REQUEST FOR PROPOSALS
FOR
Financial and Operational Improvement Activities for Texas Critical Access Hospitals

RFP/Requisition Number: 551-21-01990

DATE ISSUED: May 27, 2021

PROPOSAL/RESPONSE DUE: 3:00 P.M., CT June 30, 2021

PROPOSAL SUBMISSION LOCATION: Texas Department of Agriculture
Stephen F. Austin Bldg.
1700 North Congress Avenue Ste. 1100
Austin, Texas 78701

National Institute of Government Purchasing Class-Item Code: 958-16

Lead Purchaser on the Solicitation
Jeffrey Trevathan, CTCD
Phone: 512-463-5417
Jeffrey.Trevathan@TexasAgriculture.gov
CC: Purchasing@TexasAgriculture.gov

Digest: The Texas Department of Agriculture (TDA) is inviting proposals from qualified firms to perform financial and operational improvement activities for Critical Access Hospitals (CAH) within the State of Texas.
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INTRODUCTION AND SUBMISSION INFORMATION

1.1. Purpose of the Request for Proposals
The Texas Department of Agriculture (TDA) is inviting proposals from qualified firms to perform financial and operational improvement activities for Critical Access Hospitals (CAH) within the State of Texas.

1.2. Background Information; Legal Authority

A. Background Information
Funded through the state’s Flex Program Grant, this program provides funding to improve Critical Access Hospitals (CAH) by spurring quality and performance improvement activities, stabilizing rural hospital finances, and integrating emergency medical services (EMS) into their health care systems. TDA, through its State Office of Rural Health (SORH), serves as the designated agency for receipt of federal awards and grant assistance, including administration of the Texas Flex Program. The statutory authority for the state Flex program is Texas Government Code, § 487.051(9-10).

B. Legal Authority
This Request for Proposals (RFP) is issued pursuant to TDA's authority in Chapter 12 of the Texas Agriculture Code and pursuant to Texas Government Code, Title 10, Subtitle D, Chapter 2156, Subchapter C, Sections 2156.121 – 2156.127. Competitive sealed proposals will be received until the deadline set forth below in this RFP. Pursuant to Section 2155.131 of the Texas Government Code and Title 34, Part 1, Chapter 20, Subchapter B, Division 1, Section 20.82 of the Texas Administrative Code (TAC), the Office of the Texas Comptroller of Public Accounts (CPA) has delegated authority to TDA to publish this RFP and make an award as provided below.

1.3. DEFINITIONS
The following words and terms shall have the following meanings unless the context clearly indicates otherwise. These definitions shall apply to this RFP, including the Terms and Conditions attached to the RFP, and any Contract or Amendment entered by the parties as a result of this RFP.

A. **Amendment** means the final written agreement signed and dated by TDA and any Respondent(s) selected for an award as a result of this RFP subsequent to the Effective Date of the Contract, which amends, changes, extends, modifies or revises the Contract.

B. **CMBL** means the Centralized Master Bidders List, which is a public website comprised of businesses interested in contracting with the state. It can be used by Contractors to identify potential subcontractors and historically underutilized businesses.

C. **Contract** means the final written agreement signed and dated by TDA and the Respondent(s) selected for an award as a result of this RFP, and includes the RFP and all attachments, the proposal(s) of any Respondent(s) selected for an award, any appendices, final offers, amendments to the solicitation, schedules, or special provisions incorporated into the Contract.
D. Contract Manager means a person designated by TDA or Contractor that is responsible for invoicing and payment under the Contract, and for monitoring the overall progress of the Scope of Work required by the Contract. Either party may designate the same individual to be both the Contract Manager and the Project Manager.

E. Contractor means an entity or individual selected for an award as a result of this RFP, that enters into a Contract to complete the Scope of Work described in this RFP and the Contract.

F. Effective Date means the date TDA's Deputy Commissioner or duly authorized designee signs and dates the Contract.

G. ESBD means the Electronic State Business Daily, which is a public website for posting state contracting opportunities managed by the Comptroller of Public Accounts (CPA).

H. Intellectual Property means worldwide legal rights or interests in intangible property evidenced by or embodied in: (1) any idea, design, concept, method, process, technique, apparatus, invention, discovery, or improvement that is capable of being patented; (2) any copyright or patent; (3) any work that is capable of being copyrighted, including moral rights or neighboring rights; (4) any trademark, service mark, certification mark, trade dress, trade name, or other indicia of source or origin; (5) any design, display, graphic design, letter or letter combination, logo, mark, number or number combination, phrase, word or word combination that indicates the origin, quality or source of goods or services and that is capable of being copyrighted; and (6) any rights, interests or property similar in kind or nature to the rights, interests or property described in Section 1.3.H(1) – (5) of this RFP. The Intellectual Property of a party includes all worldwide intangible legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.

I. Project means the purpose, result or work to be accomplished as a result of the Contract.

J. Project Manager means the person assigned by TDA or Contractor that is responsible for managing the day-to-day work of the Contract.

K. Proposal means a response submitted to TDA as a result of this RFP.

L. Respondent means an entity or individual that submits a Proposal.

M. Scope of Work or Statement of Work means the deliverables, services and work set out and defined in the Contract and described in Section 5 of the RFP.

N. TDA means the Texas Department of Agriculture. TDA may also be referred to as the "Department."

1.4. CONTRACT TERM | RENEWAL | NO EXCLUSIVITY IN AWARD

The term of any contract awarded under this RFP, if any, shall be from the date a contract is finalized as a result of an award under this RFP through August 31, 2022. Unless terminated in accordance with the provisions of this Contract, TDA has the option to renew the Contract with 30 days’ notice for up to three (3) consecutive additional one (1) year periods, one year at a time, with the term of each such renewal option commencing on September 1 following the expiration of the preceding one-year term of the Contract. Upon renewal of this Contract, a contract amendment
will be reduced to writing and executed by all parties. In case of a renewal or extension, all original contract terms and conditions survive the termination or expiration of the initial contract term.

Upon renewal or extension of this Contract, TDA reserves the right, which it may exercise in its sole and absolute discretion, to increase or decrease the Contract's budget or annual not-to-exceed amount. If a contract renewal or extension amendment increases the Contract budget or annual not-to-exceed amount by more than 25% of the preceding year's Contract budget or annual not-to-exceed amount, TDA may be required to republish a solicitation for the goods or services that are the subject of this Contract, using competitive bidding or other approved form of competitive procurement, because such increase may constitute a material change under the circumstances.

There shall be no exclusivity under any contract awarded pursuant to the terms of this RFP. TDA may re-solicit the services under this RFP at any time for any reason if it is in the best interests of TDA, the program, or the State to do so.

The parties shall manage changes to this Contract in writing. Any proposed amendment to work to be performed, whether initiated by TDA or the Respondent must receive final written approval in the form of a contract amendment or a Purchase Order Change Notice (POCN).

### 1.5. DEADLINE FOR PROPOSALS

All proposals submitted in response to this RFP must meet the following submission and receipt conditions in order to be considered. Failure to meet these conditions shall result in disqualification of the proposal and the proposal shall receive no further consideration.

Proposals **must** be received no later than:

-3:00 P.M. Central Time (CT), June 30, 2021.

Hard copy and electronic proposals shall be delivered to:

Texas Department of Agriculture  
Stephen F. Austin Bldg.  
Procurement Contracting Office  
Attention: Jeffrey Trevathan  
1700 N. Congress Avenue, 11th Floor  
Austin Texas 78701

Proposals must reference the solicitation number: RFP/Requisition Number: 551-21-01990 on the cover page. Proposal packages must be marked with “CONFIDENTIAL”, and the RFP number in large font on the outside of the package.

All times are Central Time, and dates are subject to change. Proposals may be modified or withdrawn at any time prior to the proposal due date. No changes or withdrawals will be allowed after the proposal due date and time.

TDA in its sole discretion determines the official time and place for purposes of receiving proposals. TDA will not consider for any reason late proposals, or proposals not delivered to TDA staff in its offices. All submitted proposals become the property of TDA after submission by the deadline. Facsimile (FAX) or email transmissions of proposals are not acceptable methods of responding to this RFP, and such will not be accepted unless approved by the lead buyer in response to a disaster directly impacting transportation and delivery services.
1.6. SCHEDULE OF EVENTS | CRITICAL DATES

The schedule of events for this RFP is provided below. TDA reserves the right to adjust the schedule as events may require.

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<thead>
<tr>
<th>SCHEDULE OF EVENTS</th>
<th>DATE</th>
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<tbody>
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<td>Deadline for Submitting Questions to TDA, no later than 5:00 P.M., CT</td>
<td>June 08, 2021</td>
</tr>
<tr>
<td>TDA's Official Response to Questions Posted on the ESBD</td>
<td>June 14, 2021</td>
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<tr>
<td>PROPOSAL/RESPONSE DUE: 3:00 P.M., CT</td>
<td>June 30, 2021</td>
</tr>
<tr>
<td>Evaluation Process, Oral Presentations, and/or negotiations</td>
<td>July 06, 2021</td>
</tr>
<tr>
<td>Selection of Contractor(s)</td>
<td>July 15, 2021</td>
</tr>
<tr>
<td>Estimated Contract Award Date</td>
<td>July 30, 2021</td>
</tr>
<tr>
<td>Beginning date of Contract and commencement of work</td>
<td>September 01, 2021</td>
</tr>
<tr>
<td>Ending date of Contract and final product submitted to TDA.</td>
<td>August 31, 2022</td>
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Any additional terms and conditions attached to or contained in a proposal submitted in response to this RFP will not be considered unless specifically explained in the proposal, and, in TDA's sole and absolute discretion, may result in disqualification of the proposal. Exceptions are further discussed in Section 2.3.

1.7. REGISTRATION TO DO BUSINESS IN THE STATE OF TEXAS

Any Respondent selected for an award under this RFP must:

A. have a current Texas Identification Number issued by the Texas Comptroller of Public Accounts (CPA);

B. be current in all required business filings, including franchise tax filings, with the CPA and the Texas Secretary of State;

C. be current in the payment of all local or State of Texas taxes and fees; and

D. be registered by the Secretary of State as a foreign entity authorized to do business in Texas if formed in a jurisdiction outside of Texas. See statutory requirements in
Chapter 9 of the Texas Business Organizations Code if meeting the definition of a foreign entity in Section 1.002(28) of the Texas Business Organizations Code.

Failure to meet the requirements in this Section 1.7 shall result in disqualification of the Proposal and/or termination of an award or Contract resulting from this RFP.

Proof of compliance with this section must be confirmed prior to award.

1.8. POINT OF CONTACT | INQUIRIES | IRREVOCABILITY OF OFFER

Respondents shall direct all inquiries and communications concerning this RFP to the Point of Contact listed below in writing by email. Any person wishing to obtain clarifying information concerning this RFP shall contact:

Jeffrey Trevathan  
Lead Purchaser for RFP  
Texas Department of Agriculture  
Phone: (512) 463-5417  
Jeffrey.Trevathan@TexasAgriculture.gov  
cc: Purchasing@TexasAgriculture.gov

Respondents shall use Attachment 5 for submitting questions during the posting period (date of publication through deadline for submitting questions) on the ESBD.

