentations shall depend upon closeness of scores following evaluation of submitted Offers.
- c. In determining number, if any, of Offerors to be invited for oral presentations, RRC staff shall consider significant gaps in point separation between the top ranked Offerors.
- d. Only those Offerors that are determined by RRC to be qualified to perform all required work may be invited for oral presentations.
- e. No more than three (3) Offerors shall be invited for oral presentations.
- f. Oral presentations, if any, shall be held at RRC headquarters in Austin, Texas.
- g. All expenses associated with responding to and/or attending an oral presentation shall be borne exclusively by the Offeror accepting and/or attending the oral presentation.

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

2.10.7 OFFEROR TO PROVIDE BEST PRICE IN OFFER. RRC makes no guarantee of any opportunity to negotiate or provide alternative pricing at any point during the Offer evaluation and contract award process. RRC may restrict the competitive range of Offers to those that represent the greatest number of Offers to effect efficient competition among Offerors and in accordance with the specifications and requirements of this RFO. RRC may seek additional information and solicit BAFOs only from those Offerors whose Offer has been determined to exist within the competitive range.

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

2.11 RRC CONTACT(S) FOLLOWING AWARD

RRC contact(s) for day-to-day administration of the contract will be determined following contract award. These individuals may appoint one or more delegates to assist in the day-to-day administration of the contract and may notify the Offeror in writing of those delegates.

2.12 RESERVATION OF RIGHTS

In addition to any other rights specified elsewhere in this RFO, RRC reserves the following rights:

- RRC reserves the right to reject an Offer that does not fully comply with the instructions and criteria outlined in this RFO.
- RRC reserves the right to reject any or all Offers and call for new Offers if deemed by RRC to be in the best interest of RRC and/or the State of Texas.
- RRC reserves the right to vary any or all provisions set forth in the RFO, at any time prior to execution of a Contract, if RRC deems variance of provision(s) to be in the best interest of RRC and/or the State of Texas.

- RRC reserves the right to select none, one, or more than one Offer for Contract Award when RRC determines that such action would be in the best interest of RRC and/or the State of Texas.

PART III: TERMS AND CONDITIONS

3. The terms and conditions herein shall be fully incorporated into and constitute part of the RFO and the Contract. Vendor shall comply, and Vendor shall require all sub vendors of all tiers to comply, with the terms and conditions of the Contract. In absence of express exclusion in whole or in part from Offeror's Offer, all terms and conditions are deemed incorporated therein.

3.1 GENERAL TERMS AND CONDITIONS

3.1.1 COMPLIANCE WITH RFO AND CONTRACT. By submitting a response, acknowledging and accepting the Contract, or delivering any services under the Contract, Vendor acknowledges, accepts, and agrees to all terms, conditions, specifications, provisions, statements, and guidelines of the Contract, including, but not limited to, the RFO. All parts of the RFO are fully incorporated into and constitute part of the Contract for all purposes intended. RRC, at its sole discretion, may disqualify an Offer from consideration if RRC determines an Offer is non-responsive and/or non-compliant, in whole or in part, with the requirements set forth in this RFO.

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

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

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

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

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

3.1.5 NO ALTERATIONS OR WITHDRAWALS OF OFFER AFTER DEADLINE. Offers cannot be altered or amended after the Offer due date and time specified in Section III of the RFO. Any alterations made before the Offer due date and time must be initialed by Offeror or Offeror's authorized agent. Offers submitted cannot be withdrawn after submission deadline. However, upon receipt of Offeror's written request to withdraw their Offer, RRC may, but not must, in its sole discretion approve the request to withdraw an Offer.

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

3.1.7 BINDING EFFECT OF OFFER. Unless otherwise agreed in writing and signed by RRC, Offeror agrees to and is bound by the information and documentation provided with the Offer, including prices quoted for services. By submitting an Offer Offeror commits to providing the goods and services required at the prices set forth in the

Offer and that Offer prices remain valid for 180 calendar days following the Offer due date and time. Upon award of Contract, prices shall remain fixed and guaranteed for the entire Contract period.

3.1.8 TIE OFFERS. Consistent and continued tie Offers could cause rejection of Offers by RRC.

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

3.1.10 OFFEROR COSTS. Offeror shall bear all costs and expenses associated with preparation and submission of an Offer, including costs associated with submission of all required documents and all copies of all documents. Offer pricing includes all costs and expenses associated with performance of the work in accordance with the requirements, terms, and conditions of the Contract documents including any specifications and the SOW; no alternate pricing or additional costs will be paid.

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

3.1.12 CONTRACT AWARD, COPYRIGHT, REISSUANCE. A response to the RFO is an Offer to contract with the State of Texas through RRC based upon the specifications, terms, and conditions contained in the RFO. The Offer shall not become a contract with RRC unless, until, and to the extent RRC issues a fully executed Contract and Notice of Award to the successful Vendor. RRC in its sole discretion reserves the right to reject any or all Offers, all or any part of any Offer, waive minor technicalities, negotiate pricing and Contract terms and conditions with all Vendors or no Vendors, and award a Contract in the best interests of the State of Texas and RRC. Award of Contract, if any, shall be done upon RRC's determination such award serves the best interests of the State of Texas and/or RRC. RRC's waiver of any deviations in any Offers will not constitute a modification of the RFO and will not preclude RRC from asserting all rights against Vendor for failure to fully comply with all terms and conditions of the RFO. Copyrighted Offers are unacceptable and are subject to disqualification as nonresponsive. RRC reserves the right to disqualify any Offer that asserts any copyright on any RRC forms designated by the RFO as a form required to be submitted with Offeror's Offer. Prior to issuance of a Contract, RRC reserves the right to make any corrections or include additional requirements necessary for RRC's compliance with all federal and state laws, regulations, rules, policies, and best practices. RRC reserves the right to at any time reissue the RFO or issue another RFO for the goods and/or services described in this RFO.

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

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

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

3.1.16 ORDER OF PRECEDENCE; PROHIBITED EXCEPTIONS

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

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

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

- a. Incorporation of laws of a state other than Texas,
- b. Any requirements for prepayment,
- c. Any limitations on RRC's remedies,
- d. Any requirements that RRC indemnify the Offeror,
- e. Any requirements that Offeror's documents control in case of conflicts,
- f. Any requirements that Offeror's documents control even if Offeror accepts or acknowledges the Contract,
- g. Any requirements to reduce or eliminate required insurance coverages, types, endorsements and limits, and
- h. Any disclaimer of warranties.

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

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

3.1.19 ASSIGNMENTS AND SUB VENDORS. Vendor shall not assign, transfer, or delegate any rights, obligations, or duties under the Contract without prior written consent of RRC. Notwithstanding this provision, it is mutually understood and agreed that Vendor may subcontract with others for some or all services to be performed.

3.1.19.1 Vendor must submit to RRC's Authorized Representative any proposed sub vendor and shall receive from RRC's Authorized Representative, written approval of the sub vendor prior to Vendor authorizing sub vendor's performance of any work under the Contract.

3.1.19.2 Sub vendors providing service under the Contract shall meet the same requirements and level of experience as required of the Vendor.

3.1.19.3 No subcontract under the Contract shall relieve the Vendor of responsibility for delivery of work and services required under the Contract. If Vendor uses a sub vendor for any or all work required, the following conditions shall apply under the listed circumstances:

- a. Offerors planning to subcontract all or a portion of the work to be performed under this Contract shall identify each proposed sub vendor on the HSP form (see Attachment 3.)
- b. Subcontracting shall be at Vendor's expense.
- c. RRC retains the right to review any sub vendor's background and approve or reject the use of Vendor's proposed sub vendors.
- d. Vendor shall be the only Vendor for RRC for the Contract. Vendor shall manage Vendor's sub vendors, if any. Vendor shall provide contact information, including mobile phone number and email address, of Vendor's designated point of contact to which RRC and Vendor's sub vendors shall submit any inquiries.

3.1.20 PAYMENTS TO VENDOR. Vendor shall submit by email to RRC's designated point of contact all requests for payment. Payment requests shall be submitted upon Offeror's completion of and RRC's acceptance of one or more deliverables. When submitting request by email, Vendor shall include Vendor's invoice, all additional documents required by Contract, and a completed "Vendor's Progress Payment Affidavit" or "Vendor's Final Payment Affidavit," as applicable to the payment request, as attachments to the email. Vendor shall also mail within three (3) business days the original, signed and notarized Vendor's Progress Payment Affidavit or Vendor's Final Payment Affidavit, as applicable to the payment request, to RRC designated Contract Manager.

Each Vendor's invoice shall reflect a single Contract and all and only items related thereto which have been delivered, inspected, tested, evaluated, and accepted by RRC within the Contract performance period concluding on the invoice date.

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

3.1.20.2 Progress Payments. Note: This Contract requires 5% retainage withheld on all progress payments. Payment requests under the Contract shall be deliverables-based unless otherwise approved in writing by RRC. Upon Offeror's completion of one or more deliverables, and upon RRC's acceptance thereof, Vendor shall submit a properly prepared, itemized invoice accompanied by all additional documents required by Contract, as a Contract progress payment equal to **95%** of the value the invoiced deliverable(s) completed by Offeror and accepted by RRC. Each invoice and all additional documents required by Contract shall be accompanied by a completed "Progress Payment Affidavit" (see Attachment 7.)

3.1.20.3 Final Payments. Upon Offeror's completion of all final, not previously invoiced, deliverables, and upon RRC's acceptance thereof, Vendor shall submit a properly prepared invoice as Vendor's request for final payment under the Contract. Upon Vendor's submittal of a properly prepared, itemized invoice accompanied by all additional documents required by Contract, final payment may be made by RRC in accordance with Texas Government Code Chapter 2251. Vendor's final payment request shall reflect value for 100% of the value of work performed by Vendor and accepted by RRC, but not previously invoiced by Vendor, and shall include invoicing for all retainage previously withheld under the Contract. Vendor's final payment invoice and additional documents required by the Contract shall be accompanied by a completed "Final Payment Affidavit" (see Attachment 8.)

3.1.21 INVOICE REQUIREMENTS.

3.1.21.1 Vendor's invoice must clearly reflect the following:

- a. RRC Contract Number;
- b. RRC bill to information;
- c. Vendor name;
- d. Vendor address;
- e. Vendor remit payment to information;
- f. Vendor Texas Identification Number (TIN) assigned by Texas Comptroller of Public Accounts;
- g. Invoice date;
- h. Invoice number (may not be duplicate invoice number from prior invoice submitted);
- i. Date(s) of delivery of services and/or goods; and
- j. Description of services.

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

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

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

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

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

3.1.26 INDEMNIFICATION.

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

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

VENDOR AGREES TO INDEMNIFY AND HOLD HARMLESS RRC, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, VENDORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE

AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND RRC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

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

3.1.27.1 CLAIMS. OFFEROR SHALL DEFEND, INDEMNIFY, SAVE, AND HOLD HARMLESS THE STATE OF TEXAS AND RRC, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, VENDORS, ASSIGNEES, AND/OR DESIGNEES FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS, OR INFRINGEMENT OF ANY PATENT, TRADEMARK, SERVICEMARK, COPYRIGHT, TRADE SECRET, OR OTHER INTELLECTUAL, INTANGIBLE PROPERTY, PUBLICITY, OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF OFFEROR PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) RRC'S AND/OR OFFEROR'S USE OF OR ACQUISITION OF ANY SERVICES OR OTHER ITEMS PROVIDED TO RRC BY OFFEROR OR OTHERWISE TO WHICH THE STATE OF TEXAS AND/OR RRC HAS ACCESS AS A RESULT OF OFFEROR'S PERFORMANCE UNDER THIS CONTRACT. OFFEROR AND RRC AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. OFFEROR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY OFFEROR WITH THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND OFFEROR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM OAG. IN ADDITION, OFFEROR WILL REIMBURSE AGENCY AND THE STATE OF TEXAS FOR ANY CLAIMS, DAMAGES, COSTS, EXPENSES OR OTHER AMOUNTS, INCLUDING, BUT NOT LIMITED TO, ATTORNEYS' FEES AND COURT COSTS, ARISING FROM ANY SUCH CLAIM. IF AGENCY DETERMINES THAT A CONFLICT EXISTS BETWEEN ITS INTERESTS AND THOSE OF OFFEROR OR IF AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND OFFEROR WILL PAY ALL REASONABLE COSTS OF AGENCY'S COUNSEL.

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

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

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

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

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

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

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

- a. RRC as certificate holder with correct mailing address;
- b. Insured's name which must match Vendor's legal name on and within this Contract;
- c. Insurance company(ies) affording each coverage, policy number of each coverage, policy dates of each coverage, all coverages and limits described herein, and signature of authorized representative of the insurance company(ies);
- d. Producer of the certificate of insurance with correct address and phone number listed;
- e. Additional insured status as required herein;
- f. Amount of any deductibles and/or retentions;
- g. A 30day Notice of Cancellation, non-renewal, or reduction in coverage;
- h. Contractual liability coverages as required herein;
- i. Primary and non-contributing endorsement. All insurance coverage required herein shall be primary to and shall seek no contribution from all insurance available to RRC, with RRC's insurance being excess, secondary, and non-contributing;
- j. Waiver of Subrogation endorsement; and
- k. Listing of all exclusions and limitations added by endorsement to general liability coverage; however, no endorsements shall restrict, limit, or exclude in any manner whatsoever, coverage required.

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

3.1.29.4 Respondent's Proposal shall include proof of minimum required insurance types and limits of coverage. Proof of insurance may be provided in the form of current certificates of insurance (e.g., an Acord™ form).

3.1.29.5 Minimum Contractually Required Insurance Types and Coverage:

| Insurance Type | Each Occurrence/Aggregate |
|---|--|
| <u>Workers' Compensation</u> | Within statutory limits/Texas Workers' Compensation Act. |
| <u>Employer's Liability</u> Bodily Injury by Accident Bodily Injury by Disease | \$1,000,000 Each Accident \$1,000,000 Each Employee \$1,000,000 Policy Limit |
| <u>Commercial General Liability</u> Includes liability arising out of all locations and operations of Vendor, including but not limited to liability assumed under this Contract (including the tort liability of another assumed in a business contract). Defense shall be provided as an additional benefit and not included within the limits of liability. | <u>Bodily Injury and Property Damage</u> \$1,000,000 Each Occurrence Limit \$2,000,000 General Aggregate Limit \$2,000,000 Product-Completed Operations Aggregate Limit \$1,000,000 Personal Injury and Advertising Liability \$5,000 Medical Expense each person |
| <u>Automobile Liability</u> Must include liability arising out of any auto and be on business auto form. | \$1,000,000 Combined Single Limit (for each accident) |
| <u>Professional Liability</u> <u>Errors and Omissions Liability policy</u> | \$1,000,000 Each Occurrence \$2,000,000 General Aggregate Limit |
| <u>Cyber Liability</u> Including first and third party coverages: loss or damage to electronic data, extra expenses incurred to avoid or minimize RRC system shutdown or failure, notification costs, network security liability, network privacy liability, crime coverage (computer fraud, funds transfer fraud, cyber terrorism). | \$5,000,000 Each Occurrence \$10,000,000 Aggregate |

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

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

3.1.30.1 TERMINATION OR CANCELLATION FOR CONVENIENCE.

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

3.1.30.2 TERMINATION OR CANCELLATION FOR CAUSE.

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

No additional charges or fees will be assessed to RRC for the termination or cancellation. Upon termination or cancellation under this provision, Vendor shall refund to RRC any amounts attributable to the terminated or canceled months within thirty (30) days of the termination or cancellation.

If RRC does not receive the refund within thirty (30) calendar days, the Contract amount and monthly invoice will be reduced during the next billing cycle based on the services canceled.

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

3.1.30.3 MISCELLANEOUS TERMINATION PROVISIONS.

- a. Recovery of Funds.** RRC reserves the right to recover reasonable costs, fees, expenses, and other amounts or damages available to RRC under the Contract or under applicable law, including, but not limited to, attorneys' fees and court costs, if termination or cancellation is at Vendor's request or if termination or cancellation is for cause. This right is in addition to any other remedies available to RRC under the Contract or under applicable law. RRC reserves the

right to pursue all applicable rights and remedies if the Contract is terminated for any reason, and RRC expressly waives no such rights or remedies.

- b. **Notice of Termination or Cancellation Delivery.** Any termination by RRC of the Contract which requires written notice may be accomplished by RRC's delivery to Vendor of a notice of termination or cancellation specifying that the Contract is terminated or canceled.

3.1.31 LEGAL OBLIGATIONS; PERMITS AND LICENSES. Vendor shall procure and maintain for the duration of the Contract, any state, county, city, or federal license, authorization, insurance, waiver, permit, qualification, or certification required by statute, ordinance, law, or regulation to be held by Vendor to provide the goods and/or services required by the Contract. Vendor will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law. Vendor agrees to be responsible for payment of any such government obligations not paid by its sub vendors during performance of Contract.

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

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

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

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

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

3.1.36 DISPUTE RESOLUTION. The dispute resolution process provided for in Texas Government Code Chapter 2260 shall be used by RRC and Vendor to resolve any dispute arising under the Contract. If the Vendor's claim

for breach of Contract cannot be resolved informally with the Agency, the claim shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, the Vendor shall submit written notice, as required by Chapter 2260, to the individual identified in the Contract for receipt of notices. Any informal resolution efforts shall in no way modify the requirements or toll the timing of the formal written notice of a claim for breach of contract required under Texas Government Code §2260.051. Compliance by the Vendor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.

The contested case process provided in Chapter 2260 Vendor's sole and exclusive process for seeking a remedy for an alleged breach of Contract by RRC if the Parties are unable to resolve their disputes as described above.

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

For all other specific disputes under the Contract and/or breach of Contract claims, RRC and the Vendor shall first attempt to resolve them through direct discussions in a spirit of cooperation. If the Parties' attempts to resolve disagreements through negotiations fail, the dispute will be mediated by a mutually acceptable third party to be chosen by RRC and Vendor within fifteen (15) days after written notice by one them demanding mediation under this section. Vendor shall pay all costs of the mediation unless RRC in its sole discretion and good faith approves payment by RRC of all or part of such costs. By mutual agreement, RRC and Vendor may use a non-binding form of dispute resolution other than mediation. The purpose of this section is to reasonably ensure that RRC and Vendor shall in good faith utilize mediation or another non-binding dispute resolution process prior to pursuing litigation. RRC participation in, or the results of, any mediation or other non-binding dispute resolution process under the provisions of this section shall not be construed as a waiver by RRC of (1) any rights, privileges, defenses, remedies, or immunities available to RRC as an agency of the State of Texas or otherwise available to RRC; (2) RRC termination rights; or (3) other termination provisions or expiration dates of the Contract.

Notwithstanding any other contrary provision of the Contract, unless otherwise requested or approved in writing by RRC, Vendor shall continue performance and shall not be excused from performance of work during the period any breach of contract claim or dispute is pending under either of the above processes; however, Vendor may suspend performance during the pendency of such claim or dispute if Vendor has complied with all provisions of Texas Government Code §2251.051 and such suspension of performance is expressly applicable and authorized under that law.

3.1.37 COMPLIANCE WITH OTHER LAWS. Vendor shall comply with all federal, state, and local laws, statutes, rules, regulations, and ordinances applicable to work under the Contract, including but not limited to those relating to taxes, insurance, labor, equal employment opportunity, safety, environmental protection, and collection, removal, transportation, and disposal of waste. Vendor shall obtain and maintain all permits, licenses, or other authorizations as may be required for performance of the work under the Contract, and upon request by RRC, Vendor shall furnish to RRC certified copies of required permits, licenses, or other required authorizations.

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

3.1.39 GOVERNING LAW AND VENUE. The RFO and Contract shall be governed by and construed in accordance with the laws of the State of Texas without regard to conflicts of law provisions. The venue of any suit brought under the RFO and/or Contract is fixed in any court of competent jurisdiction in Travis County, Texas unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the RRC. Vendor irrevocably waives any objection, including any objection to personal jurisdiction or proper venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the filing of any

action or proceeding in such jurisdiction in respect of this Contract or any document related hereto. **Nothing in this Section shall be construed as a waiver of sovereign immunity by RRC.**

3.1.40 NO WAIVER. The Parties expressly agree that no provision of the Contract is in any way intended to constitute a waiver by the State of Texas or by RRC of any immunities from suit or from liability that the State of Texas or RRC may have by operation of law. Nothing in this Contract should be construed as a waiver of the sovereign immunity of the State of Texas or RRC.

This Contract does not constitute or should not be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas or RRC. The failure to enforce, or any delay in the enforcement of, any privileges, rights, defenses, remedies, or immunities available to the State of Texas and RRC under this Contract or under applicable law does not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. RRC does not waive any privileges, rights, defenses, or immunities available to RRC by entering into this Contract or by its conduct prior, or subsequent, to entering into this Contract.

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

3.1.42 BUY TEXAS. In accordance with Texas Government Code §2155.4441, the State of Texas requires that during the performance of a contract for services, Vendor shall purchase products and materials produced in the State of Texas when available at a price and time comparable to products and materials produced outside the state.

3.1.43 PUBLIC DISCLOSURE. No public disclosures or news releases pertaining to this Contract shall be made without prior written approval of RRC.

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

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

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

3.2 VENDOR REPRESENTATIONS, CERTIFICATIONS, AND AFFIRMATIONS. An Offeror who submits a signed Offer agrees, certifies, and affirms the Offeror/Vendor shall comply with the representations, certifications, warranties, and affirmations herein. In the event Offeror submits an Offer with a false statement, or it is determined after Contract award that Offeror/Vendor has violated any representations, certifications, warranties, and affirmations included in the RFO, Offer, and/or Contract, Offeror/Vendor shall be deemed in default of the Contract, and RRC may terminate or void the Contract for cause and pursue all remedies available to RRC under the Contract and applicable law.

3.2.1 EXECUTION OF OFFER. Offerors must sign and return the Execution of Offer form, attached hereto as Attachment 1, which will become part of the Contract. This document is mandatory; failure to include a signed Execution of Offer shall result in an Offer being deemed nonresponsive and ineligible for Contract award.

3.2.2 CONFLICT OF INTEREST. Offeror represents and warrants that the provision of goods and services or other performance under the contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.

3.2.3 ELIGIBILITY. Pursuant to Texas Government Code §2155.004(b), Vendor certifies that the individual or business entity named in this Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated, and payment withheld if this certification is inaccurate.

3.2.4 AGENCY EXECUTIVE HEAD. In accordance with Texas Government Code §669.003 relating to prohibition of a state agency contracting with the executive head of a the state agency, Vendor represents that Vendor (1) is not the executive head of RRC, (2) is not a person who, at any time during the four (4) years before the date of the Contract, was an executive head of RRC, and (3) is not a person or entity who employs a current or former executive head of a state agency affected by Texas Government Code §669.003. If Vendor has used the services of, employed, currently employs, or intends to employ during the term of the Contract, a former executive head of RRC or any other state agency, Vendor shall provide to RRC the following information: name of the former executive head and the name of the state agency for which the executive head was employed or served, the date of separation from the state agency, the position held with Vendor, and the start and stop dates of employment with Vendor.