Respondents shall make no contact with other TDA personnel regarding this RFP, except as permitted by the TDA Purchaser listed above. Failure to comply with these requirements may result in disqualification of the Respondent's Proposal. If a contract is awarded under this RFP, Contractor shall communicate with the Project Manager or other TDA employee designated for management of the Contract.

The submitted proposal cannot be withdrawn or revoked after the submission deadline has passed.

1.9. NO CONFLICT OF INTEREST

In submitting a proposal in response to this RFP, Respondent represents and warrants to TDA that it and each of its subcontractors have the requisite resources, qualifications, and independence to perform the services free from outside direction, control, or influence, and subject only to the accomplishment of TDA’s objectives. Respondents that cannot make this representation and warranty should not respond to this RFP.

In its proposal, each Respondent must disclose any existing or potential conflicts of interest or possible issues that might create appearances of impropriety relative to Respondent’s and its proposed subcontractors’ submission of a proposal, possible selection as Contractor or its performance of the Contract.

As part of this disclosure requirement, each Respondent must include in its proposal all past and present contractual, business, financial or personal relationships between Respondent and TDA and between Respondent’s proposed subcontractors, if any, and TDA. For purposes of this disclosure requirement, “past” is defined as within the two (2) calendar years prior to the deadline for submission of proposals in response to this RFP. For purposes of this disclosure requirement,
“TDA” includes the Commissioner of Agriculture and the agency’s current or recent former employees. “Recent former employee” is an individual who resigned or terminated employment with TDA within the two (2) calendar years prior to the deadline for submission of proposals in response to this RFP. For each item, Respondent must provide a detailed explanation of why Respondent does or does not believe such item poses a conflict of interest, potential conflict of interest, or appearance of impropriety issue relative to Respondent’s submission of a proposal, possible selection as Contractor or its performance of the Contract. (see Key Persons Attachment 3).

For purposes of this RFP, “personal relationship” is defined as a current or past association other than a clearly contractual, business, financial or similar relationship and includes family relationships or other connections that are more significant than simply providing a response to this RFP. For this purpose, “family relationship” means a relationship within the third degree of consanguinity or second degree of affinity. Chapter 573 of the Texas Government Code defines relationships that are within the third degree of consanguinity or the second degree of affinity. Associations other than family relationships fall within this definition and must be disclosed if a reasonable person could expect the connection to diminish Respondent’s independence of judgment or effectiveness in the performance of Respondent’s responsibilities to TDA or the state under the Contract. Connections also fall within the scope and requirements of this section if a reasonable person could expect the connection to create a potential appearance of impropriety or conflict of interest. A relationship between TDA and another State of Texas employee may constitute a conflict of interest if the other State of Texas employee has a relationship with Respondent that could be used to influence an individual with authority to make decisions or recommendations on state contracting, procurement or this RFP. Those persons with authority to make such decisions or recommendations are those persons who fall within the definition of “purchasing personnel” in Section 2262.004(a)(2) of the Texas Government Code.

In submitting a proposal in response to this RFP, Respondent affirms that it has not given, nor intends to give, at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, in connection with this procurement.

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

Disclosures under this Section 1.9 will be evaluated by TDA. An actual or perceived conflict of interest will not necessarily lead to a restriction or disqualification. Issues will be considered on a case-by-case basis in the best interests of the agency and the State of Texas.

If a Respondent is in doubt about whether information should be disclosed, Respondent should consult with its legal counsel. Failure to disclose any information required under this section may be cause for proposal disqualification or termination of a contract resulting from this RFP. TDA reserves the right, in its sole and absolute discretion, to determine if an issue should result in proposal disqualification or Contract termination.

Respondent has a continuing duty to disclose an actual or perceived conflict of interest if circumstances change or additional information is obtained subsequently to submission of a proposal. A Contractor is under a continuing duty to disclose an actual or perceived conflict of interest as described in this section throughout the term of the Contract and any renewal. The duty to disclose an actual or perceived conflict of interest does not end with submission of a proposal or receipt of a contract award.
Pursuant to Section 2252.901 of the Texas Government Code, Respondents shall make full disclosure of a former or retired employee of TDA that is the Respondent’s agent, consultant, contractor, or employee, or that Respondent intends to employ or retain as a contractor subcontractor. Within the first twelve months of leaving employment at TDA, a former or retired TDA employee shall not perform services on a project, or fill a position with Respondent, that the former or retired TDA employee worked on or held while employed at TDA.
SECTION 2. PROPOSAL CONTENT INSTRUCTIONS

This solicitation provides the roadmap for a successful proposal submission. Although all requested information is required, some requirements must be included or the proposal will automatically be rejected as non-compliant with the solicitation.

Failure to provide all required information, certifications, and signatures will result in disqualification of the proposal, in which case the proposal will receive no further consideration.

Failure to provide all requested information may also result in a lower score during evaluation.

TDA reserves the right to reject any and all proposals and to negotiate portions thereof including cost or budget. TDA reserves the right to select the best proposal considering the outcomes desired.

2.1 REQUIREMENTS THAT MUST BE IN THE PROPOSAL FOR ACCEPTANCE

The proposal must include the requirements of and be submitted in the order of the Content and Order table in Section 3–Proposal Format. Certain requirements are essential to an accepted proposal such as:

A. State of Texas Vendor Tax ID, which is located on the Vendor Information form
B. Properly marked electronic copies as defined in Section 3.1
C. Proposed project plan and proposed project schedule
D. Proposed budget/fees for completion of the work on Attachment 9
E. Firm and team qualifications in acceptable format
F. Ethics disclosures
G. Client references

2.2 ASSUMPTIONS MADE IN PREPARING THE PROPOSAL

The posted solicitation will have a period for questions in which Respondents can get clarification on the solicitation. However, if the Respondent makes one or more assumptions in preparing a proposal, the assumptions must be included and explained.

For purposes of submission, TDA assumes that the Respondent has completely read the solicitation and has asked all questions necessary to an understanding of the requirements and obligations prior to submission of the proposal.

2.3 EXCEPTIONS TO SOLICITATION REQUIREMENTS

A requirement for submission of the offer includes accepting required state terms and conditions. Depending on the funding source, most of the terms are required by state or federal government. The Respondent can take exception to a term or requirement, but that exception does not override the acceptance of the terms and requirements when submitting the signed proposal. A requested exception will be reviewed at the point of any award, and either granted, granted with amendment, or rejected by TDA in its sole discretion.

2.4 SIGNATURES IN THE RESPONSE

All Respondents must sign the:
A. Execution of Offer (Attachment 1).
B. Cost Proposal (Attachment 9)
C. HUB Subcontracting Plan (Attachment 10) if proposed cost is over $100,000
D. Key Contracting Persons Disclosure Statement (Attachment 3).

By signing the required forms, Respondent or Respondent’s legally authorized agent represents and warrants that all statements within the proposal are true and correct. Discovery of any false statement in the proposal is a material breach and shall void the submitted proposal or any resulting contracts; in such case, Respondent shall also be removed from all bidder eligibility lists maintained by TDA.

2.5 Demonstration of Contractor Qualifications

Respondents shall provide firm and staff capabilities specific to the Statement of Work, including but not limited to:

A. Organization chart
B. Brief history of the firm, the year the firm started, and the size of the largest project (campaign, etc.) successfully delivered by the firm to date
C. Management team resumes documenting required qualifications and the role each has in the project
D. Key personnel resumes documenting required qualifications and the role each has in the project
E. Completion of the Financial Responsibility Questionnaire
F. Respondents must provide three written client references on projects performed within the last three years, preferably of like agency size and project scope to this solicitation. References should provide answers to the following questions on company letterhead:
   1. Name of Client
   2. Contact information for the person providing the reference (name, phone, and email address)
   3. When was the project delivered?
   4. What were the goods/services procured?
   5. Was the project delivered on time?
   6. What was the size of the project? (Over or under $1 million, target reach, etc.)
   7. Was the project delivered on or under budget?
   8. Was the project competitively solicited?
   9. How satisfactory was the implementation process?
  10. How satisfactory is the product delivered?
  11. How would you describe ongoing support/maintenance/ if any?
  12. Would you recommend the proposing company to TDA for this project, and if yes, how strongly?
Failure to provide documentation that qualifications have been met will cause rejection of proposal as non-responsive.

### 2.6 PRICING REQUIREMENTS

#### A. Base Pricing:

All Respondents must provide a complete, detailed, and broken-out itemized cost proposal. Respondents should propose cost as indicated in Attachment 9.

Respondents are encouraged but not required to identify areas where costs for requested activities and deliverables could be reduced without sacrificing the quality of the resulting product or services.

Respondents should submit an estimate of the proposed project price presented in the format provided in the Attachments to this RFP. Do NOT use “TBD” (to be determined) or similar annotations in the areas for price. All blanks must be completed.

All Respondents are encouraged but are not required to submit proposed “value-added” services or components for consideration and evaluation by TDA, with corresponding costs for such additional services. However, value-added services, if any, shall be at the sole discretion of TDA and there is no guarantee of acceptance of any such value-added services or components.

The Respondent’s submitted cost proposal covers all requirements and deliverables unless otherwise specified as a value-added service.

#### B. Price to Value

Respondents must identify all activities/work plans and submit a corresponding budget detailing costs for each activity line item necessary to meet the requirements and deliverables solicited. The activity list and detailed budget must be submitted in Excel, or compatible format. Please see Attachment 9 for preferred fee proposal and schedule template.

Costs must be justified in terms of activities, must be reasonable, consistent with current market price and necessary to accomplish the work outlined in the RFP. The budget must evidence that financial resources are adequately and appropriately allocated among cost categories in a cost-effective and prudent business manner to accomplish the work. Services to be purchased from other agencies, subcontractors, including any amounts subcontracted to HUBs, consultants, and others must be specified. Equipment that will be purchased to provide solicited services must be specified if, either directly or indirectly, it is included in the prices proposed.
SECTION 1. PROPOSAL FORMAT

3.1 PROPOSAL FORMAT

All Respondents must submit copies of the proposal formatted as detailed below. Proposals must be submitted in a manner which does not carry any benefit, keepsake, or value for members of the evaluation committee. Proposals should be one hard copy, and on 3 USB drives as described in 3.1.B.

Proposals must be formatted as follows:

A. Printed Copies

1. Formatted and Written on 8 ½" x 11" paper
2. Three-hole punched OR submitted in three ring binders.
3. Sequentially numbered pages from front to back. (1, 2, 3, etc.).
4. Tabs between each Section, in sequence as detailed in Section 3.1 Table 2.

B. Electronic Copies

By submitting a proposal, permissions to edit, print, copy, and distribute as authorized under public information or other law is given to TDA. Three (3) versions of the proposal must be submitted on approved electronic media and/or emailed to Jeffrey.Trevathan@TexasAgriculture.gov as described below.

1. One unmarked copy of the entire proposal (including all attachments). This copy must be in PDF or MS Word and accessible to TDA staff.
2. One marked copy of the entire proposal identifying claimed proprietary and confidential information. Markings can be made by highlighting the claimed information and marking as proprietary, confidential, or both in a comment.
3. One redacted copy of the entire proposal that makes the confidential or proprietary information claimed in paragraph B.2 above unreadable. Redaction can be made in MS Word by highlighting the confidential words in black.

Format headings in MS Word that allow for navigation to specific sections electronically. Include section number in each section heading. See above Section 3 heading as an example. This can be accomplished using the Table of Contents feature.

Should a request for the proposal be submitted under the Public Information Act, and should TDA decide in its sole discretion to request an Attorney General’s opinion on the request, the redacted version will be provided to the requestor while the unredacted version identifying the claimed proprietary and confidential information will be submitted to the Attorney General for opinion.
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| **TAB A** | 1. Assumptions Underlying the Proposal  
2. Exceptions Taken to RFP Requirements |
| **TAB B** | Signed Execution of Offer, Affirmation of Terms and Conditions and Proposal Preferences |
| **TAB C** | Vendor Information Form |
| **TAB D** | Conflict of Interest Form  
Key TDA Contracting Personnel  
Texas Ethics Commission Form TEC 1295(over $1M)  
https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm |
| **TAB E** | Financial and Operational Capability Form |
| **TAB F** | Organization Charts |
| **TAB G** | Key Personnel - Resumes of proposed staff and management, with the roles and SOW specific experience for each. TDA expects the staff included in the proposal to be the same staff actually performing the work on the project. |
| **TAB H** | Three (3) Client References |
| **TAB I** | Staff capabilities specific to the SOW |
| **TAB J** | Expertise with special emphasis on experience with deliverables similar to those outlined in the SOW set out in Section 2 (limit 4 pages). |
| **TAB K** | Fee Proposal/Schedule of Task Completion |
| **TAB L** | Deliverables and Timelines |
| **TAB M** | Reports and Timelines |
| **TAB N** | Activities and Timelines |
| **TAB O** | Task Plans and Timelines |
| **TAB P** | Invoice Structure and Timelines |
| **TAB Q** | Value Added Proposal |
| **TAB R** | HUB Subcontracting Plan |

*Attachment 1*  
*Attachment 2*  
*Attachment 3*  
*Attachment 4*  
*Attachment 9*  
*Attachment 10*  
*Section 2.2*  
*Section 2.3*  
*Section 2.5*  
*Section 5.1*  
*Section 5.4*  
*Section 5.6*  
*Section 2.6*
3.2 DISCLOSURE OF PROPOSAL CONTENT

TDA will not consider any proposal bearing a copyright. **Copyrighted proposals submitted in response to this RFP are subject to immediate disqualification** and such proposals, if any, will receive no further consideration.

Proposals are subject to the Texas Public Information Act (PIA), Texas Government Code, Chapter 552, and may be disclosed to the public upon request. All proposals and other submitted information shall be presumed to be subject to disclosure unless a specific exception to disclosure applies.

If it is necessary for Respondents to include proprietary or otherwise confidential information in proposals or other submitted information, Respondents must clearly label the proprietary or confidential information and identify the specific exception to disclosure in the PIA. Merely making a blanket claim the entire proposal is protected from disclosure because it contains some proprietary information is not acceptable and shall make the entire proposal subject to release under the PIA. In order to initiate the process of seeking an Attorney General opinion on the release of proprietary or confidential information, the specific provisions of proposals that are considered by Respondents to be proprietary or confidential must be clearly labeled as described below. Any information which is not clearly identified as proprietary or confidential shall be deemed to be subject to disclosure pursuant to the PIA. Subject to the Public Information Act, Respondents may protect trade and confidential information from public release. Trade secrets or other confidential information, submitted as part of a proposal, must be clearly marked at each page it appears. Such marking shall be in boldface type at least **14 point font**.

Pursuant to Section 2261.253 of the Texas Government Code, TDA is required to post electronic copies of the awarded contract and winning proposal on its website. To ensure that there is no release of confidential, privileged, proprietary, or trade secret material contained in Respondent's proposal, Respondent must submit a redacted copy of its proposal for posting on TDA's website, in addition to its responsive copy which identifies confidential, proprietary, privileged and trade secret material in accordance with this Section 3.2. In the event TDA receives a PIA request for Respondent's unredacted proposal, TDA will notify Respondent in accordance with Section 552.305 of the Texas Government Code. However, TDA is not obligated to seek an Attorney General opinion if it determines the material contained in Respondent's proposal is not exempt or protected from disclosure under the PIA. In such event, Respondent may independently pursue its remedies provided under the PIA and applicable Texas Supreme Court precedent.

3.3 AMENDMENTS TO THE SOLICITATION

Any amendment to this solicitation will be posted as an addendum on the Electronic State Business Daily (ESBD). It is the responsibility of interested parties to periodically check the ESBD for updates to the RFP prior to submitting a Proposal. Respondent’s failure periodically to check the ESBD will in no way release the Respondent from the requirements of “addenda or additional information” nor will any resulting additional costs to meet the requirements be allowed after award(s). Proposals are irrevocable for 90 calendar days from the deadline for submission. This period may be extended at TDA’s request if made in writing to Respondent.

3.4 HUB SUBCONTRACTING PLAN REQUIREMENTS

It is the policy of TDA to promote and encourage contracting and subcontracting opportunities for State of Texas certified Historically Underutilized Businesses (HUBs). While all solicitations will not have opportunities for subcontracting, it is probable that contracts valued at $100,000 and above
will have opportunities to subcontract. All Respondents are encouraged to subcontract with certified HUBs when feasible. Eligible Respondents are encouraged to become HUB certified. State of Texas HUB applications and eligibility requirements may be found at: https://comptroller.texas.gov/purchasing/vendor/hub/

A. Contracts $100,000 and Above

In order to be responsive to this solicitation, each Respondent submitting a proposal that meets or exceeds $100,000 for the term of the contract (original term plus all potential renewals identified in this RFP) must fill out a HUB Subcontracting Plan (HSP) Form, sign the form, and submit it with its proposal. Respondent must make a good faith effort and solicit a minimum of three Texas certified historically underutilized businesses from the state’s Centralized Master Bidders List (CMBL) for work that it cannot complete with its own staff and resources. Respondents must also notify minority or women trade organizations or development centers of subcontracting opportunities. Additional requirements are listed in the HSP (Attachment 10). Pursuant to 34 TAC 20.284, the HUB subcontracting goal for this procurement is 26% minority and/or woman owned business participation.

All Respondents are required to complete and submit one or more sections of the HSP Form.

- If Respondent is a HUB, a HSP is still required in order to identify the percentage of the work to be performed by subcontractors.
- If Respondent (HUB or non-HUB) is not subcontracting any portion of the work, the Self-Performance portion of the HSP must be completed and returned with the proposal response.

Attachment 10 provides a checklist that details the sections to complete depending on the responding company’s ownership and intended performance. The checklist is a good way to make sure the HSP is correctly completed.

B. Contracts under $100,000

A HUB Subcontracting Plan (HSP) is not required for this procurement if your proposal is less than $100,000 calculated on the original term plus all renewal opportunities defined in this RFP. However, all Respondents/Contractors are strongly encouraged to make a good faith effort to seek HUB participation.

C. How to Find Texas Certified HUBs for Subcontracting Opportunities

Use the Centralized Master Bidders List (CMBL)/HUB Directory on the Comptroller of Public Accounts website

1. Go to the Search for Vendor page.
2. Search FOR: ☀ HUBs Only to see registered and unregistered HUBs. If you only want to see HUBs registered on the CMBL, check ☀ HUBs on CMBL.
3. Select search method: Multiple Vendor Search (by NIGP Class Code)

Examples:

NIGP Class Code: #915 – Communication and Media Related Services
Item: # 01 – Advertising Agency Services
Item: # 03 – Advertising/Public Relations
Item: # 04 – Advertising, Outdoor Billboard, etc
Item: # 22 – Communications Marketing Services
Item: # 48 – Graphic Arts Services (not Printing)
Item: # 51 – Information Highway Electronic Services (Internet, World Wide Web)
Item: # 73 – Public Information Services (incl. Press Releases)
Class Code: #958 – Management Services
Item: # 84 – Social Media Management Services

To see the items associated with any particular class, click on the Class number in the Commodity Book at: https://comptroller.texas.gov/purchasing/nigp/

4. **Customize** report by selecting Fields for Output and Output Options
5. Click Submit Search.

Questions about the HSP Form, finding HUB vendors, or the State of Texas HUB Program, should be directed to Jack Hammond, Coordinator for HUB/MWBE Programs, by phone at 512-463-5936 or by email at HUB@texasagriculture.gov

Additional information and training regarding how to complete a HSP can be found on the CPA Website at the following link: https://comptroller.texas.gov/purchasing/vendor/hub/forms.php

Additional minority and women owned business association resources are available for subcontracting notices at: https://comptroller.texas.gov/purchasing/vendor/hub/
SECTION 4- EVALUATION OF PROPOSALS

4.1 COMPETITIVE SEALED PROPOSALS

TDA may award contract(s) in accordance with the Competitive Sealed Proposals process as authorized by Texas Government Code §2156.121. As such, TDA will evaluate Respondents’ proposals on a variety of factors in addition to price. TDA is not authorized to conduct public proposal openings or tabulations prior to award of any contract(s) awarded pursuant to this RFP.

TDA reserves the right to award contract(s) without any negotiation and reserves the right to not make any contract awards under the terms of this RFP.

Respondent is strongly encouraged to provide its best price in its proposal because TDA makes absolutely no guarantee that there will be any opportunity to negotiate or provide alternative pricing at any point during the RFP process. TDA may limit the number of proposals to a competitive range consisting of the greatest number of proposals that will permit efficient competition among Respondents based on the proposed pricing and criteria specified in the RFP. TDA may seek additional information and solicit best and final offers only from those Respondents determined to be in the competitive range.

Discussions may be conducted with Respondents that submit proposals determined to be reasonably likely to be selected for award, for the purpose of clarification and to ensure full understanding of all terms and conditions of a proposal submitted in response to this RFP, including the requirements of any resulting contract. In conducting these discussions, there shall be no disclosure of any information derived from proposals submitted by competing entities.

4.2 REVIEW OF PROPOSALS

TDA will begin review of proposals as soon as is practical after the proposal deadline. In TDA’s sole and absolute discretion, By law, TDA may not disclose any information regarding a proposal until a contract is executed by both parties. Upon contract award, TDA will post the Notice of Award on the ESBD at: http://www.txsmartbuy.com/esbd. Additional copies of proposals not selected for award will be disposed of in accordance with the agency approved records retention policy.

4.3 EVALUATION CRITERIA

Proposals will be evaluated and selected based on best value considerations to the state, including the demonstrated ability of each Respondent to carry out all requirements contained in this RFP. A Respondent who is in default or otherwise not in good standing under any other current or prior contract with TDA will not be eligible for award of this contract.

TDA will base its selection on, among other things, demonstrated competence, and the proposed budget/cost. All state agencies report unsatisfactory performance on purchases over $25,000. Agencies report satisfactory and exceptional vendor performance to assist in determining best value to the state. In accordance with Texas Government Code Sections §§2155.074 and 2155.75, Respondent’s performance may be used as a factor in contract awards.