3.2.5 PRIOR EMPLOYMENT. Pursuant to Texas Government Code §572.069, Vendor warrants and certifies Vendor will not employ any former RRC officer or employee, who in any manner participated in the procurement or Contract negotiation of this RFO, before the second anniversary of the date the Contract is signed or the procurement is terminated or withdrawn.

Vendor shall disclose any current or former employees or sub vendors who are current or former employees of the State of Texas and shall disclose their role or position relative to the provision of services under the Contract, as well as their hire or contract date. Vendor shall also disclose any proposed personnel who are related by marriage or within the second degree of consanguinity to any current or former employees of the State. Failure to fully disclose the information required under this paragraph may result in disqualification of Offeror's Offer or termination of the Contract.

3.2.6 FINANCIAL INTERESTS/GIFTS. Pursuant to Texas Government Code §2155.003, Offeror represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the contract.

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

3.2.8 PROHIBITION OF CERTAIN BIDS AND CONTRACTS. Under Sections 2155.006 and 2261.053 of the Texas Government Code, the Offeror certifies that the individual or business entity named in this Offer or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated, and payment withheld if this certification is inaccurate.

3.2.9 FRANCHISE TAXES, NON-RESIDENTS, FOREIGN CORPORATIONS, SALES TAXES. Vendor represents and warrants that it is not currently delinquent in the payment of any franchise taxes owed to the State of Texas under Chapter 171, Texas Tax Code. In addition, if Vendor is an individual not residing in Texas or a business entity not incorporated in or whose principal domicile is not in Texas, the following certification applies. Vendor certifies that it holds a permit issued by the Texas Comptroller to collect or remit all state and local sales and use

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

3.2.10 LIABILITY FOR TAXES. Vendor represents and warrants that it shall pay all taxes or similar amounts resulting from this Contract, including, but not limited to, any federal, state, or local income, sales, or excise taxes of Vendor or its employees. RRC shall not be liable for any taxes resulting from this Contract.

3.2.11 DEBTS OR DELINQUENCIES TO THE STATE. Pursuant to Texas Government Code §2252.903, Vendor understands and agrees that any payment due under this Contract may be applied toward payment of any debt that is owed to the State of Texas including, but not limited to, delinquent taxes and child support.

3.2.12 FAMILY CODE. Pursuant to the requirements of Texas Family Code §231.006, regarding delinquent child support, the undersigned signatory certifies that the individual or business entity named in this Contract is not ineligible to receive payment under this Contract and, if applicable, Vendor has provided, or agrees to provide, the name and SSN of each person (sole proprietors, firm owners, partners, or shareholders) with at least 25 percent (25%) ownership of the business entity entering into this Contract prior to its execution. Vendor acknowledges that this Contract may be terminated, and payment may be withheld if this certification is inaccurate.

3.2.13 FELONY CRIMINAL CONVICTIONS. Vendor represents and warrants that Vendor and Vendor's employees have not been convicted of a felony criminal offense or that if such a conviction has occurred, Vendor has fully advised RRC as to the facts and circumstances surrounding the conviction.

3.2.14 DRUG FREE WORKPLACE. Vendor represents and warrants that it shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §§8101-8106.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget (2 C.F.R. Part 182) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the Vendor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

3.2.15 EQUAL OPPORTUNITY. Vendor represents and warrants that it shall not discriminate against any person on the basis of race, color, national origin, creed, religion, political belief, sex, sexual orientation, age, and disability in the performance of the Contract.

3.2.16 IMMIGRATION REFORM. Vendor represents and warrants that it will comply with all requirements of the Immigration and Nationality Act (8 U.S.C. §1101 et seq.) and all subsequent immigration laws and amendments, including but not limited to the Immigration Reform and Control Acts of 1986 and 1990, as amended (IRCA) and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), as amended. Vendor represents and warrants Vendor shall not place any employee of Vendor at a worksite, nor shall Vendor permit any employees, nor any employee of its sub vendor to perform any work on behalf of or for the benefit of the State of Texas and/or RRC without first ensuring the employee's authorization to lawfully work in the United States.

3.2.17 U.S. DEPARTMENT OF HOMELAND SECURITY'S E-VERIFY SYSTEM. Offeror certifies that for contracts for services Offeror shall utilize the U.S. Department of Homeland Security's E-Verify system (<https://www.uscis.gov/e-verify>) during the term of the Contract to determine the eligibility of:

- a. All persons employed by Offeror to perform duties within Texas; and
- b. All persons, including sub vendors, assigned by Offeror to perform work pursuant to the Contract, within the United States of America.

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

3.2.18 Prohibition of boycotting Israel. In accordance with Texas Government Code §2270.002, Offeror shall certify within its Offer that either (i) Offeror meets an exemption criterion under Texas Government Code §2270.002; or (ii) Offeror does not boycott Israel and will not boycott Israel during the term of the Contract resulting from this solicitation. Offeror shall state any facts that make it exempt from the boycott certification in its Offer.

3.2.19 Warranties. Notwithstanding any disclaimers in Vendor's Offer and notwithstanding any other provision of the RFO or the Contract to the contrary, Vendor warrants and guarantees that all services will meet all specifications of the Contract.

3.2.20 Special Terms and Conditions Applicable to RFO No. 455-19-9037.

- 3.2.20.1** In accordance with 13 TAC §6.94(a)(9), upon request of RRC, Offeror shall provide to RRC the descriptions of its business continuity and disaster recovery plan.
- 3.2.20.2 Work Order Process.** RRC has determined the most effective communications for work to be performed under the Contract for deliverables within phases subsequent to Phase I is through a formal Work Order Process. Vendor shall be required to comply with RRC's Work Order Process designated for this RFO and any Contract awarded (see Attachment 11.)
- 3.2.20.3** Prior to start of any work required under the Contract, Vendor must receive written approval of Vendor's list of all Vendor's personnel, including sub vendors, who shall be assigned to RRC's project in a project management or operations management role and/or such other assignments to critical project activities and/or segments ("Key Personnel Roles"). Vendor's list shall include, at a minimum, identification of Vendor's senior project staff within the following types of roles: Project Manager, Project Technical Architect, Project Technical Director, Project Business Analyst, Project Quality Assurance Manager, Project Contract Manager.
- a.** Upon receipt of written approval of Vendor's list under this article, Vendor shall not reassign, transfer, or delegate any Key Personnel Roles, responsibilities, tasks or duties under the Contract, throughout the life of the Contract, without prior written consent of RRC.
 - b.** Vendor shall be solely responsible for ensuring, throughout Contract Term, that Vendor's personnel, including subcontractors, that are assigned to a Key Personnel Role, shall meet all minimum qualifications, certifications, licenses, and experience required by the Solicitation and Contract Documents.
 - c.** In event Vendor receives written approval from RRC to replace any personnel assigned a Key Personnel Role, Vendor shall ensure replacement of the personnel shall be with a qualified individual with equal or better qualifications of the previously approved Vendor personnel.

ATTACHMENTS

| | |
|---------------|---|
| Attachment 1 | Statement of Work (Includes Appendix A) |
| Attachment 2 | Execution of Offer |
| Attachment 3 | Vendor Information Security Agreement |
| Attachment 4 | Offeror's Qualifications Statement |
| Attachment 5 | HUB Subcontract Plan form |
| Attachment 6 | HUB Subcontract Plan (HSP) Prime Contractor Progress Assessment Report |
| Attachment 7 | Progress Payment Affidavit |
| Attachment 8 | Final Payment Affidavit |
| Attachment 9 | Sample RRC Contract |
| Attachment 10 | Deliverable Acceptance Voucher |
| Attachment 11 | RRC Work Order Process |

STATEMENT OF WORK

1. INTRODUCTION

The Railroad Commission of Texas (“RRC”) intends to enter into a deliverables based, multiphase contract for assessment and reporting of RRC’s oil and gas business processes and related technologies, a proposal for customization, integration, and implementation of one or more of Groundwater Protection Council’s (“GWPC”) Risk Based Data Management System (“RBDMS®”) applications, and development of work plans and execution of the work necessary and appropriate to customize, integrate, and implement the RBDMS® applications selected by RRC.

2. BACKGROUND

RRC, through its Oil and Gas Division (“RRC O&G Division”), regulates the exploration, production, and transportation of oil and natural gas in Texas. RRC’s statutory role is to (1) prevent waste of the state's natural resources, (2) protect the correlative rights of different interest owners, (3) prevent pollution, and (4) provide safety in matters such as hydrogen sulfide.

RRC’s O&G Division provides regulatory oversight of over 8,200 operators, with over 438,218 wells in the following categories, as of 5/31/19:

- 311,710 active wells
 - 177,644 oil producing wells
 - 89,952 gas producing wells
 - 44,114 service wells (injection, disposal, and other)
- 126,508 inactive wells

In addition to wells, RRC’s O&G Division regulates anyone that transports, handles, stores, discharges, disposes or recycles oil and gas waste subject to RRC’s jurisdiction through its Environmental Permits section. Examples of environmentally permitted facilities include waste haulers, pits, reclamation plants, landfarms, recyclers, and commercial surface disposal facilities.

RRC’s O&G Division’s business processes are supported through a variety of methods including manual/paper-based processes, mainframe systems built in the 1960s, web based online filing systems implemented in the past twenty years, and RRC O&G Division’s staff-supported desktop systems.

The work described herein is part of RRC’s committed effort to transition from cumbersome and time-consuming current IT systems and processes and to quickly and efficiently modernize RRC’s business operations and related information technology (“IT”) into a flexible, scalable, and agile, web-based environment. Appendix A to this SOW provides Vendor with a brief summary of three (3) RRC O&G Division business areas that are a central focus of this current IT transformation effort and a high-level survey of relevant RRC O&G Division’s mainframe modules and related data.

3. SCOPE OF WORK

3.1 PHASE I: Phase I of the project shall result in Vendor providing to RRC:

- A comprehensive needs assessment report that encompasses RRC O&G Division business processes (“Vendor Needs Assessment Report”); and
- An accompanying proposal for customization, integration, and implementation of one or more recommended RBDMS® applications (“Vendor Implementation Proposal”) so that upon project completion RRC’s selected RBDMS® applications as customized, integrated and implemented by Vendor, meet or exceed the functional, technological, and regulatory needs of, *at a minimum*, the RRC O&G Division business areas of focus: Organization Reporting and Financial Assurance Management; Environmental Facility/Activity Management; and, Underground Injection Control (“RRC Focus Areas”, see Appendix A for summary description of the business areas of focus.)

3.1.1 Vendor's Needs Assessment Report shall be informed through Vendor's efforts in:

- Onsite and remote observation,
- Review of RRC provided materials,
- Requirements gathering,
- Defining of technical and IT support needs, and
- Gap analysis to identify RRC preferences, programmatic needs, applicable statutes and regulations, and other data relevant to RRC's O&G Division's business processes and regulatory role.

3.1.2 Content within Vendor's Implementation Proposal for customization, integration, and implementation of one or more recommended RBDMS® applications shall include, but not be limited to:

- Explanation of customization of Vendor's recommended RBDMS® applications for RRC,
- Defined approach to delivering the customization, integration, and implementation, and
- The projected timeline, sufficiently detailed to recognize all milestones, and a detailed, associated-costs breakdown to indicate all lump sum/fixed fees and any unit rates and/or hourly rates applicable to work necessary to deliver each customized, integrated, and implemented RBDMS® application proposed by Vendor to RRC.

Vendor's recommendation of RBDMS® applications shall include, but may not be limited to, the applications Vendor deems most appropriate to accommodate RRC Focus Areas. Vendor is encouraged, within the Vendor Implementation Proposal, to recommend RBDMS® applications that are in addition to those applicable only to the RRC Focus Areas and which provide a more comprehensive solution or set of solutions applicable to the concerns and benefits manifested through the Vendor Needs Assessment.

3.2 Phase II: RRC provides no guarantee of advancing from Phase I into subsequent phases.

3.2.1 Advancement to subsequent phases is at discretion of RRC following consideration of the Phase I Vendor Needs Assessment Report and Vendor Implementation Proposal.

3.2.2 Phases subsequent to Phase I shall be dedicated to:

- Development of one or more work plans appropriate to RRC's selected RBDMS® applications,
- Vendor's development of software requirements necessary to achieve customization, integration, and implementation of the products in accordance with deliverables specifications agreed to in writing by the Parties,
- Vendor's performance of all work necessary to achieve customization, integration, and implementation of RBDMS® applications selected by RRC, and
- Vendor's proposal for hosting, maintenance, support, and training services for the RBDMS® applications adopted and implemented by RRC. Vendor's proposal for hosting shall include requirements and address the following two options:

i. Vendor is encouraged to include within its proposal a Software as a Service ("SaaS") solution to address managed services for hosting, maintenance, support, and training related to RBDMS® applications.

- Vendor shall ensure a proposed SaaS solution clearly meets the NIST standard definition of SaaS (see, *NIST Definition of Cloud Computing SP 800-145* at <https://nvlpubs.nist.gov/nistpubs/...800-145.pdf>); and
- Vendor shall provide pricing and details related to hosting, maintenance, support services, and training applicable to the RBDMS® applications selected by RRC.

ii. In accordance with Texas Data Center Services ("DCS") requirements, a hosted solution shall be hosted within a State Consolidated Data Center (locations in Austin or San Angelo) within the fully managed services program operating on DCS infrastructure.

- This program provides all server management functions including system administration, operating system management and patching, base security services, dedicated local area network connectivity, storage services, backup services and disaster recovery services.
- Should Vendor propose State Consolidated Data Center hosting as most appropriate for RRC, Vendor shall include within its proposal a comprehensive list of infrastructure requirements for DCS infrastructure within the State Data Center to enable RRC to conduct financial review and estimate cost to host the RBDMS® applications within the DCS program.

4. Deliverables

This section describes the minimum deliverables required for each phase of the project. Vendor's response ("Vendor's Offer") to RRC's Request for Offer ("RFO") shall include Vendor's recommended approach and projected costs associated with all work necessary to provide the deliverables identified within this section.

4.1 Phase I – Vendor Needs Assessment

Vendor shall conduct a comprehensive needs assessment and gap analysis of RRC's O&G Division business processes within, but not limited to, the RRC Focus Areas, as they relate to RBDMS® applications available to RRC for customization, integration, and implementation. Phase I deliverables include, but may not be limited to, the Vendor Needs Assessment Report and the associated Vendor Implementation Proposal.

4.1.1 Vendor Needs Assessment Report

The Vendor Needs Assessment Report shall include the findings of the completed Vendor Needs Assessment and shall describe at a minimum:

- Identification and detailed explanation of Vendor's approach to delivery of the recommended RBDMS® applications and the customization, integration, and implementation thereof in a manner that meets or exceeds the functional, technological, and regulatory needs of RRC O&G Division;
- Identification and detailed explanation of RRC O&G Division's business processes that cannot harmonize, or are otherwise noncompatible, with RBDMS® applications;
- Mapping of RRC's O&G Division's business processes to the RBDMS® applications recommended within the Vendor Needs Assessment Report;
- A list of required integration points between existing RRC systems and the RBDMS® applications recommended within the Vendor Needs Assessment Report; and
- A detailed description of Vendor's, and the RBDMS® applications recommended within the Vendor Needs Assessment Report, compliance with RRC's security and accessibility standards.

4.1.2 Vendor's Implementation Proposal

Vendor's Implementation Proposal shall include Vendor's recommendations put forth based on findings within the Vendor Needs Assessment Report, including:

- Proposed schedule and estimated time necessary for customization, integration, and implementation, broken down by each, of the RBDMS® applications recommended within the Vendor Needs Assessment Report;
- Proposed pricing for customization, integration, and implementation, broken down by each, of the RBDMS® applications recommended within the Vendor Needs Assessment Report, and
- Vendor's proposal for hosting, maintenance, support, and training services for the RBDMS® applications adopted and implemented by RRC.

Advancing from Phase I to Phase II and any subsequent phase shall be determined by RRC to implement RBDMS® applications, if any, following RRC's acceptance, review, and evaluation of Phase I Deliverables.

4.2 Phase II - Implementation of RRC's selected RBDMS® Applications

Vendor shall develop and submit to RRC, and upon approval and acceptance by RRC, Vendor shall execute one or more work plans appropriate to Vendor's performance of all work necessary to achieve customization, integration, and implementation of RRC's selected RBDMS® applications in accordance with deliverables

specifications agreed to in writing by the Parties. Deliverables required within Phase II and subsequent phases, if any, include, but may not be limited to:

4.2.1 Implementation Work Plan

Each "Implementation Work Plan" shall include Vendor's detailed approach for the customization, integration, and implementation of one or more of RRC's selected RBDMS® applications. Each Implementation Work Plan shall include, but may not be limited to:

- Overview and scope of implementation;
- Detailed description of approach, including:
 - Software development life cycle methodology (e.g., waterfall, iterative, agile, etc.) to be used;
 - Planned activities;
 - Templates, including but not limited to those related to documentation requirements, design, testing, training, etc., that Vendor proposes for use during execution of the work;
 - Techniques, including common and unique, that Vendor intends to use in approach to execution of any work plan and performance of the work; and
 - Examples that describe level of detail for each artifact;
- Detailed schedule by activity and deliverable;
- Vendor's key personnel assigned to the project; and
- Proposed deliverable acceptance criteria.

4.2.2 RRC Selected RBDMS® Application(s) Implementation

For each RRC selected RBDMS® application to be customized, integrated, and/or implemented, Vendor shall provide, at a minimum, the following deliverables:

- Requirements documentation;
- Design documentation;
- Proof of concept using RRC data;
- Testing;
- User training and manuals; and
- Deployment of application.

Vendor shall include within the Implementation Work Plan deliverable details applicable to timing, format, and acceptance criteria for the deliverables within this section 4.2.2 Selected RBDMS® Application Implementation.

4.3 Deliverable Acceptance Criteria

4.3.1 All deliverables shall have well-defined acceptance criteria.

4.3.2 Upon Vendor's determination a deliverable is complete, Vendor shall use RRC's Deliverables Acceptance Voucher ("DAV") to submit the deliverable to RRC's designated project manager for review and approval.

Within 30 calendar days of RRC's receipt of a submitted DAV, RRC's project team shall inspect each deliverable, evaluate the deliverable for conformance to the applicable deliverable's acceptance criteria, and return to Vendor the DAV indicating thereupon RRC's acceptance or rejection of the deliverable. GPWC may consider a deliverable as accepted if RRC fails to deliver to Vendor a rejection of the deliverable within 30 calendar days of receipt of the submitted DAV. In event of rejecting a deliverable, RRC shall provide within or attached to the applicable DAV an explanation of deficiencies warranting rejection of the deliverable.

Not later than five (5) business days from receipt of RRC's written rejection of a deliverable, Vendor shall resolve, correct, and resubmit the deliverable for RRC's re-evaluation and determination of acceptance. Resubmission of deliverables for evaluation and acceptance shall be performed using the DAV. This procedure may allow the deliverable resubmission process to repeat and/or continue until the deliverable is considered complete and accepted in writing or the deliverable is rejected in writing and RRC commences termination of the Contract in accordance with the terms and conditions of the Contract.

5. Assumptions

- 5.1** After Contract execution, a project kickoff meeting shall be held at RRC's headquarters offices, Austin, TX, at a date and time acceptable to both Parties.
- 5.1.1** In addition to providing high level overview of the project, the project kickoff meeting shall serve as an introduction opportunity between Vendor and RRC project teams.
- 5.1.2** Prior to start of work on the project all Vendor staff (including but not limited to employees, contract employees, and subcontractors) assigned to or otherwise working on RRC's project shall sign a "Vendor Information Security Agreement" (see Attachment #).
- 5.1.3** After project start, any Vendor staff added to the project shall sign RRC's Vendor information security agreement prior to Vendor's added staff member(s) starting work on the project.
- 5.2** Vendor staff shall be on site at RRC headquarters during specific times required by RRC.
- 5.3** Vendor shall perform all critical project activities on site at RRC headquarters, 1701 N. Congress Avenue, Austin, Texas 78701.
- 5.3.1** RRC, in its sole discretion, shall determine "critical" and "non-critical" project activities.
- 5.3.2** Non-critical project activities may be performed from remote locations within the contiguous United States. No remote work shall be conducted or performed outside of the contiguous U.S., and all data shall remain in the contiguous U.S.
- 5.3.3** Vendor staff working off-site shall access RRC's repository using RRC approved tools for remote access.
- 5.4** Vendor shall provide all equipment required for Vendor staff to perform and complete work required under the Contract.
- 5.5** Through RRC's Access Request procedure, RRC shall provide to the Vendor project team any network and systems credentials necessary to complete work under the contract.
- 5.6** RRC shall provide temporary office space, meeting room(s), security badges and parking permits for Vendor staff while on site to conduct meetings or work sessions.
- 5.7** Work executed within Phase II and subsequent phases shall be in accordance with RRC's Work Order Process more fully defined within the RFO Part II.

6. Vendor Responsibilities

- 6.1** All deliverables shall be provided on the dates within the bilaterally approved project schedule. If a deliverable cannot be provided timely and in accordance with the approved project schedule Vendor shall provide RRC's designated project manager written notice of delay prior to the deliverable due date and include a proposed revised schedule plus an analysis and conclusion of impact on related tasks and the overall project. Alterations or deviations from the approved schedule shall not occur unless Vendor receives written approval from RRC's designated project manager.
- 6.2** Vendor shall be responsible for planning and scheduling activities to accomplish completion of all necessary work described in the SOW and executed Contract. Vendor shall create and update (weekly at minimum) a project schedule that shall be maintained throughout the project lifespan. Vendor shall provide to RRC's designated project manager the schedule and updates thereto.
- 6.3** Vendor shall be responsible for project management and diligent prosecution and execution of all work required under the Contract, including work stated within this SOW and that is necessary and appropriate to customize, integrate, and implement the RBDMS® products selected by RRC. For project documentation, as applicable, Vendor shall use designated RRC templates, standards, and sign-off requirements.

- 6.4** Vendor and RRC shall collaborate on the procedural, reporting, and communication processes and structures for managing Vendor's provided services. Such processes and structures shall be documented and maintained by Vendor (in a repository accessible to RRC project management), approved by RRC, and modified and updated by Vendor on a periodic and continuous basis to reflect changes to the business and operational relationship.

- 6.5** Vendor shall provide RRC's designated project manager with weekly written status reports.
 - 6.5.1** Weekly status reports shall be formatted in accordance with RRC requirements.
 - 6.5.2** Weekly status reports shall be due to RRC's designated project manager each Friday by 5:00PM (CT).
 - 6.5.3** Weekly status reports shall include recapitulation of work performed and completed during the 7 days immediately preceding the date of submission of the weekly status report and shall also include projected work to be performed during the subsequent week.
 - 6.5.4** Weekly status reports shall identify any problems encountered or that remain outstanding from prior weekly status reports and include explanation of the cause and resolution of the problem and a proposed resolution to the problem.