TDA will evaluate Respondent’s proposal submitted in response to this RFP based on Respondent’s processes, products, and services and the criteria set forth below. Pricing on Attachment 9 will be totaled for evaluation purposes.
Table 3. Evaluation Criteria

<table>
<thead>
<tr>
<th>Categories</th>
<th>Possible Points</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A</strong> Price</td>
<td>25</td>
</tr>
<tr>
<td><strong>B</strong> Technical Approach to provide Proposed Project Plan and Schedule</td>
<td>50</td>
</tr>
<tr>
<td><strong>C</strong> Understanding of business needs</td>
<td>Ability to deliver</td>
</tr>
<tr>
<td><strong>D</strong> Past Performance</td>
<td>Pass/Fail</td>
</tr>
<tr>
<td>1. References</td>
<td></td>
</tr>
<tr>
<td>2. Vendor Performance Tracking System</td>
<td></td>
</tr>
<tr>
<td>3. Litigation</td>
<td></td>
</tr>
<tr>
<td><strong>E</strong> Demonstration of financial responsibility (This criterion is recommended by the Texas Comptroller of Public Accounts).</td>
<td>Pass/Fail</td>
</tr>
<tr>
<td><strong>F</strong> Acceptance of State Required Contract Provisions</td>
<td>Pass/Fail</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>100%</td>
</tr>
</tbody>
</table>

If a contract is awarded under the terms of this RFP, such award will be made to the Respondent that meets all criteria required by TDA and which TDA determines, in its sole and absolute discretion, represents the best value for the state.

4.4 EVALUATION OF PROPOSALS

Proposals will be selected based on the ability of each Respondent to perform the requirements contained in this RFP.

TDA will evaluate proposals in accordance with the selection criteria specified in Section 4.3 of this RFP. Submission of a proposal indicates the Respondent’s awareness of the evaluation process set forth in this RFP and Respondent’s acknowledgement that subjective judgments may be made by TDA during the evaluation process.

4.5 DISCUSSIONS WITH RESPONDENT

TDA may conduct discussions with any Respondent that appears to be eligible for award, pursuant to the selection criteria set forth in this RFP. In conducting the discussions, TDA will not disclose information derived from proposals submitted by competing Respondents.

4.6 BASIS OF AWARD

The selection will be based on the evaluation criteria set forth above, as well as best value considerations to the state, including demonstrated competence, experience, knowledge and qualifications, the evaluation criteria and weights outlined above, as well as the proposed fee and
costs for all or each portion of the deliverables, goods, services, or work requested under this RFP as determined by TDA in its sole and absolute discretion. TDA has not committed itself to make an award or retain a Contractor based on the issuance of this RFP, nor does the suggested scope of services or terms of agreement below require that TDA make an award or retain a Contractor for any or all of those purposes. TDA reserves the right to make those decisions after receipt of proposals and TDA's decision on these matters is final.

4.7 SELECTION OF CONTRACTOR(S)

Contractor selected for award, if any, will be the Respondent(s) whose proposal, as determined by TDA, represents the best value to the state. TDA reserves the right to reject any or all proposals or any portion of any proposal submitted which, in TDA’s opinion, is not in the best interest of TDA. TDA reserves the right to negotiate individual elements of any proposal. TDA reserves the right to meet with and negotiate terms with one or more Respondents. All Respondents acknowledge that TDA is not bound to accept the lowest-priced proposal.

Awards, if any, under this RFP are at the discretion of TDA and the agency reserves the right to award one or several contracts, in order to meet its objectives. Any award resulting from this solicitation will be posted on the ESBD located at: http://www.txsmartbuy.com/esbd.
SECTION 5. STATEMENT/SCOPE OF WORK (SOW) – SPECIFICATIONS | REQUIREMENTS | DELIVERABLES

This section comprises essential contract terms.

5.1 SPECIFICATIONS | REQUIREMENTS

A. CONTRACTOR MINIMUM QUALIFICATIONS

1. Minimum Documentation for Establishing Qualifications of Team
   - Name and title, contact information for each member
   - Primary location and availability
   - Resume detailing professional background, experience and knowledge of the subject matter.
   - Chart showing positions and reporting hierarchy

2. Firm and Team Qualifications:
   - Have a minimum of 3 years’ experience managing projects and meeting deliverables similar to those described in this scope of work. Contractor must be able to provide examples;
   - demonstrate recent relevant experience in financial and operational improvement work and activities for Texas CAHs;
   - demonstrate previous experience with, and understanding of, State of Texas Office of Rural Health;
   - demonstrate previous experience with, and understanding of, State of Texas Flex Programs;
   - demonstrate previous experience with, and understanding of, program partners such as Technical Assistance Service Center (TASC), state relevant organizations, and rural health care providers;
   - demonstrate financial stability and organizational capability to perform for the term of the contract.

3. Project Staffing Requirements:
   - Dedicated staff for the entirety of the contract;
   - Dedicated project manager to oversee Contractor staff;
   - Staff in adequate numbers to complete tasks according to schedule and performance standards;
   - provide assigned managers skilled in supervision and management of large projects with multiple stages and tasks overlapping on the project;
• provide assigned staff with documented experience and demonstrated knowledge of CAH financial and operational improvement work and activities.

5.2 CONTRACT GOALS
The following goals have been established for the Contract.

GOAL 1. Improve the financial viability of Texas Critical Access Hospitals.

GOAL 2. Improve the operating margins and days in net accounts receivable for Texas Critical Access Hospitals.

GOAL 3: Decrease the number of Critical Access Hospitals in Texas with high or medium high risk of financial distress.

5.3 PERFORMANCE | SERVICE LEVEL EXPECTATIONS
Contractor will work cooperatively with TDA staff to complete the scope of all work and services as required by this RFP.

A. TDA RESPONSIBILITIES

1. Designate a Contract Manager responsible for working with Contractor to resolve problems and maintain the agreed upon schedule.

2. Monitor Contractor’s performance through the following activities:
   a) Reviewing and approving status reports.
   b) Reviewing completed deliverables within five business days of submission.
   c) Provide written confirmation of acceptance or rejection at the completion of deliverable review.

3. Communicate with Contractor via phone, email, or web to meet the approved schedule.

4. Provide contact information for TDA staff with responsibilities under the contract.

5. Make available appropriate individuals with reasonable notice.

6. Provide training or instruction on how to perform required tasks successfully.

7. SORH staff may be involved with site visits if they are conducted for activities associated with this contract.

8. Approve or refuse submitted work no later than five (5) workdays from receipt of the work.

9. Manage and execute the acceptance process.

10. Approve the deliverable upon determination of satisfactory results of all required criteria.

B. CONTRACTOR RESPONSIBILITIES
Contractor must:

1. Manage the project consistent with the approved project plan.
2. Dedicated a project manager and contract manager or assign both duties to a single staff member.
3. Respond to support requests and resolve escalated issues within agreed upon time frames.
4. Establish detailed timelines, and deliver on or before scheduled milestone dates as outlined in project timeline approved by TDA;
5. Work from conceptualization of design to final product with a time that does not exceed 48 hours from TDA contact to Contractor response;
6. Participate in planning meetings as scheduled by the selected TDA representative;
7. Utilize feedback from TDA and when appropriate stakeholders, before implementation of work plan activities.
8. Apply quality assurance processes on deliverables before submission.
9. Provide all necessary electronic equipment (i.e., computers) and supplies for its staff to perform their responsibilities as described in the Scope of Work.
10. Ensure the confidentiality of all information obtained from TDA.
11. Notify the TDA Project Manager of any requests for copies of records from third parties not party to the contract.

C. PERIOD OF PERFORMANCE

The period of performance in which Contractor shall conduct and complete the work associated with this SOW is as follows:

1. The Project Start Date shall begin within 5 business days of issuance of the Purchase Order and final Statement of Work.
2. Contractor must provide payment related information such as the Comptroller of Public Accounts identification number (TINS) and Internal Revenue Service Form W-9 at time of contract execution.
3. The period within which Contractor will execute the Project shall be based on acceptance of the Project Schedule but shall end no later than August 31, 2022. The period in which all services are provided will include the initial contract term as defined in the Contract and any executed renewals or extensions.

D. PERFORMANCE EXPECTATIONS

1. Work in a team-based environment ensuring the contract goal of a quality product on time and on budget.
2. Provide excellent customer service to internal and external customers.
3. Be professional while interacting with all internal and external customers.
4. Attend all scheduled meetings.
5. Escalate issues quickly that impact deliverables.
6. Respond within 48 hours to a TDA communication of medium importance and within 24 hours to a communication of high importance.
7. Obtain written approval from TDA for all deviations to the agreed upon schedule or team.
8. Maintain or sanitize confidential and private information and records according to state Records Retention and security requirements.
9. Meet all systems access requirements.
10. Demonstrate to TDA for deliverable acceptance that all requirements have been met.
11. Propose solutions that can result in cost savings.

E. CHANGE MANAGEMENT

Contractor will submit a project plan to TDA for input and approval by the Contract Manager. Deliverables must be provided by the dates specified in the project plan. Any changes to the project plan must have prior written approval by the TDA Contract Manager. All change orders are subject to mutual agreement and must be in writing. Change orders that change the scope of the project will be documented through written amendment to the contract and signed by the parties. A material change in the scope may require new solicitation to maintain a fair solicitation process.

If additional deliverables are desired, TDA and the Contractor will mutually determine a timeline for the Contractor to provide a work plan and pricing for the additional services. A request for pricing does not constitute a notice to proceed. The addition of services must be within the scope of the solicitation and agreed upon through written amendment to the contract.

F. DOCUMENTATION

Documentation of the work must be provided in hard copy and standard electronic formats such as .xls or .xlsx, and .doc or .docx. If an electronic copy must be secured or encrypted for confidentiality, TDA must be given the password(s) or access codes.

G. REPORTS AND MEETINGS

Contractor must:

1. Provide quarterly reports (written and statistical) in Microsoft Word or PDF format delivered via email to TDA concerning work performed, as well as projected dates of completion. The status report must be provided to TDA no later than the 5th day of each following month, throughout the term of the contract.
2. Provide comprehensive documentation (sign-in sheet, slides, etc.) and resulting outcomes of all efforts and activities performed in association with this RFP and as requested throughout the project.

3. Assist in providing a draft work plan for Flex Program Year 2023 by January 15, 2022.

4. Attend operational and financial improvement meetings as needed.

5. Attend scheduled Rural Hospital Stakeholder meetings and provide operational and financial improvement updates.

5.5 DUTY TO DISCLOSE

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

5.6 INVOICING

Contractor will submit monthly the number of completed and approved reviews completed during that month.

The invoice will prominently display the PO number, include detail consistent with the project budget and deliverables, the acceptance date of the deliverables, any discount for early payment, and any other information required by TDA.

5.7 DELIVERABLES – TIMELINE | ACCEPTANCE CRITERIA | PERFORMANCE DOCUMENTATION

A. DELIVERABLES

1. Work Plan
   a. Within 30 days submit a detailed work plan and complete a baseline outcome matrix. Matrix to be provided by TDA and both are to be approved by TDA;
   b. Once the work plan is received and approved by TDA, the Contractor is responsible for conducting and completing the activities within the required timeframe.