- 6.6** Vendor shall be responsible for conducting weekly progress and status meetings with RRC's designated project manager and include by invitation such other individuals as deemed necessary for the scope of the meeting.
 - 6.6.1** RRC's designated project manager shall designate the regular day, time, and location of the meetings, as well as format of the meetings (on site or via remote access via phone or other telecommunications.)
 - 6.6.2** Vendor shall be solely responsible for documenting meeting minutes, including meeting summaries, for all meetings with RRC staff.
 - 6.6.3** Vendor shall provide meeting minutes, including meeting summaries, to RRC's designated project manager within two (2) business days following the meeting.
 - 6.6.4** Upon Vendor request, and at RRC's sole discretion approval, RRC's designated project manager may authorize an alternate timeframe for delivery of meeting minutes.

APPENDIX A TO STATEMENT OF WORK

1. Summary:

Contents within provides an overview of size and complexity of RRC's oil and gas regulatory responsibilities. RRC has a web-based portal that provides online filing for many high-volume activities, while the RRC mainframe is the system of record for all oil and gas data. Reducing dependence on aging mainframe technology is a primary factor supporting acquisition, customization, implementation and integration of GWPC's RBDMS® applications. Within RRC's Oil & Gas Division, RRC has identified several focus areas as potential starting points for implementation.

1.1 RRC Oil and Gas Online Filing Statistics

Table 1: Online Filings reports volume of online filings for high volume forms submitted through the RRC Online portal. Additional statistics are provided with each of the initial areas of focus.

Table 1: Online Filings

| Type of Online Filing | Total Volume (September 2017 to August 2018) |
|--|---|
| Production Reports | 2,385,999 |
| Drilling Permits (W-1) | 17,023 |
| Completion Reports (W-2/G-1) | 17,840 |
| Annual Injection/Disposal Well Monitoring Reports (H-10) | 46,800 |
| Oil Well Status Reports (W-10) | 86,215 |
| Gas Well Status Reports (G-10) | 48,309 |
| Groundwater Advisory Protection Determinations (GW-1) | 12,370 |
| Exceptions to Statewide Rule 13 | 5,504 |
| Digital Well Logs | 8,048 |

1.2 RRC Oil and Gas Mainframe Applications

Table 2: RRC Mainframe Applications provides a high-level review of RRC mainframe applications that are the system of record for oil and gas data and processing at RRC.

Table 2: RRC Mainframe Applications

| APPLICATION | DESCRIPTION |
|---------------------------|---|
| Managing Operators | |
| Organization Report (P-5) | All companies regulated by RRC and engaged in a business related to the Texas oil and gas industry are required to file Form P-5 (and its related forms) annually. These forms reflect the organization of the company, officer names, type of company, appropriate address, types of oil and gas related activities they are engaged in, and the type of financial assurance selected to cover all operations. This system tracks organizations and their officers in violation of RRC's rules and regulations, once a final order has been issued by the RRC Commissioners. |
| Lease/P-4 | This application tracks the companies an operator has designated, by lease, as the gatherer or purchaser for oil and gas. This application also tracks leases in violation of RRC rules and regulations by issuing oil severances and gas seals. |

ATTACHMENT 1

| APPLICATION | DESCRIPTION |
|-------------------------------------|--|
| Permitting | |
| Drilling Permits | <p>This application maintains information of permit applications, approved permits, and permit amendments.</p> <p>This application receives permit data from the online filing module in RRC Online.</p> |
| Commingling | This application maintains information related to the P-17 form, which must be filed to commingle production (liquid) from two or more leases/wells. |
| Flare Vent | This application manages flare/vent permits (Statewide Rule 32). |
| Hydrogen Sulfide | This application identifies those fields in the state which produce hydrogen sulfide gas above the limits prescribed in RRC statewide rules and keeps track of where the operators' emergency contingency plans are located. |
| Natural Gas Policy Act (NGPA) | This application maintains information about applications for category determination of various sections under the Natural Gas Policy Act of 1978. |
| Wells | |
| Wellbore | This application maintains technical data on wellbores, starting with permitting, completion through to plugging. |
| Oil & Gas Well | <p>This application manages data that is specific to an individual well within a wellbore, such as cycle dates, status, classification, schedule, status reports, etc.</p> <p>Data for allowable production is stored within this application.</p> |
| Underground Injection Control | The application maintains information for oil and gas disposal, injection, and storage wells in the state and generates appropriate reports. |
| Inactive Well Plugging & Monitoring | This application maintains a well history of requests for extensions and violations related to statewide rule 14(b)(2). |

| APPLICATION | DESCRIPTION |
|----------------------------|---|
| Managing Production | |
| Field | <p>This application maintains information related to oil and gas fields, including absolute open flow fields. It provides access to the general oil and gas information pertaining to individual fields, such as:</p> <ul style="list-style-type: none"> • field rules; • field remarks; • field allocation formulas and their corresponding factors; • 49(b) calculations for 49(b) gas fields; • allowable statistics for 26 months; • production statistics for 24 months; and • monthly market demand information for prorated gas fields. |
| Production Reports | <p>All oil and gas production and disposition data are reported monthly. This application handles the editing, storing and reports generation for this data, including pre-printed correction letters and on-line screens to enter corrected amounts.</p> |
| Oil | <p>This application manages oil allowable and production data.</p> |
| Gas | <p>This application manages gas allowable and production data.</p> |
| Schedule Snapshot | <p>Maintain the Snapshot Database; a snapshot of what a well looks like (per cycle) for the past 26 months. This database is in District & Field Number, Cycle Key, Operator name, Lease and well number order. This is one way to track when there was an operator change or when a well came on or off schedule.</p> |
| Historical Ledger | <p>This application manages historical information related to lease-level oil and gas production, product dispositions, and allowables. It contains data beginning in January 1993 and carrying forward to 27 months prior to the present date.</p> <p>The Historical Ledger data is incremented monthly as the Oil and Gas Roll process 'rolls off' selected data from the 26-month Oil and Gas systems.</p> |
| Facilities | |
| Pits | <p>This application maintains information for waste pits.</p> |
| Gas Plant | <p>The application tracks monthly reports for gas processing plants in the state.</p> <p>The federal government also uses these figures as part of nationwide statistics on processed gas, imported gas, and exported gas.</p> |

| APPLICATION | DESCRIPTION |
|-----------------------------------|---|
| Tracking of Activities | |
| Liquid Hydrocarbon Leaks & Spills | This application maintains information on all losses of crude oil and liquid hydrocarbons that amount to more than 5 barrels. |
| Purchaser System | This application tracks gas purchasers and the monthly report filed by the purchaser indicating the amount of gas purchased, including shrinkage, line loss, plant fuel, compressor use, etc. |
| Tracking | <p>This application maintains information related to the Monthly Transportation and Storage Report (Form T-1).</p> <p>The main purpose of the T-1 process is to trace the physical movement of liquid hydrocarbons (crude and condensate) and not the purchasing and selling of materials.</p> |
| Electronic Data Interchange | This application provides the mechanism for companies to submit Form T-1 via Electronic Data Interchange (EDI). |
| Support Functions | |
| Oil & Gas Regulation | <p>This application performs utility or maintenance type functions for other RRC applications that administer and regulate the oil and gas industry, such as:</p> <ul style="list-style-type: none"> • printing reports, • generating download files, or • data conversions. |
| County | This application maintains county-related information within the State of Texas. It provides on-line access to the county code and name, as well as the annual testing month for the counties. |
| Mapping | This application compiles information from operator, well and other databases for use by mapping services. |

1.3 Initial Areas of Focus

The sections below describe three initial business areas of focus for this project.

1.3.1 Organization Reporting and Financial Assurance Management

Any organization performing operations within RRC's jurisdiction is required to maintain a current *Form P-5, Organization Report*. Operations within RRC's include but are not limited to:

- Drilling, operating, or producing any oil, gas, geothermal resource, brine mining injection, fluid injection, or oil and gas waste disposal well;
- Transporting, reclaiming, treating, processing, or refining crude oil, gas and products, or geothermal resources and associated minerals;
- Discharging, storing, handling, transporting, reclaiming, or disposing of oil and gas waste, including hauling saltwater for hire by any method other than pipeline;
- Operating gasoline plants, natural gas or natural gas liquids processing plants, pressure maintenance or re-pressurizing plants, or recycling plants;
- Recovering skim oil from a saltwater disposal site;
- Nominating crude oil;
- Operating a directional survey company;
- Cleaning a reserve pit;

- Operating a pipeline;
- Operating as a cementer approved for plugging wells, operating as a cementer cementing casing strings or liners, or operating a well service company performing well stimulation activities, including hydraulic fracturing;
- Operating an underground hydrocarbon or natural gas storage facility;
- Gas and/or liquids company; or
- Master metered properties.

The Organization Report must be renewed annually, with specific renewal requirements, such as inactive well requirements, dependent on the operations performed. Filing fees are submitted for initial filing and with each renewal.

Table 3: Sample of RRC Common Activities reports volume statistics for common activities in this area.

In accordance with RRC Statewide Rules, most RRC regulated activities, including the operation of wells and pipelines, require an organization to file and maintain some form of financial assurance in varying amounts. Financial assurance can be provided in various forms, including performance bonds, letters of credit, and cash deposits.

Table 3: Sample of RRC Common Activities

| Activity | Total Annual Volume |
|---|--|
| Organization Report (P-5) forms processed | 7,462 total for 8,233 active operators |
| Application for Extension of Deadline for Plugging an Inactive Well (W-3X) forms received | 28,408 |
| Certification of Surface Equipment Removal for an Inactive Well (W-3C) forms received | 9,805 |
| Operators demanded on | 200 for P-5 and 54 for Commercial Facilities |
| Operators under Rule 15 Default | 183 |

1.3.2 Environmental Facility/Activity Management

The Oil and Gas Division regulates oil and gas transportation, storage and disposal activities. The Environmental Permits section grants permits and oversees facilities and activities in the following areas:

- Waste haulers
- Pits
- Discharges of oil and gas waste to surface waters, such as
 - Hydrostatic test water discharges
 - Gas plant effluent discharges
 - Produced water discharges
- Reclamation plants
- Commercial surface waste facilities
- Naturally occurring radioactive material (NORM) waste
- Recycling
- Landfarming, land treatment and land application
- Waste separation facilities
- Hazardous wastes
- Other minor permits, such as
 - One time, off-lease landfarming of water-based drilling fluid
 - One time, on-lease land treatment of oily waste
 - Disposal of basic sediment by burial, or for reuse
 - Disposal of drilling fluid in casing or annulus
 - Recycling of domestic wastewater

Each permit type has specific requirements, established by RRC rule. Most permits can be renewed, amended, and transferred. Permits may be cancelled.

Other activities managed by the Environmental Permits section include monitoring compliance reporting and processing facility closure requests. **Table 4: Environmental Permitting Volume** provides statistics for RRC's Environmental Permits Section.

Table 4: Environmental Permitting Volume

| Activity | Total Annual Volume |
|---|---------------------|
| Permit applications received (all permit types) | 949 |
| Monitoring reports received | 1,591 |

1.3.3 Underground Injection Control

RRC's Oil and Gas Division regulates several types of injection wells under a federally approved Underground Injection Control (UIC) program under the Safe Drinking Water Act. Permits are granted for the following well types:

- Enhanced recovery
- Waste disposal
- Brine mining
- Underground hydrocarbon storage

Specific RRC rules apply to each type of well, addressing requirements for permitting, testing, monitoring and other compliance activities. In certain circumstances, permit may be amended or transferred. Permits may be revoked. **Table 5: RRC Underground Injection Control Program**, summarizes statistics for the Underground Injection Control program.

Table 5: RRC Underground Injection Control Program

| Activity | Total Annual Volume |
|--|-----------------------|
| Injection/Disposal Well Permit Applications Received | 2,000 for 2,227 wells |
| Brine Mining and Underground Storage Applications Received | 37 for 57 wells |
| Mechanical Integrity Tests (H-5) received | 28,082 |

EXECUTION OF OFFER

By signature hereon, Offeror represents, warrants, and certifies:

1. The provisions in this Request for Offer ("RFO") apply to Offeror and all of Offeror's principals, officers, directors, shareholders, partners, owners, agents, employees, subcontractors, independent contractors, and any other representatives who may provide services under, who have a financial interest in, or otherwise are interested in this RFO or any contract resulting from it.
2. Offeror's intent to furnish the requested goods and/or services at the prices quoted in its Offer.
3. Offeror's prices include all costs of Offeror in providing the requested items that meet all specifications of this RFO, and that its prices will remain firm for acceptance for a minimum of one hundred eighty (180) days from deadline for submission of Offer.
4. Each employee, including replacement employees hired in the future, will possess the qualifications, education, training, experience, and certifications required to perform the services in the manner required by this RFO.
5. Offeror's provision of goods or services or other performance under the Contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety.
6. Pursuant to Texas Government Code Section 2155.003, Offeror has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted Offer.
7. Offeror is not currently delinquent in the payment of any franchise taxes owed the State of Texas under Chapter 171, Texas Tax Code.
8. In accordance with Texas Government Code §2155.005, neither Offeror nor the firm, corporation, partnership, or institution represented by Offeror, nor anyone acting for such a firm, corporation or institution has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws, or (2) communicated directly or indirectly the contents of this Offer to any competitor or any other person engaged in the same line of business as Offeror.
9. The individual submitting this Execution of Offer is authorized to sign such documents on behalf of the Offeror and to bind the Offeror under any contract that may result from the submission of the Offer.
10. If Offeror's Offer shows a Texas address as the address of the Offeror, Offeror qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.
11. Under Texas Family Code §231.006, Offeror certifies that the individual or business entity named in the Offer and any Contract resulting from Offeror's Offer to this RFO is not ineligible to receive the specified payment and acknowledges that the Contract may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, pursuant to Texas Family Code §231.006, in event of Contract award, Offeror agrees to provide, prior to Contract award, the name and Social Security Number for each person with 25% or greater ownership interest in the business entity.

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

ATTACHMENT 2

- 12. Under Texas Government Code §669.003, Offeror certifies that it does not employ, or has disclosed its employment of, any former executive head of RRC. Offeror must provide the following information (or indicate "N/A" if not applicable) in Offeror's Offer.
Name of Former Executive: _____
Name of State Agency: _____
Date of Separation from State Agency: _____
Position with Offeror: _____
Date of Employment with Offeror: _____

- 13. Pursuant to Texas Government Code §2155.004(a), Offeror represents and warrants that neither it nor any person or entity which will participate financially in any contract resulting from this RFO has received compensation for participation in the preparation of specifications for this RFO. In addition, under Texas Government Code §2155.004(b), Offeror certifies that the individual or business entity named in this Offer or any contract resulting from this RFO is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate.

- 14. Pursuant to Texas Government Code §2155.4441, Offeror agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.

- 15. Pursuant to Texas Government Code §2270.002, Offeror certifies that either (i) it meets an exemption criterion under Texas Government Code §2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. **Offeror shall state any facts that make it exempt from the boycott certification in its Offer.**

- 16. Offeror represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Texas Government Code §2252.152.

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

- 18. If submitting an Offer for the purchase or lease of computer equipment, then Offeror hereby certifies its compliance with Subchapter Y, Chapter 361, Texas Health and Safety Code and the Texas Commission on Environmental Quality rules, 30 Tex. Admin. Code Chapter 328.

- 19. Within the five (5) calendar years immediately preceding the submission of Offeror's Offer, Offeror is not aware of and has received no notice of any court or governmental agency actions, proceedings, or investigations, etc., pending or threatened against Offeror that would or could impair Offeror's performance under any contract resulting from this RFO, relate to the solicited or similar goods or services, or otherwise be relevant to RRC's consideration of Offeror's Offer. If Offeror is unable to make such representation and warranty, Offeror instead represents and warrants that it has included as a detailed attachment in its Offer a complete disclosure of any such court or governmental agency actions, proceedings or investigations, etc. that would or could impair Offeror's performance under any contract resulting from this RFO, relate to the solicited or similar goods or services, or otherwise be relevant to RRC's consideration of Offeror's Offer. In addition, Offeror represents and warrants that it shall notify RRC in writing within five (5) business days of any changes to the representations or warranties in this clause and understands that failure to so timely update RRC shall constitute breach of contract and may result in immediate termination of any agreement resulting from this RFO.

ATTACHMENT 2

20. Offeror and each of Offeror's subcontractors have the requisite resources, qualifications, and independence to conduct the services free from outside direction, control, or influence, and subject only to the accomplishment of RRC's objectives.
21. Neither Offeror nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, identified in the Offer has been convicted of a felony criminal offense, or that if such a conviction has occurred Offeror has fully advised RRC of the facts and circumstances in its Offer.
22. Offeror has read and agrees to all terms and conditions of this RFO, unless Offeror specifically takes an exception and offers an alternative provision in Offeror's Offer (see RFO section 2.9.)
23. As applicable, prior to submitting the signed Contract to RRC, Offeror shall comply with Texas Government Code §2252.908, relating to Disclosure of Interested Parties, by accessing the Texas Ethics Commission (TEC) portal (https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm), reviewing the instructional video, creating a username and password, and completing and electronically filing with the TEC the "Certificate of Interested Parties".
24. Offeror affirms that it utilizes and will continue to utilize, throughout the Contract term, the [U.S. Department of Homeland Security's E-Verify system](#) to determine the eligibility of:
 - a) All persons employed to perform duties within Texas, during the term of the resulting contract; and
 - b) All persons (including subcontractors) assigned by the Offeror to perform work pursuant to the resulting Contract, within the United States of America.

The Offeror shall provide, upon request of RRC, an electronic or hard copy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Offeror, and Offeror's subcontractors, as proof that this provision is being followed.

If this certification is falsely made, the resulting contract may be immediately terminated, at the discretion of the State and at no fault to the State, with no prior notification. The Offeror shall also be responsible for the costs of any re-solicitation that the State must undertake to replace the terminated contract.

25. Offeror acknowledges and agrees that, to the extent Offeror owes any debt including, but not limited to, delinquent taxes, delinquent student loans, and child support owed to the State of Texas, any payments or other amounts Offeror is otherwise owed under the contract may be applied toward any debt Offeror owes the State of Texas until the debt is paid in full. These provisions are effective at any time Offeror owes any such debt or delinquency.
26. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under the Contract or indirectly through a subcontract under the Contract. The acceptance of funds directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

ATTACHMENT 2

27. Pursuant to 34 Texas Administrative Code §20.306, if applicable to the RFO, Offeror claims the preference(s) checked below:

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

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

29. Offeror certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Contractor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award Management (SAM)* maintained by the U. S. General Services Administration.

30. Offeror represents and warrants that all statements and information prepared and submitted in this document and Offeror's Offer are current, complete, true, and accurate. Submitting an Offer with a false statement, and/or material misrepresentations made during the performance of a Contract, are a material breach of the Contract and may void Offeror's Offer and the Contract if awarded. Failure to sign the Execution of Offer or signing it with a false statement shall void the submitted Offer and Contract, if any.

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

Offeror Name

Federal Employer Identification Number

Signature of Authorized Representative

Date signed

Printed Name & Title of Authorized Representative

VENDOR INFORMATION SECURITY AGREEMENT

Purpose

The purpose of the Railroad Commission of Texas ("RRC") Vendor Information Security Agreement is to establish the rules for Vendor access to RRC Information Resources and support services, Vendor responsibilities, and protection of RRC information.

Definition of Vendor

I hereby acknowledge and agree that the term "Vendor representative" throughout this Agreement refers to any employee, sub vendor, sub vendor's employee or any other representative of the primary Vendor.

Vendor Access

I hereby acknowledge and agree that (1) I have read and thoroughly understand the RRC Information Security Guidelines and Policies; (2) I hereby agree to comply with all such Information Security Policies and Guidelines; (3) I have been informed that each of these Policies or Guidelines can be accessed at any time on the RRC Intranet from an RRC internal workstation at <http://inside/divisions/its/security/security.html>; and (4) each such RRC Policy or Guideline is hereby incorporated into this Agreement as if set out in full, including any amendment to any such Policy or Guideline that may be adopted from time to time during the term of the Contract with Vendor.

1. I hereby agree to:
 - A. Only access data that is necessary to address contractual obligations;
 - B. Not retain RRC system, application or user data outside of RRC computer systems;
 - C. Only use RRC information and Information Resources for the purpose(s) stated in the Contract with Vendor;
 - D. Not divulge to any other person or organization or deliver to any other person or organization any credential, badge, access card or any other RRC information acquired by Vendor in the course of doing business with the RRC unless the applicable Contract with Vendor expressly permits such disclosure or, unless prior, express written consent is received from a duly authorized representative of the RRC; and
 - E. Not disclose any configuration, systems management, security, application or associated information to any person or organization outside of authorized RRC representatives unless prior, express written consent is received from a duly authorized representative of the RRC.
2. I hereby agree to direct any request or question regarding the applicable Contract with the Vendor to the following Vendor Contract Manager or to any designated successor:

Name of Contract Manager: _____

E-mail Address for Contract Manager: _____

Telephone Number for Contract Manager: _____

3. I hereby acknowledge and agree that Vendor's authorized representative shall provide the RRC a list of all Vendor employees or other representatives authorized to perform work under the applicable Contract with Vendor. I further acknowledge and agree that this list may be revised from time to time and that the revised list shall be provided to the RRC within 24 hours of any change in Vendor employees or other representatives; and, provided, further, that if my name fails to appear on this list, I shall be deemed separated from employment by or no longer an authorized representative of Vendor and shall immediately surrender the identification badge/access card provided to me as well as surrender any equipment or supplies provided to me by the RRC;
4. I hereby agree to acquire an identification badge/access card from the RRC; and further agree that it shall always be worn and displayed by me while on RRC premises. I further agree to surrender the identification badge/access card as well as any equipment or supplies provided to me by the RRC immediately following (1) the termination date of the Contract with Vendor; (2) RRC's receipt of notice from Vendor that I am no longer employed by or representing

ATTACHMENT 3

Vendor; or (3) receipt by Vendor of a written request by the RRC, issued in the RRC's sole discretion, seeking that I terminate all work on the Contract with Vendor;

- 5. I hereby agree to immediately report any security incident directly to the designated Vendor Contact and the RRC Information Security Officer;
- 6. I hereby agree to comply with all State of Texas and Railroad Commission auditing requirements, including, but not limited to, the auditing of the Vendor's work; and
- 7. I hereby agree that all software used by the Vendor representative in providing goods or services to the RRC is properly licensed.

I hereby agree that my failure to comply with any of the provisions of this Agreement constitutes grounds for the RRC, in its sole discretion, to terminate my services effective immediately; and that without further notice and at the RRC's sole discretion, any such failure on my part to comply with any of the above provisions of this Agreement shall also constitute grounds for termination of the entire Contract with Vendor or Statement of Work issued pursuant to that Contract.

| | |
|-----------------------------------|-------------------------------------|
| Vendor Printed Name | Vendor Representatives Printed Name |
| | |
| Vendor Representative's Signature | Date Signed |
| | |

OFFEROR'S QUALIFICATIONS STATEMENT

THIS FORM MUST BE FULLY COMPLETED AND INCLUDED WITH OFFEROR'S RESPONSE. Failure to answer any question or provide the requested information may result in the Offer being deemed non-responsive. Complete all blocks; if a question or information request is not applicable to Vendor, complete that item with "not applicable" or "N/A". If additional space is required for a complete response, provide the additional information on 8 x 11 ½ paper with Vendor's letterhead, and include reference to specific page number, item, and section of this Offeror's Qualifications Statement applicable to the information.