2. Conduct a Systematic, In-Depth Statewide Financial Needs Assessment:
   a. Analyze public data, along with data provided by TDA, to document and establish baselines and benchmarks for assessing Texas Critical Access Hospitals in regards to financial and operational improvement performance measures;
   b. Determine at-risk Critical Access Hospitals utilizing the established baselines and benchmarks and feedback from stakeholders and TDA. At-risk Critical Access Hospitals will be defined as those that are low-performing or struggling financially when compared to all Texas CAHs.

3. Financial and Operational Performance Improvement for two (2) at-risk CAHs.
a. Coordinate with TDA in identifying two (2) at-risk CAHs to which to deliver in-depth, onsite operational and financial improvement services;

b. Provide the identified CAHs with an onsite financial/operational condition assessment to analyze strengths, weaknesses, and areas of opportunities for improvement;

c. Using these assessments, including conference calls and webinars, the Contractor will identify and develop improvement activities that address the areas of opportunities for improvement. Contractor must present the developed improvement activities to TDA for approval; and

d. Once the improvement activities have been approved by TDA, the Contractor will assist the at-risk CAHs in implementing the identified financial and operational improvement activities.

4. Financial and Operational Performance Improvement for a cohort of high-performing CAHs:

a. Coordinating with TDA, identify a cohort of high-performing CAHs to which to deliver innovative financial and operational improvement technical assistance;

b. Provide participating CAHs with a financial/operational condition assessment to analyze strengths, capture best practices, and area of opportunities for innovative financial and operational improvement; and

c. Using these assessments, including conference calls and webinars, the Contractor will identify and develop activities that address the identified areas for innovative operational and financial improvement for the high performing CAHs. Contractors must present the developed innovative activities to TDA for approval.

5. Financial and Operational Improvement Activities to support state-wide financial and operational performance of Texas CAHs.

a. Develop and deliver at least twelve (12) virtual or in-person training activities for TDA/SORH's six (6) regions addressing financial and operational improvement based on assessments, feedback from CAHs and TDA, and findings from data analysis;

b. In coordination with TDA, develop and deliver financial and operational improvement technical assistance at a Statewide Conference for rural hospitals;

c. Develop a general technical assistance program (to be approved by TDA) that may include individual site visits, a hospital data program, educational programs/seminars, user group meetings, and/or consultations;

d. Develop and conduct an evaluation of any training events as required by the Federal Office of Rural Health Policy (FORHP) methodology which will be provided by TDA, if applicable.

6. Evaluation of Previous Financial and Operational Improvement Activities.

Upon renewal of any contract generated from this RFP, if any, Contractor shall collect and evaluate post-activity data and conduct follow-up behavioral acceptance evaluations of the implementation of recommended improvement activities of the CAHs that participated in the previous program year’s operational and financial improvement activities. The data
evaluations, and results of these efforts shall be compiled into a report and presented to TDA by the end of the contract period.

7. CAH Conversion Activities.
   a. Assist and provide guidance to rural hospital in completing the state’s CAH application and ensure the facility meets the designation requirements; and,
   b. If necessary, conduct a feasibility study to ensure that the conversion of a hospital to a CAH status is in the best interest of the facility.

B. ACCEPTANCE CRITERIA

1. General Requirements
   a. All written deliverables must be phrased in terms and language that can be easily understood by non-technical personnel.
   b. All document deliverables must be in formats (hard copy and electronic) as specified by TDA. At a minimum, the formats must be in industry-accepted standards (e.g., MS Word, MS PowerPoint, Adobe, Visio, etc.).
   c. Each deliverable will be complete when the TDA Contract Manager has approved in writing that the deliverable meets the acceptance criteria specified for that deliverable.

(1) Deliverable #1 – [Work Plan]

<table>
<thead>
<tr>
<th>Description</th>
<th>Acceptance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example:</td>
<td></td>
</tr>
<tr>
<td>Work Plan submitted and approved that meets the requirements and deliverables in the contract terms and conditions.</td>
<td>1. Work plan clearly lists goal, activity, outcome, timeline, responsible party, and costs.</td>
</tr>
</tbody>
</table>

(2) Deliverable #2 – Invoices

<table>
<thead>
<tr>
<th>Description</th>
<th>Acceptance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example:</td>
<td></td>
</tr>
</tbody>
</table>
| Invoices submitted that meet the requirements in the contract terms and conditions, and that adequately document the work performed and allowable expenses incurred for the costs submitted. | 1. Invoice has PO number on first page.  
2. The deliverable(s) billed are detailed, including the date approved.  
3. Expenses billed are detailed by transportation, hotel, and |
<table>
<thead>
<tr>
<th>Description</th>
<th>Acceptance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>meals and include the preapproval of the expense as allowable.</td>
<td>4. Invoice is sent to <a href="mailto:invoices@texasagriculture.gov">invoices@texasagriculture.gov</a> with a copy to the Contract Manager.</td>
</tr>
</tbody>
</table>

(3)Deliverable #3 – Systematic, In-Depth Statewide Financial Needs Assessment of CAHs

<table>
<thead>
<tr>
<th>Description</th>
<th>Acceptance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Completion of a systematic, in-depth statewide Financial Needs Assessment. Publicly available data, along with data provided by TDA, has been analyzed to document and establish baselines and benchmarks for assessing all CAHs in regards to financial and operational improvement performance measures</td>
<td>Work meets the standards set in this Statement of Work. Excel spreadsheet provides that details and ranks all CAHs based upon financial indicators.</td>
</tr>
</tbody>
</table>

(4)Deliverable #4 – Financial and Operational Improvement Work for Two (2) At-Risk CAHs

<table>
<thead>
<tr>
<th>Description</th>
<th>Acceptance Criteria</th>
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<tbody>
<tr>
<td>Provide both participating CAHs with an on-site financial/operational condition assessment and use the findings from the assessments to identify, develop, and implement improvement activities that address the identified areas for financial and operational improvement for the at-risk CAHs.</td>
<td>Work meets the standards set in this Statement of Work. Sign-in of attendees provided, along with a copy of meeting materials, and evaluation of work.</td>
</tr>
</tbody>
</table>

(5)Deliverable #5 – Financial and Operational Improvement Work for a cohort of High Performing CAHs
<table>
<thead>
<tr>
<th>Description</th>
<th>Acceptance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide participating CAHs with a financial/operational condition assessment and use the findings from the assessments to identify, develop, and implement innovative financial/operational improvement activities, while capturing best practices.</td>
<td>Work meets the standards set in this Statement of Work. Sign-in of attendees provided, along with a copy of meeting materials, identification of best practices, and evaluation of work.</td>
</tr>
</tbody>
</table>

(6)Deliverable #6 – Financial and Operational Improvement Activities to support statewide financial and operational performance of Texas CAHs.

<table>
<thead>
<tr>
<th>Description</th>
<th>Acceptance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide technical assistance at individual site visits, twelve regional meetings, and at an in-person statewide conference addressing financial and operational improvement based on feedback from CAHs, other rural partners, and TDA.</td>
<td>Work meets the standards set in this Statement of Work. List of attendees provided, meeting information for individual site visits, along with a copy of presentation materials, and evaluation of work.</td>
</tr>
</tbody>
</table>

(7)Deliverable #7 – Technical Assistance Provided for Eligible CAH Conversions

<table>
<thead>
<tr>
<th>Description</th>
<th>Acceptance Criteria</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide technical assistance to eligible rural hospital in completing the state’s CAH application and when necessary, conduct a feasibility study to ensure that the conversion of a hospital to a CAH status is in the best interest of the facility</td>
<td>Work meets the standards set in this Statement of Work. Copies of meeting materials, other meeting information, and a copy of feasibility study.</td>
</tr>
</tbody>
</table>

TDA’s acceptance of work, including interim steps or completed deliverables, will be determined and documented as described in this subsection.
ATTACHMENT 1 –
EXECUTION OF OFFER, AFFIRMATION OF TERMS AND CONDITIONS
AND PROPOSAL PREFERENCES

1. **Definitions.** The following words and terms shall have the following meanings, unless the context clearly indicates otherwise:
   a. Agency – the Texas Department of Agriculture, sometimes referred to herein as “TDA.”
   b. Contract Manager – the individual designated by Contractor or TDA with overall responsibility for managing any contract resulting from this solicitation. See “Project Manager” below. Either Party may designate one person to be both the Contract Manager and the Project Manager.
   c. Contractor – a Respondent selected for an award pursuant to this Solicitation.
   d. Include – include, includes and including are terms of inclusion and, where used in this Solicitation or resulting Contract, such terms shall be interpreted in accordance with their dictionary meaning and are deemed to be followed by the words “without limitation.”
   e. Key Person or Key Personnel – the employee or employees designated in the Response who are responsible for the overall supervision and management of the activities, projects, services, tasks or work made the subject of this Solicitation and resulting contract, including the timely and satisfactory delivery or completion of the goods, services or work.
   f. Parties – all signatories to any contract resulting from this Solicitation. Individual signatories may be referred to herein or a resulting contract as a “Party.”
   g. Project Manager – the individual designated by Contractor or TDA with day to day responsibility for accomplishing the undertaking(s) made the subject of this Solicitation and resulting contract.
   h. Respondent – an entity or person that submits an application, bid, offer, proposal, quote or response in reply to this Solicitation.
   i. Response – an application, bid, offer, proposal or quote submitted in reply to this Solicitation.
   j. Solicitation – the purchasing request made by TDA described and identified in this document, whether it be an Invitation for Bids (IFB), Quote Request, Request for Offers (RFO), Request for Proposals (RFP), Request for Qualifications (RFQ), or other form of purchase.

2. **References.** Unless explicitly stated otherwise, any references to “appendices,” “articles,” “attachments,” “exhibits,” or “sections” are deemed to be references to appendices, articles, attachments, exhibits, or sections of this Solicitation or resulting contract (if any). These General Terms and Conditions shall be automatically incorporated into any contract resulting from this Solicitation without further reference.

3. **Order of Precedence.** In the event of a conflict or inconsistency among the various documents making up any contract resulting from this Solicitation, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: (a) Signed Contract or Notice of Award; (b) Appendices, Exhibits or Attachments to the Contract or Notice of Award; (c) the Solicitation document and any questions and official responses; and (d) Contractor’s Response.

4. **Entire Agreement.** Any contract resulting from this Solicitation shall represent the entire understanding between the Parties with respect to its subject matter and shall constitute the entire agreement between the Parties, superseding and preempting any previous communications or agreements that may exist between the Parties.

5. **Federal, State and Local Tax and Withholding Requirements.** Contractor shall demonstrate on-site compliance with federal income tax laws including issuance of Form W-2s to employees. Contractor is responsible for federal and state unemployment insurance coverage and standard workers compensation insurance coverage. Contractor shall comply with all federal and state tax laws and withholding requirements. Neither TDA nor the State of Texas shall be liable to Contractor or its employees for any unemployment or workers compensation coverage, or federal or state withholding requirements. Contractor shall indemnify the State of Texas and shall pay all costs, penalties, or losses resulting from Contractor’s omission under or breach of this Section.

6. **Forms, Assurances, and Reports.** Contractor shall timely make and file with the proper authorities all forms, assurances and reports required by federal and state laws and regulations. TDA shall report any failure by Contractor that comes to TDA’s attention and may deny payment or recover payments in the event of noncompliance with this Section.

7. **Key Person or Key Personnel.** Contractor shall ensure that key persons or key personnel assigned to any contract resulting from this Solicitation shall remain available for the entirety of the project, service or work required by the contract, unless TDA agrees, in writing, to a change in the Key Person or Key Personnel.
8. Federal Rules, Laws, and Regulations. Contractor shall be subject to and shall abide by all federal laws, rules, and regulations pertaining to any contract resulting from this Solicitation, including:
   a. Americans With Disabilities Act, 42 U.S.C. § 12101, and the regulations effectuating its provisions, as each may be amended from time to time;
   b. Title VI of the Civil Rights Act of 1964, as amended (prohibition of discrimination by race, color, or national origin), and the regulations effectuating its provisions;
   c. Title IX of the Education Amendments of 1972, as amended (prohibition of sex discrimination in educational institutions) and the regulations effectuating its provisions;
   d. Section 504 of the Rehabilitation Act of 1973, as amended (nondiscrimination on the basis of handicapping condition), and the regulations effectuating its provisions;
   e. The Age Discrimination Act of 1975, as amended (prohibition of discrimination on basis of age), and the implementing regulations; and
   f. The Anti-Lobbying Act, 18 U.S.C. 1913 (prohibition against the use of federal grant funds to influence legislation pending before Congress), and the Byrd Amendment on government lobbying, 31 U.S.C. 1352 (prohibition against the use of federal grant funds to influence certain federal contracting and financial transactions).

9. Protests. Any actual or prospective bidder or contractor who is aggrieved in connection with the solicitation, evaluation or award of this or any other contract by TDA may submit a formal protest to TDA in accordance with Title 4, Part 1, Chapter 1, Subchapter Q of the Texas Administrative Code. The protest procedures contained in Subchapter Q shall be the exclusive method by which anyone may challenge any aspect of TDA’s contracting process.

10. Insurance. Contractor represents and warrants that it will obtain and maintain for the term of any contract resulting from this Solicitation all insurance coverage required to ensure proper fulfillment of the contract and its liabilities thereunder. Contractor shall insure its motor vehicles used to fulfill its duties under the contract and require its subcontractors do the same. Such insurance shall comply with Texas statutory requirements and cover personnel being picked up or delivered in the performance of the contract. Contractor represents and warrants that all the above coverage will be obtained from companies that are licensed in the State of Texas, have an “A” rating from Best, and are authorized to provide the coverage. Contractor must provide at least 30 days written notice of its intent to cancel any insurance coverage required by the contract and provide immediate notice to TDA of replacement coverage. Further, all insurance required by the contract must include a waiver of all subrogation rights against TDA. Unless otherwise specified in this Solicitation or a resulting contract, Contractor must maintain insurance in the amounts specified below:
   a. Workers Compensation and Employee Liability
      Contractor must maintain Workers Compensation insurance coverage in accordance with the following statutory limits:
      Employers Liability – Each Accident $1,000,000
      Disease – Each Employee $1,000,000
      Disease – Policy Limit $1,000,000
   b. Commercial General Liability Coverage
      Contractor must maintain the minimum general liability insurance coverage as reflected below:
      Bodily Injury and Property Damage
      Each occurrence limit: $1,000,000
      Aggregate limit: $2,000,000
      Medical Expense each person: $10,000
      Personal Injury and Advertising Liability: $1,000,000 per occurrence / $2,000,000 aggregate
      Products /Completed Operations Aggregate Limit: $2,000,000
      Damage to Premises Rented to You: $50,000

11. Invoicing. Invoicing should be consistent with the accepted cost proposal. Invoices for goods are to be submitted within thirty (30) days after all ordered goods have been delivered and accepted. Invoices for services delivered for an hourly rate are to be submitted on the first business day of each month for the number of hours worked the previous month. Each invoice must clearly outline the number of hours worked on each item with a detailed description of the item billed. If the hourly rate varies by staff, the staff assigned to the item must be included. Invoices for services rendered on a flat or project rate are to be submitted within thirty (30) days after all services for the item or project have been delivered and accepted. Invoices should be submitted by email to Invoices@TexasAgriculture.gov with the TDA Purchase Order Number clearly indicated on the invoice. For payment in less than 30 days, the invoice must offer a discount for early payment.
12. **Payment Approval.** No payment can be made for work provided before a Purchase Order is issued. Payment is contingent upon receipt of all items required for proper invoicing and payment, including:
   a. W-9 – Contractor’s correctly completed W-9 form.
   b. Texas Identification Number – Contractor’s State of Texas taxpayer identification number.
   c. Delivery of the Goods; Completion of Services – Payment for goods or services described in any contract resulting from this Solicitation is contingent upon delivery and acceptance of the goods or satisfactory completion of the services. Acceptance or satisfaction will be determined by TDA, in its sole discretion. Unless otherwise stated, payment will be made upon submission of an invoice, properly prepared and certified, outlining expenditures and services by cost category. Invoices must include the contract number (if any), purchase order number, and Contractor’s Texas Comptroller of Public Accounts Texas Identification Number (TIN). The cost categories or services provided in the invoice must correspond with the cost categories or services detailed in the approved budget. The invoice must detail the activities, services or tasks completed during the billing period included in the invoice. Final payment is contingent upon satisfactory performance of all services or work required under the contract, or TDA’s acceptance of the goods made the subject of the contract.
   d. Good Standing. In order for TDA to process payment under an invoice, Contractor must be in good standing with the Texas Comptroller of Public Accounts. Contractor may verify its account status at: https://mycpa.cpa.state.tx.us/coa.
   e. Direct Deposit. The Texas Comptroller of Public Accounts encourages vendors to receive payment by direct deposit. To receive payments by direct deposit, contact your paying agency to obtain the form applicable to you.

13. **Prohibition of Text Messaging While Driving.** Federal grant recipients and their personnel are prohibited from text messaging while driving a government owned vehicle or while driving their vehicle during official grant business, or from using government supplied electronic equipment to text message or email while driving. Recipients must comply with these conditions under Executive Order 13512, “Federal Leadership On Reducing Text Messaging While Driving,” effective October 1, 2009.

14. **Antitrust Affirmation.** Contractor represents and warrants that, in accordance with Section 2155.005 of the Texas Government Code, neither Contractor nor the firm, corporation, partnership, or institution represented by Contractor, or 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 Response to any competitor or any other person engaged in the same line of business as Contractor.

15. **Buy Texas Affirmation.** In accordance with Section 2155.4441 of the Texas Government Code, Contractor 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.

16. **Child Support Obligation Affirmation.** Under Section 231.006 of the Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.


18. **Dealing with Public Servants Affirmation.** Contractor has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted Response.

19. **Debts and Delinquencies Affirmation.** Contractor agrees that any payments due under the contract shall be applied towards any debt or delinquency that is owed to the State of Texas.

20. **Disaster Recovery Plan.** In accordance with 13 TAC § 6.94(a)(9), Contractor shall provide to Agency the descriptions of its business continuity and disaster recovery plans.

21. **Disclosure of Prior State Employment.** In accordance with Section 2254.033 of the Texas Government Code, relating to consulting services, Contractor certifies that it does not employ an individual who has been employed by Agency or another agency at any time during the two years preceding the submission of the Response or, in the alternative, Contractor has disclosed in its Response the following:
   (i) the nature of the previous employment with Agency or the other agency;
   (ii) the date the employment was terminated; and
   (iii) the annual rate of compensation for the employment at the time of termination.
22. **Dispute Resolution.** The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used to attempt to resolve any dispute arising under the contract.

23. **Entities that Boycott Israel.** Pursuant to Section 2271.002 of the Texas Government Code, Contractor certifies that either

(i) it meets an exemption criterion under Section 2271.002; or

(ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Contractor shall state any facts that make it exempt from the boycott certification in its Response.

24. **E-Verify Program.** Contractor certifies that for contracts for services, Contractor shall utilize the U.S. Department of Homeland Security’s E-Verify system during the term of the contract to determine the eligibility of: (1) all persons employed by Contractor to perform duties within Texas; and (2) all persons, including subcontractors, assigned by Contractor to perform work pursuant the contract within the United States of America.

25. **Excess Obligations Prohibited.** The contract is subject to termination or cancellation, without penalty to TDA, either in whole or in part, subject to the availability of state funds.

26. **Excluded Parties.** Contractor certifies that it is not listed on the federal government’s terrorism watch list as described in Executive Order 13224.

27. **Executive Head of a State Agency Affirmation.** Under Section 669.003 of the Texas Government Code, relating to contracting with an executive head of a state agency, Contractor represents that no person who served as an executive of Agency, in the past four (4) years, was involved with or has any interest in the contract. If Contractor employs or has used the services of a former executive of Agency, then Contractor shall provide the following information in the Response: name of the former executive, the name of the state agency, the date of separation from the state agency, the position held with Contractor, and the date of employment with Contractor.

28. **False Statements.** Contractor represents and warrants that all statements and information prepared and submitted in this document are current, complete, true, and accurate. Submitting a Response with a false statement or material misrepresentations made during the performance of a contract is a material breach of contract and may void the submitted Response and any resulting contract.

29. **Financial Participation Prohibited Affirmation.** Under Section 2155.004(b) of the Texas Government Code, Contractor certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate.

30. **Foreign Terrorist Organizations.** Contractor represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

31. **Former Agency Employees.** Contractor represents and warrants that none of its employees including those authorized to provide services under the contract were former employees of the Agency during the twelve (12) month period immediately prior to the date of execution of the contract.

32. **Governing Law and Venue.** The contract shall be governed by and construed in accordance with the laws of the State of Texas, without regard to the conflict of laws provisions. The venue of any suit arising under the contract is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the contracting Agency.

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

34. **Indemnification. (IP)** CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS AGENCY AND THE STATE OF TEXAS FROM AND AGAINST ANY AND ALL CLAIMS, VIOLATIONS, MISAPPROPRIATIONS OR INFRINGEMENT OF ANY PATENT, TRADEMARK,
COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHTS AND/OR OTHER INTANGIBLE PROPERTY, PUBLICITY OR PRIVACY RIGHTS, AND/OR IN CONNECTION WITH OR ARISING FROM: (1) THE PERFORMANCE OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT; (2) ANY DELIVERABLE, WORK PRODUCT, CONFIGURED SERVICE OR OTHER SERVICE PROVIDED HEREUNDER; AND/OR (3) AGENCY’S AND/OR CONTRACTOR’S USE OF OR ACQUISITION OF ANY REQUESTED SERVICES OR OTHER ITEMS PROVIDED TO AGENCY BY CONTRACTOR OR OTHERWISE TO WHICH AGENCY HAS ACCESS AS A RESULT OF CONTRACTOR’S PERFORMANCE UNDER THE CONTRACT. CONTRACTOR AND AGENCY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE, INCLUDING ATTORNEYS’ FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH TDA AND THE OFFICE OF THE TEXAS ATTORNEY GENERAL (OAG) WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM TDA AND THE OAG. IN ADDITION, CONTRACTOR 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 CONTRACTOR OR IF AGENCY IS REQUIRED BY APPLICABLE LAW TO SELECT SEPARATE COUNSEL, AGENCY WILL BE PERMITTED TO SELECT SEPARATE COUNSEL AND CONTRACTOR WILL PAY ALL REASONABLE COSTS OF AGENCY’S COUNSEL.