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

PRINCIPALS IN FIRM AND YEARS EXPERIENCE; ITS PRODUCTS AND SERVICES INDUSTRY

| NAME | TITLE | PHONE | NO. OF YEARS |
|------|-------|-------|--------------|
| | | | |
| | | | |
| | | | |

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

| From | to | Firm Name | |
|------|----|-----------|--|
| | | | |
| | | | |
| | | | |
| | | | |

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

OFFEROR'S CAPABILITIES:

FIRM'S AVERAGE ANNUAL GROSS REVENUE \$ _____

Percentage of this revenue by categories:

| | | |
|------------------------------|-----------------------|---------------------------|
| Software Development _____ % | SaaS Products _____ % | Other IT Services _____ % |
|------------------------------|-----------------------|---------------------------|

FINANCIAL CAPABILITIES

FINANCIAL INFORMATION SUMMARIZED BELOW WAS PREPARED BY:

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

FINANCIAL STATEMENT SUMMARY:

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

BONDING REFERENCES: Not applicable to 455-19-9037.

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

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

BANKING REFERENCES

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

ATTACHMENT 4

OFFEROR'S EXPERIENCE RECORD

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

1.

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

2.

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

OFFEROR'S EXPERIENCE RECORD (CONTINUED)

3.

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

OFFEROR'S DESIGNATED PROJECT MANAGER'S INFORMATION:

| PROJECT MANAGER'S NAME | CURRENT TITLE | NO. YEARS EMPLOYED BY VENDOR | NO. YEARS TOTAL EXPERIENCE* |
|------------------------|---------------|------------------------------|-----------------------------|
| | | | |

*Include only experience within information technology services industry.

ATTACHMENT 4

OFFEROR'S DESIGNATED PROJECT MANAGER'S EXPERIENCE RECORD:

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

1.

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

2.

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

OFFEROR'S DESIGNATED SUPERVISOR'S EXPERIENCE RECORD: (CONTINUED)

3.

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

OFFEROR'S HUB AND PREVIOUS RRC CONTRACTING EXPERIENCE:

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

If yes, please indicate gender and ethnicity: Gender: Male Female
 Ethnicity: _____ (Asian Pacific Islander, Black American, Hispanic American, Native American, American Woman, or Service-Disabled Veteran)

Has Offeror ever performed prior work under contract with RRC? YES NO

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

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

 Offeror Name

 Signature of Owner or Officer

 Title of Person Signing

 Date

HUB SUBCONTRACTING PLAN FORM



HUB Subcontracting Plan (HSP) QUICK CHECKLIST

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

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

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



HUB Subcontracting Plan (HSP)

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

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

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

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

- - Agency Special Instructions/Additional Requirements - -

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

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

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

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

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

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

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

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

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

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

SECTION 4: AFFIRMATION

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

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

| | | | |
|-----------|--------------|-------|-------------------------------------|
| Signature | Printed Name | Title | Date <small>(mm/dd/yyyy)</small> |
|-----------|--------------|-------|-------------------------------------|

Reminder:

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

HSP Good Faith Effort - Method A (Attachment A)

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

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

SECTION A-1: SUBCONTRACTING OPPORTUNITY

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

Item Number: _____ Description: _____

SECTION A-2: SUBCONTRACTOR SELECTION

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

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

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

HSP Good Faith Effort - Method B (Attachment B)

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

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

SECTION B-1: SUBCONTRACTING OPPORTUNITY

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

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

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

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

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

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

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

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

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

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

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

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

| Trade Organizations or Development Centers | Date Notice Sent <small>(mm/dd/yyyy)</small> | Was the Notice Accepted? |
|--|---|--------------------------|
| | | - Yes - No |
| | | - Yes - No |

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

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

SECTION B-4: SUBCONTRACTOR SELECTION

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

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

Item Number: _____ Description: _____

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

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

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

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



HUB Subcontracting Opportunity Notification Form

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

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

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

SECTION A: PRIME CONTRACTOR'S INFORMATION

Company Name: _____
Point-of-Contact: _____ **TBD** _____
E-mail Address: _____

State of Texas VID #: _____
Phone #: _____
Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name: _____ **Railroad Commission of Texas** _____
Point-of-Contact: _____ **Michael Herman** _____
Requisition #: _____

Phone #: _____ **512-938-0806** _____
Bid Open Date: _____
(mm/dd/yyyy)

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

1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2,
we must receive your bid response no later than _____ on _____.
Central Time Date (mm/dd/yyyy)

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

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

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications: - Not Applicable

4. Bonding/Insurance Requirements: - Not Applicable

5. Location to review plans/specifications: - Not Applicable

**HUB SUBCONTRACTING PLAN (HSP)
PRIME CONTRACTOR PROGRESS ASSESSMENT REPORT**



HUB Subcontracting Plan (HSP)

Prime Contractor Progress Assessment Report

Rev. 10/16

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

Contract/Requisition Number: 455-19-9037 Date of Award: _____ Object Code: _____

Contracting Agency/University Name: Railroad Commission of Texas

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

Point of Contact: _____ Phone #: _____

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

Report HUB and Non-HUB subcontractor information

When verifying subcontractors' HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized (HUB)

Directory Search located at: <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp> HUB status code "A" signifies that the company is a Texas certified HUB.

| Subcontractor's Name | Texas certified HUB (Yes or No) | Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small> | Total Contract \$ Amount from HSP with Subcontractor | Total \$ Amount Paid this Reporting Period to Subcontractor | Total Contract \$ Amount Paid to Date to Subcontractor | Object Code (Agency Use Only) |
|----------------------|------------------------------------|---|--|---|--|----------------------------------|
| | | | \$ - | \$ - | \$ - | |
| | | | \$ - | \$ - | \$ - | |
| | | | \$ - | \$ - | \$ - | |
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| | | | \$ - | \$ - | \$ - | |
| | | | \$ - | \$ - | \$ - | |
| TOTALS: | | | \$ - | \$ - | \$ - | |

Signature: _____ Title: _____ Date: _____

Railroad Commission of Texas

PROGRESS PAYMENT AFFIDAVIT

STATE OF TEXAS

RFO NO. 455-19-9037

COUNTY OF _____

CONTRACT NO. 455-19-####

BEFORE ME THE UNDERSIGNED AUTHORITY, on this day personally appeared

_____ who being duly sworn, on oath,
 says that he/she is a duly authorized representative of

_____, VENDOR, and all
 terms of the Contract for the completion of certain works described as

_____ have been satisfactorily completed to the extent indicated on the attached voucher and that ALL sums of money due for payrolls, bills for material and equipment, and other indebtedness connected with the Contract for which State of Texas and the Railroad Commission of Texas, or its property or the real property on which the work was performed, might in any way be responsible, to the best of his/her knowledge and belief have been paid or will be paid or otherwise satisfied within ten days after receipt of the requested payment from the Railroad Commission of Texas or within the period of time required by Title 10, Texas Government Code, Section 2251.022.

Vendor agrees to indemnify and hold the State of Texas and the Railroad Commission of Texas harmless from any liens, debts or obligations which arise as a result of labor or materials provided by or through Vendor to the Contract. Vendor further agrees to indemnify and hold harmless all real property on which the work was performed and all interests in such property, including leasehold interests, from any liens, debts, or obligations arising from any labor or materials provided by or through Vendor to the Contract.

Payments to sub vendors for labor and/or materials which are pending or disputed as of the date hereof are:

| Individual or Company Name | Mailing Address | Amount Owed |
|----------------------------|-----------------|-------------|
| | | |
| | | |
| | | |

 Affiant's Signature / Date

 Printed Name / Title

 Notary Public, in and for the County of

_____, Texas

Sworn to and subscribed before me this _____ day of _____, 2019.

(SEAL)

Instructions: Affidavit must be signed by an individual owner, a partner in a partnership, or by a person authorized by bylaws or Board of Directors to sign for a corporation. If Vendor is a joint venture or partnership of individuals, either may sign, but if a joint venture in which a corporation is a party, separate affidavits must be executed by each corporation and by each individual owner or partnership.

Railroad Commission of Texas

FINAL PAYMENT AFFIDAVIT

STATE OF TEXAS

RFO NO. 455-19-9037

COUNTY OF _____

CONTRACT NO. 455-19-####

BEFORE ME THE UNDERSIGNED AUTHORITY, on this day personally appeared

_____ who being duly sworn, on oath,
says that he/she is a duly authorized representative of

_____, VENDOR, and all
terms of the Contract for the completion of certain works described as

have been satisfactorily completed and that ALL sums of money for payrolls, bills for material and equipment, and other indebtedness connected with the Contract for which the State of Texas and the Railroad Commission of Texas or its property might in any way be responsible, to the best of his/her knowledge and belief, have been paid or will be paid or otherwise satisfied within ten days after receipt of final payment from the Railroad Commission of Texas, or within the period of time required by Texas Government Code §2251.022. Final payments to sub vendors for labor and/or materials which are pending or disputed as of the date of this Affidavit are:

| <u>Individual or Company Name</u> | <u>Mailing Address</u> | <u>Amount Owed</u> |
|-----------------------------------|------------------------|--------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Except for those claims listed herein, if any, Vendor hereby waives all claims against the State of Texas and the Railroad Commission of Texas. Vendor agrees to indemnify and hold harmless the State of Texas and the Railroad Commission of Texas from any liens, debts, or obligations which arise from labor or materials provided by or through Vendor to the Contract. Vendor further agrees to indemnify and hold harmless all real property on which the work was performed and all interests in such property, including leasehold interests, from any liens, debts, or obligations arising from any labor or materials provided by or through Vendor to the project.

Affiant's Signature / Date

Printed Name / Title

Notary Public, in and for the County of _____, Texas

Sworn to and subscribed before me this ____ day of _____, 2019.

(SEAL)

Signature

Instructions: Affidavit must be signed by an individual owner, a partner in a partnership, or by a person authorized by bylaws or Board of Directors to sign for a corporation. If Vendor is a joint venture or partnership of individuals, either may sign, but if a joint venture in which a corporation is a party, separate affidavits must be executed by each corporation and by each individual owner or partnership.

RAILROAD COMMISSION OF TEXAS
SAMPLE CONTRACT NO. 455-##-#### for
INFORMATION TECHNOLOGY SERVICES:
GWPC'S RBDMS®

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

WITNESSETH

WHEREAS, Texas Government Code Chapters 2155 and 2157 provide for RRC's authority to procure automated information systems goods and/or services and RRC intends to acquire certain automated information systems goods/and or services, namely the Ground Water Protection Council's Risk Based Data Management System® ("RBDMS®") applications and services; and

WHEREAS, in accordance with applicable provisions of Texas Government Code Chapters 2155, 2157 and 2261, RRC has selected a vendor to provide the desired RBDMS® applications and services referenced within the Request For Offer No. 455-19-9037 ("RFO No. 455-19-9037"), and the Vendor has agreed to provide the desired RBDMS® applications and services referenced within RFO No. 455-19-9037, subject to the terms and conditions hereinafter set forth; and

WHEREAS, all terms and conditions of RFO No. 455-19-9037, including but not limited to insurance, bonding requirements (if any), and specifications within the Statement of Work, constitute part of this Contract No. 455-19-####.

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

I. CONTRACT DOCUMENTS.

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

- a. This Contract No. 455-19-####;
- b. Exhibit A, RFO No. 455-19-9037, including all associated attachments, appendices, and exhibits; and
- c. Exhibit B, Vendor's Offer, dated Month dd, yyyy ("Vendor's Offer").