35. **No Conflicts of Interest.** Contractor 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 improbity.

36. **Prior Disaster Relief Contract Violation.** Under Sections 2155.006 and 2261.053 of the Texas Government Code, the Contractor certifies that the individual or business entity named in this Response 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.

37. **Public Information Act.** Information, documentation, and other material in connection with this Solicitation or any resulting contract may be subject to public disclosure pursuant to Chapter 552 of the Texas Government Code (the “Public Information Act”). In accordance with Section 2252.907 of the Texas Government Code, Contractor 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.

38. **Signature Authority.** By submitting the Response, Contractor represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Contractor and to bind the Contractor under any contract that may result from the submission of this Response.

39. **State Auditor’s Right to Audit.** 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.

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

41. **Technology Access Clause.** Contractor expressly acknowledges that state funds may not be expended in connection with the purchase of an automated information system unless that system meets certain statutory requirements relating to accessibility by persons with visual impairment. Accordingly, Contractor represents and warrants to Agency that the technology provided to Agency for purchase is capable, either by virtue of features included within the technology or because it is readily adaptable by use with other technology, of:

- providing equivalent access for effective use by both visual and non-visual means;
• presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
• being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.

For purposes of this Section, the phrase “equivalent access” means a substantially similar ability to communicate with or make use of the technology, either directly by features incorporated within the technology or by other reasonable means such as assistive devices or services which would constitute reasonable accommodations under the Americans With Disabilities Act or similar state or federal laws. Examples of methods by which equivalent access may be provided include, but are not limited to, keyboard alternatives to mouse commands and other means of navigating graphical displays, and customizable display appearance.

In accordance with Section 2157.005 of the Texas Government Code, the Technology Access Clause contract provision remains in effect for any contract entered into before September 1, 2006.


43. Terms and Conditions Attached to Response. Any terms and conditions attached to a Response will not be considered unless specifically referred to in the Response.

44. Texas Bidder Affirmation. Contractor certifies that if a Texas address is shown as the address of the Contractor on this Response, Contractor qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.

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

46. American’s With Disabilities Act. Contractor represents and warrants its compliance with the requirements of the Americans With Disabilities Act (ADA) and its implementing provisions, as each may be amended.

47. No Assignment. Contractor shall not assign its rights under the contract or delegate the performance of its duties without prior written approval from the Agency. Any attempted assignment in violation of this Section is void and without effect.

48. Binding Effect. The contract shall inure to the benefit of, be binding upon, and be enforceable against, each Party and their respective permitted successors, assigns, transferees and delegates.

49. Change in Law and Compliance with Laws. Any alterations, additions, or deletions to the terms of the contract that are required by changes in federal or state law or regulations are automatically incorporated into the contract without the necessity of a written amendment, and shall become effective on the date designated by such law or by regulation.

50. Damage to Government Property. Contractor shall be liable for all damage to government-owned, leased, or occupied property and equipment caused by the Contractor and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the contract. Contractor shall notify the Agency in writing of any such damage within one (1) calendar day. Contractor is responsible for the removal of all debris resulting from work performed under the contract.

51. Disclosure of Interested Parties. Contractor represents and warrants that if selected for award of a contract as a result of the Solicitation, Contractor will submit to Agency a Certificate of Interested Parties prior to contract execution in accordance with Section 2252.908 of the Texas Government Code.

52. Discounts. If Contractor at any time during the term of the contract provides a discount on the final contract costs, Contractor will notify Agency in writing ten (10) calendar days prior to effective date of discount. Agency will generate a Purchase Order Change Notice and send a revised Purchase Order to Contractor.

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

54. Electrical Items. All electrical items must meet all applicable OSHA standards and regulations and bear the appropriate listing from Underwriters Laboratory (UL), Factory Mutual Resource Corporation (FMRC), or National Electrical Manufacturers Association (NEMA).

55. Equal Employment Opportunity. Contractor represents and warrants its compliance with all applicable duly enacted state and federal laws governing equal employment opportunities.
56. **Federal Occupational Safety and Health Law.** Contractor represents and warrants that all articles and services shall meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Act of 1970, as amended (29 U.S.C. Chapter 15).

57. **Force Majeure.**

Neither Contractor nor Agency shall be liable to the other for any delay in, or failure of performance, of any requirement included in the contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as: (A) acts of God, acts or failure of government or governmental authorities, war, fires, explosions, hurricanes, tornadoes, floods, extreme weather, strikes, riots, civil disturbance or unrest, failure of transportation, or disruption of supply chain(s); or (B) acts, causes, circumstances, events and matters related to public health, whether local, state, regional, national or worldwide, including, without limitation, disease, epidemic, pandemic, viral or bacterial outbreaks, or contamination of or disruption to food or water supply. To constitute an event of force majeure, the act, cause, circumstance, event or matter must: (i) directly result in damage, loss, harm, destruction, disruption or calamity to the party declaring an event of force majeure of such magnitude that a reasonably competent and prepared entity or individual could not be expected to continue operations or perform services under such circumstances; (ii) be beyond the reasonable control of the party declaring a force majeure; and (iii) be of such a nature that by exercise of due foresight the party declaring a force majeure could not be reasonably have been expected to avoid, and which, by the exercise of all reasonable diligence, such party in unable to overcome. The party declaring a force majeure shall provide at least seven days written notice to the nondeclaring party of the force majeure event. If either party is unable to continue operations or provide services as a result of a force majeure, only after providing notice of a force majeure as required by this section and making a legitimate effort to continue operations and/or provide services, such party may terminate this contract by providing written notice to the nondeclaring party. If this contract is terminated because of an event of force majeure, TDA shall be responsible for payment of only reasonable and customary charges for necessary services actually provided by Contractor up to the date of termination, not to exceed the sums specified in the contract.

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

59. **Independent Contractor.** Contractor acknowledges and agrees that it is furnishing products and services in the capacity of an independent contractor and that Contractor and its personnel are not employees of the Agency or the State of Texas.

60. **Legal and Regulatory Actions.** Contractor represents and warrants that it is not aware of and has received no notice of any court or governmental agency actions, proceedings or investigations, etc., pending or threatened against Contractor or any of the individuals or entities included in the Response within the five (5) calendar years immediately preceding the submission of the Response that would or could impair Contractor’s performance under the contract, relate to the solicited or similar goods or services, or otherwise be relevant to Agency’s consideration of the Response. If Contractor is unable to make the preceding representation and warranty, then Contractor instead represents and warrants that it has included as a detailed attachment in its Response a complete disclosure of any such court or governmental agency actions, proceedings or investigations, etc. that would or could impair Contractor’s performance under the contract, relate to the solicited or similar goods or services, or otherwise be relevant to Agency’s consideration of the Response. In addition, Contractor represents and warrants that it shall notify Agency 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 Agency shall constitute breach of contract and may result in immediate termination of the contract.

61. **License Grant (Simple).** Contractor hereby grants to Agency a non-exclusive, perpetual, irrevocable, worldwide, transferable, fully paid, royalty-free, right and license: (a) to reproduce, modify, distribute, store, publicly perform, publicly display, create derivative works of, and otherwise exploit the deliverables, in each case without any restrictions and without accounting to Contractor; and (b) to sublicense any or all such rights to third parties.

62. **Limitation on Authority.** Contractor shall have no authority to act for or on behalf of Agency or the State of Texas except as expressly provided for in the contract; no other authority, power or use is granted or implied. Contractor may not incur any debt, obligation, expense or liability of any kind on behalf of Agency or the State of Texas.
63. **Lobbying Prohibition.** Contractor represents and warrants that Agency’s payments to Contractor and Contractor’s receipt of appropriated or other funds under the contract are not prohibited by Sections 556.005 or 556.0055 of the Texas Government Code.

64. **Media Releases.** Contractor shall not use Agency’s name, logo, or other likeness in any press release, marketing material, or other announcement without Agency’s prior written approval. Agency does not endorse any vendor, commodity, or service. Contractor is not authorized to make or participate in any media releases or public announcements pertaining to this procurement, the Response or the services to which they relate without Agency’s prior written consent, and then only in accordance with explicit written instructions from Agency.

65. **No Felony Criminal Convictions.** Contractor represents that neither Contractor nor any of its employees, agents, or representatives, including any subcontractors and employees, agents, or representative of such subcontractors, have been convicted of a felony criminal offense or that if such a conviction has occurred Contractor has fully advised Agency in writing of the facts and circumstances surrounding the convictions.

66. **No Implied Waiver.** No provision of the contract shall constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Agency as an agency of the State of Texas or otherwise available to Agency. The failure to enforce or any delay in the enforcement of any privileges, rights, defenses, remedies, or immunities detailed in the contract or otherwise available to Agency by law will not constitute a waiver of said privileges, rights, defenses, remedies, or immunities be considered as a basis for estoppel.

67. **No Quantity Guarantees.** Agency makes no express or implied warranty whatsoever that any minimum compensation or minimum quantity will be guaranteed under the contract.

68. **No Third-Party Beneficiaries.** The contract is made solely and specifically among and for the benefit of the parties named herein and their respective successors and assigns, and no other person shall have any right, interest, or claims hereunder or be entitled to any benefits pursuant to or on account of the contract as a third-party beneficiary or otherwise.

69. **Permits, Certifications, and Licenses.** Contractor represents and warrants that it has determined what licenses, certifications and permits are required under the contract and has acquired all applicable licenses, certifications, and permits.

70. **Prompt Payment.** Payment shall be made in accordance with Chapter 2251 of the Texas Government Code, commonly known as the Texas Prompt Payment Act. Chapter 2251 of the Texas Government Code shall govern remittance of payment and remedies for late payment and non-payment.