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

1.03. ORDER OF PRECEDENCE. For purposes of interpretation of the Contract and in the event of conflict within the Contract Documents, this Contract No. 455-19-#### shall take precedence over the other Contract

Documents. Any inconsistency among the Contract Documents shall be resolved applying the order of priority as listed below:

- a. This Contract No. 455-19-####; then
- b. Exhibit A, RFO No. 455-19-9037, including all associated attachments, appendices, and addenda; then
- c. Exhibit B, Vendor's Offer.

II. TERM.

2.01. CONTRACT AWARD.

- a. The original term of this Contract shall be from date of the last Party's signature and shall continue for through August 31, 2021 ("Original Term"), unless terminated earlier as provided in RFO No. 455-19-9037, Part III, and/or Section 2.02. set forth below.

This Contract may be extended for up to two (2), one-year optional extension ("Optional Extension") terms, only through written Amendment to the Contract, fully executed prior to expiration of the Contract term in effect prior to execution of the applicable Amendment to the Contract.

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

2.02. TERMINATION.

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

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

III. CONSIDERATION AND SERVICES.

3.01. CONTRACT LIMIT, FEES AND EXPENSES. The total amount of fees to be paid under this Contract through the Original Term and additional (Optional Extension) terms, if any, shall not exceed **CONTRACT AMOUNT IN WORDS (\$##,###,###.##)**. This Contract not-to-exceed amount may be changed only through written Amendment to the Contract.

3.02. SERVICES.

- a. Vendor shall provide the goods and services necessary and reasonably inferable to complete the work required by and described in RFO No. 455-19-9037.
- b. Vendor's services shall include all disciplines agreed upon between the Parties and all related usual and customary consultant and other services necessary and reasonably inferable to complete the work in accordance with RRC's specifications and the terms and conditions of this Contract.
- c. Additional goods and services are those services which shall be provided ONLY if authorized or confirmed in writing by RRC, and which are in addition to the goods and services contained within the scope and content of RRC's specifications and Vendor's Offer in response to RFO No. 455-19-9037. In the event additional goods and services are proposed by Vendor, Vendor shall not proceed therewith except only after Vendor's receipt of RRC's written acceptance of the additional services proposed.
- d. The Statement of Work (Attachment 1 of RFO No. 455-19-9037) describes the intended project scope and character. The Parties agree it is Vendor's responsibility to review and understand requirements of the Statement of Work and to provide deliverables, including information resources services, to achieve those objectives.
- e. Vendor agrees and acknowledges that RRC is entering into this Contract in reliance on Vendor's represented professional abilities with respect to performing the services, duties, and obligations under this Contract. Vendor, and Vendor's consultants and subcontractors (if any) shall perform all services pursuant to this contract diligently and shall endeavor to further the interest of RRC in accordance with RRC's requirements and procedures and the standards of care and performance as described herein. Vendor agrees to use its best efforts to perform the Services (i) in accordance with the usual and customary professional standards of care, skill and diligence consistent with industry best practices for vendors that provide services for projects that are similar in size, scope, and budget to that within this Contract, and (ii) in compliance with all applicable national, federal, state, municipal, and State of Texas laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction. There are no obligations, commitments, or impediments of any kind known to Vendor that will limit or prevent performance by Vendor of the services required under the Statement of Work and the Contract. Vendor hereby agrees to correct, at its own cost, any of its services, and the services of its consultants and subcontractors (if any) that do not meet this standard of care.
- f. Vendor's services shall be reasonably accurate and free from any material errors or omissions. Neither acceptance nor approval of Vendor's services by RRC shall relieve Vendor of any of its duties or release it from any liability, it being understood that RRC is, at all times, relying upon Vendor for its skill and knowledge in performing Vendor's services. RRC shall have the right to reject any of Vendor's goods/services in accordance with the terms and conditions of RFO No. 455-19-9037.
- g. Vendor agrees to furnish efficient business administration and superintendence and to use Vendor's best efforts to fulfill the Contract requirements in an expeditious and economical manner consistent with the interest of RRC and Vendor's professional skill and care.
- h. Vendor shall allocate adequate time, personnel and resources as necessary to deliver goods and/or perform services and work under the Contract. Changes of Vendor's key personnel identified in Vendor's Offer shall not be made without prior written approval of RRC. Vendor's day-to-day project team will be led by Vendor's Project Manager unless otherwise directed by RRC or prevented by factors beyond the control of Vendor. Vendor's Project Manager shall act on behalf of Vendor with

respect to all phases of Vendor's goods and/or services delivery and shall be available as required for the benefit of the project and RRC.

3.03. PAYMENTS TO VENDOR.

- a. Payments to Vendor will be made in accordance with the terms and conditions of the Contract, and within thirty (30) days from receipt of a complete, correct, and approved invoice or statement of payment in accordance with Texas Government Code Chapter 2251, Texas Prompt Payment Act. An invoice is considered received on the date it is date stamped by RRC. Vendor will be paid for completion of work accepted and approved by RRC.
- b. Vendor shall invoice RRC for work performed and accepted by RRC. Vendor shall submit invoices as specified in RFO No. 455-19-9037.

IV. FUNDING.

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

V. VENDOR PERSONNEL.

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

VI. NOTICES.

6.01. LEGAL NOTICES.

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

For RRC:

Railroad Commission of Texas
Administration Division – Contract Management
P.O. Box 12967
Austin, Texas 78711-2967
Attention: Randall D. Collins
Phone: 512-463-5982
Fax: 512-936-6402
Email: Randall.Collins@rrc.texas.gov

For Vendor:

Vendor Legal Name

Full mailing address

Attention: _____

Phone: _____

Fax: _____

Email: _____

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

VII. MISCELLANEOUS PROVISIONS.

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

7.02. SEVERABILITY. If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract No. 455-19-#### shall be construed as if such provision did not exist and the non-enforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

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

7.04. SOVEREIGN IMMUNITY. The Parties agree and acknowledge that nothing contained in RFO No. 455-19-9037, Vendor's Offer, or this Contract will in any manner be construed as a waiver of sovereign immunity or official immunity by RRC, its employees, or the State of Texas. RRC and the State of Texas retain all legal defenses and immunities available to each. RRC does not waive any privileges, rights, defenses, remedies, or immunities, available to RRC as an agency of the State of Texas or otherwise available to RRC.

7.05. PROHIBITION ON CONTRACTING WITH COMPANIES ENGAGED IN BUSINESS WITH FOREIGN TERRORIST ORGANIZATIONS. Vendor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Texas Government Code § 2252.152.

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

7.07. ENTIRE CONTRACT AND MODIFICATION. This Contract No. 455-19-#### and all Contract Documents referenced in Section 1.01. herein constitute the entire agreement of the Parties and are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless otherwise expressly authorized by the terms of this Contract, no modification, renewal, extension or amendment to this Contract shall be binding upon the Parties unless the same is in writing and signed by the respective Parties hereto.

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

RAILROAD COMMISSION OF TEXAS

VENDOR NAME

By: _____
Wei Wang,
Executive Director

By: _____
Printed Name:
Title:

Date of Execution: _____

Date of Execution: _____

RRC use only below this line.

Div. Director: _____

CM Director: _____

OGC: _____ (approved as to form only)

RAILROAD COMMISSION OF TEXAS

DELIVERABLE ACCEPTANCE VOUCHER

| | |
|-----------------------------|---|
| Vendor Name: _____ | Contract No.: _____ |
| Deliverable No.: _____ | Resubmit or Final? _____ |
| Original Date Due: _____ | Resubmit Date: _____ |
| Orig. Date Submitted: _____ | Resubmit No.: _____ |
| Deliverable Price: \$ _____ | Retainage? <u>Not applicable to RFO No. 455-19-9037</u> |
| Approved to Pay: \$ _____ | |

Deliverable Name:

Deliverable description, including contractual acceptance criteria:

If Resubmit, describe changes/improvements put forth in this version of Deliverable:

RRC use only below this line:

Deliverable Accepted:

Deliverable Rejected:

Comments related to rejection (deficiencies, etc.) or acceptance (noted improvements, quality, etc.):

Signature, RRC Project Manager

Printed Name

Date

RAILROAD COMMISSION OF TEXAS

WORK ORDER PROCESS

1. INTRODUCTION

RRC may order enhancements and training as described within the Statement of Work applicable to a Contract arising from RFO No. 455-19-9037 only by issuing Work Orders as described below. Where the Work is referenced in the Procedures for Work Orders, it is referencing the enhancements and training portion of the Statement of Work. Vendor should note: RRC guarantees no minimum number or minimum dollar amount of Work Orders that may be issued.

2. WORK ORDERS

2.1 AT ANY TIME DURING THE CONTRACT, RRC MAY ISSUE A WORK ORDER. WORK ORDERS MUST BE IN WRITING.

2.1.1 Each Work Order shall include:

2.1.1.1 The Contract Number and Name;

2.1.1.2 The Work Order Number;

2.1.1.3 Estimated start and end dates for the Work described in the Work Order;

2.1.1.4 The name and contact information of the RRC Project Manager and any other RRC contacts; and

2.1.1.5 A detailed description of the Work to be performed.

2.1.2 A Work Order may include additional information or requirements at the discretion of RRC.

3. WORK PLANS

3.1 Within 14 calendar days after RRC issues a Work Order, Vendor shall submit a written Work Plan to the RRC Project Manager. RRC may specify a different deadline for Work Plan submission. The work plan is a proposal to be prepared at the Vendor's expense.

3.2 The Work Plan shall include:

3.2.1 The Vendor's name;

3.2.2 The Contract Number and Name;

3.2.3 The Work Order number;

3.2.4 The name and contact information of the Vendor's Project Manager;

3.2.5 A description of the steps the Vendor will undertake to complete the Work. Include the number of units of applicable items listed in the Price Form required to complete each task and subtask;

3.2.6 A timeline for completion of the Work, including dates for all milestones and deliverables;

3.2.7 Key personnel that will be assigned to the Work Order;

3.2.8 An itemized budget that conforms to the Contract price list;

3.2.9 Any additional information requested in the Work Order; and

3.2.10 Vendor's signature, with printed name and title.

3.2.11 Vendor must comply with requirements of any applicable HUB Subcontracting Plan. All Work Plans must include confirmation statement that all subcontractors to be used on a Work Plan are listed on the Vendor's HSP. Vendor shall amend an applicable HSP in accordance with HSP requirements.

4. WORK PLAN REVIEW

4.1 RRC may review the Work Plan and either approve it or request changes. If RRC requests changes, Vendor shall re-submit the Work Plan to the RRC Project Manager within fourteen calendar days. RRC may specify a different deadline for Work Plan re-submission.

4.2 Vendor agrees to continue and to complete work assigned under a Work Order within the original estimate or budget provided in the Vendor's Work Plan unless the RRC agrees to an adjustment. The RRC

budgets for and encumbers funds only up to the not-to-exceed dollar amount contained in each Work Order and, therefore, materially relies on the Vendor's diligence in the preparation of estimates submitted for approval in the Work Plans. The essence of the reliance is that partially completed work products, which could be a consequence of inadequately prepared estimates, may be of little or no use to the RRC. The Vendor acknowledges and agrees that the TCEQ may materially rely on these Vendor-prepared estimates.

5. NOTICE TO PROCEED

- 5.1** Upon RRC approval of a Work Plan, RRC shall issue a Notice to Proceed. The Notice to Proceed adopts the Work Plan, including the budget and timeline. A signed Notice to Proceed authorizes Vendor to immediately begin the Work described in the Work Plan, unless the Work Plan states a later start date for all or part of the Work, or if the Notice to Proceed is a Limited Notice to Proceed that permits the Vendor to begin only a portion of the Work.
- 5.2** Upon receipt of a Limited Notice to Proceed, Vendor shall begin the portion of the Work that has been approved. Vendor shall perform all work in strict accordance with the Notice to Proceed.