71. **Property Rights.** For purposes of the contract, the term “Work” is defined as all work papers, work products, materials, approaches, designs, specifications, systems, software, programs, source code, documentation methodologies, concepts, intellectual property or other property developed, produced or generated in connection with the services provided under the contract. Agency and Contractor Consider the Work and any and all documentation or other products and results of the services to be rendered by Contractor to be a work made for hire. Contractor and Contractor’s employees will have no rights in or ownership of the Work and any and all documentation or other products and results of the services or any other property of Agency. Contractor acknowledges and agrees that the Work (and all rights therein) belongs to and shall be the sole and exclusive property of Agency. If for any reason the Work would not be considered a work-for-hire under applicable law, Contractor does hereby sell, assign, and transfer to Agency, its successors and assigns, the entire right, title and interest in and to the copyright in the Work and any registrations and copyright applications relating thereto and any renewals and extensions thereof, and in and to all works based upon, derived from, or incorporating the Work, and in and to all income, royalties, damages, claims and payments now or hereafter due or payable with respect thereto, and in and to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and in and to all rights corresponding to the foregoing. Contractor agrees to execute all papers and to perform such other property rights, as Agency may deem necessary to secure for Agency or its designee the rights herein assigned. In the event that Contractor has any rights in and to the Work that cannot be assigned to Agency, Contractor hereby grants to Agency an exclusive, worldwide, royalty-free, irrevocable, and perpetual license to directly and indirectly reproduce, distribute, modify, create derivative works of, publicly perform and publicly display, such rights to make, have made, use, sell and offer for sale any products developed by practicing such rights, and to otherwise use such rights, with the right to sublicense such rights through multiple levels of sublicenses. No later than the first calendar day after the termination or expiration of the contract or upon Agency’s request, Contractor shall deliver to Agency all completed, or partially completed, Work and any and all documentation or other products and results of the services. Failure to timely deliver such Work or any and all
documentation or other products and results of the services will be considered a material breach of the contract. Contractor will not make or retain any copies of the Work or any and all documentation or other products and results of the services without the prior written consent of Agency.

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

73. **Refund.** Contractor will promptly refund or credit within thirty (30) calendar days any funds erroneously paid by Agency which are not expressly authorized under the contract.

74. **Restricted Employment for Certain State Personnel.** Pursuant to Section 572.069 of the Texas Government Code, Contractor certifies that it has not employed and will not employ a former state officer or employee who participated in a procurement or contract negotiations for Agency involving Contractor within two (2) years after the date that the contract is signed or the procurement is terminated or withdrawn. This certification only applies to former state officers or employees whose state service or employment ceased on or after September 1, 2015.

75. **Secure Erasure of Hard Disk Capability.** All equipment provided to Agency by Contractor that is equipped with hard disk drives (i.e., computers, telephones, printers, fax machines, scanners, multifunction devices, etc.) shall have the capability to securely erase data written to the hard drive prior to final disposition of such equipment, either at the end of the equipment’s useful life or the end of the related services agreement for such equipment, in accordance with 1 TAC § Chapter 202.

76. **Severability.** If any provision of the contract is construed to be illegal or invalid, such construction will not affect the legality or validity of any of its other provisions. The illegal or invalid provision will be deemed severable and stricken from the contract as if it had never been incorporated herein, but all other provisions will continue in full force and effect.

77. **Sovereign Immunity.** The Parties expressly agree that no provision of the contract is in any way intended to constitute a waiver by the Agency or the State of Texas of any immunities from suit or from liability that the Agency or the State of Texas may have by operation of law.

78. **Subcontractors.** Contractor may not subcontract any or all of the work and/or obligations due under the contract without prior written approval of the Agency. Subcontracts, if any, entered into by the Contractor shall be in writing and be subject to the requirements of the contract. Should Contractor subcontract any of the services required in the contract, Contractor expressly understands and acknowledges that in entering into such subcontract(s), Agency is in no manner liable to any subcontractor(s) of Contractor. In no event shall this provision relieve Contractor of the responsibility for ensuring that the services performed under all subcontracts are rendered in compliance with the contract.

79. **Survival.** Expiration or termination of the contract for any reason does not release Contractor from any liability or obligation set forth in the contract: (a) that is expressly stated to survive any such expiration or termination; (b) that by its nature would be intended to be applicable following any such expiration or termination; or (c) that is necessary to fulfill the essential purpose of the contract, including without limitation the provisions regarding warranty, indemnification, confidentiality, and rights and remedies upon termination.

80. **Taxes.** Purchases made for State of Texas use are exempt from the State Sales Tax and Federal Excise Tax. Agency will furnish Tax Exemption Certificates upon request. Contractor represents and warrants that it shall pay all taxes or similar amounts resulting from the contract, including, but not limited to, any federal, State, or local income, sales or excise taxes of Contractor or its employees. Agency shall not be liable for any taxes resulting from the contract.

81. **TDA Remedies and Liquidated Damages.** TDA may utilize the following remedies in the event Contractor fails to perform under a contract resulting from this Solicitation:

   a. Upon initial breach or failure to perform, TDA will provide Contractor with written notice of same and give Contractor fourteen (14) calendar days to provide TDA with a corrective action plan (CAP) and cure the breach or failure to perform. At a minimum, the CAP must include the following items: (i) the cause of the breach or failure to perform; (ii) an outline of actions that will be taken to cure the breach or failure to perform; (iii) the expected outcome for each action; (iv) the date for completion of each action; (v) the individuals responsible for completion of each action; and (vi) all steps Contractor will take to ensure that there are no further breaches of Contract or failures to perform under the contract. TDA will provide Contractor with written acceptance or rejection of Contractor’s CAP and cure within fourteen (14) calendar days after Contractor’s completion of the cure. Failure to provide a CAP, or fully or properly complete a cure, as required by this Section 81.a, is a material breach of contract.
b. Upon a second breach or failure to perform, TDA will provide Contractor with written notice of same and give Contractor seven (7) calendar days to provide TDA a CAP that meets the requirements of Section 81.a above, and cure the breach or failure to perform. Additionally, TDA will withhold up to ten (10%) of all future payments due Contractor as liquidated damages for Contractor’s breach, and as security for proper and timely performance of the contract. If Contractor fully and faithfully provides full, complete and timely performance under the contract following said breach, TDA will release all sums withheld under this Section 81.b within thirty (30) days of closing out and winding up the contract. Further, TDA will provide Contractor with written acceptance or rejection of Contractor’s CAP and cure within fourteen (14) calendar days after Contractor’s completion of the cure. Failure to provide a CAP, or fully and properly complete a cure, as required by this Section 81.b, is a material breach of contract.

c. If Contractor fails to cure the breach or fails to perform within the designated cure period specified in Sections 81.a or 81.b above, or upon a third or subsequent breach or failure to perform, TDA may immediately terminate the contract upon written notice to Contractor. Further, all sums withheld by TDA under Section 81.b above will be retained by TDA as liquidated damages to offset TDA’s costs and damages resulting from Contractor’s breach or failure to perform.

d. Notwithstanding the graduated remedies schedule and liquidated damages specified above, in the event Contractor commits a material breach of contract, TDA reserves the right to immediately terminate the contract upon written notice to Contractor. A breach is material if: (i) Contractor completely fails to perform an activity, service or task required by the contract; or (ii) the breach is substantial and prevents the contract from being completed or defeats the purpose of the contract.

82. Termination for Cause or Convenience. Agency reserves the right to terminate the contract at any time, in whole or in part, without cost or penalty, by providing thirty (30) calendar days’ advance written notice, if Agency determines that such termination is in the best interest of the agency or the state. In the event of such a termination, Contractor must, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. Agency shall only be liable for payments limited to the portion of work Agency authorized in writing and which Contractor has completed, delivered to Agency, and which has been accepted by Agency. All such work shall have been completed, in accordance with contract requirements, prior to the effective date of termination. Agency shall have no other liability whatsoever to any person, party or entity, including for liability for any costs associated with the termination.

83. Trademark License. Agency hereby grants to Contractor, to the extent expressly provided by a written contract between the parties, for the term of the contract, a limited non-exclusive, royalty-free, non-assignable, non-transferable license to reproduce Agency’s trademarks, as depicted and described in the contract, on published materials in the United States related to the performance of the contract, provided that such license is expressly conditional upon, and subject to, the following: (a) Contractor is in compliance with all provisions of the contract; (b) Contractor’s use of the trademarks is strictly in accordance with the quality standards and in conformance with the reproduction requirements set forth in the contract or as otherwise communicated in writing by the Agency; (c) Contractor takes no action to damage the goodwill associated with the trademarks, and refrains from any attempt to contest, attack, dispute, challenge, cancel and/or oppose Agency’s right, title and interest in the trademarks or their validity; (d) Contractor makes no attempt to sublicense any rights under this trademark license; and (e) Contractor complies with any marking requests Agency may make in relation to the trademarks, including without limitation to use the phrase “Registered Trademark”, the symbol “™”, the registered trademark symbol “®” and/or any equivalent thereof.

84. Trademark Ownership. Contractor hereby acknowledges and agrees that the trademarks remain the exclusive property of Agency, that all right, title and interest in and to the trademarks is exclusively held by Agency, and all goodwill associated with such trademarks inures solely to Agency.

85. Unfair Business Practices. Contractor represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Chapter 17 of the Texas Business and Commerce Code, or allegations of any unfair business practice in any administrative hearing or court suit and that Contractor has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of allegations of Deceptive Trade Practices 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.

86. Use of State Property. Contractor is prohibited from using State Property for any purpose other than performing Services authorized under the contract. State Property includes, but is not limited to, Agency’s office space, identification badges, Agency information technology equipment and networks.
(e.g., laptops, portable printers, cell phones, iPads, external hard drives, data storage devices, any Agency-issued software, and the Agency Virtual Private Network (VPN client)), and any other resources of Agency. Contractor shall not remove State Property from the continental United States. In addition, Contractor may not use any computing device to access Agency's network or e-mail while outside of the continental United States. Contractor shall not perform any maintenance services on State Property unless the contract expressly authorizes such services. During the time that State Property is in the possession of Contractor, Contractor shall be responsible for (i) all repair and replacement charges incurred by Agency that are associated with loss of State Property or damage beyond normal wear and tear and (ii) all charges attributable to Contractor's use of State Property that exceeds the contract scope. Contractor shall fully reimburse such charges to Agency within ten (10) calendar days of Contractor's receipt of Agency's notice of amount due. Use of State Property for a purpose not authorized by contract shall constitute breach of contract and may result in termination of the contract and the pursuit of other remedies available to Agency under contract, at law, or in equity.

87. **Waiver of Consequential Damages.** NOTWITHSTANDING ANY OTHER PROVISION TO THE CONTRARY HEREIN, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFITS, ANTICIPATED OR OTHERWISE, OR LOSS OF REVENUES IN CONNECTION WITH OR ARISING OUT OF, OR IN CONNECTION WITH, THE SUBJECT MATTER OR THE PERFORMANCE OF THIS CONTRACT.

88. **Transition.** Contractor represents and warrants that at the expiration or termination of a contract resulting from this Solicitation, Contractor shall assist with and fully cooperate with TDA in transition of data, deliverables, documentation, reports and services to TDA or a new provider. Data, deliverables, documentation and reports shall be delivered in a form and manner acceptable to TDA. This obligation shall survive the termination or expiration of a contract resulting from this Solicitation and shall be a continuing obligation of the contract until Contractor has fully complied with all transition obligations required by this Section. Additionally, this transition obligation shall not be subject to additional costs or fees of any kind and shall be provided by Contractor at no cost to TDA or the State of Texas.

89. **Human Trafficking Prohibited.** Under Section 2155.0061 of the Texas Government Code, the Respondent certifies that the individual or business entity named in this Response 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.

90. **Abortion Provider and Affiliate Transactions Prohibited.** Respondent represents and warrants that the contract is not a taxpayer resource transaction prohibited by Section 2272.003 of the Texas Government Code and that payments made by TDA to Respondent and Respondent’s receipt of appropriated funds under the contract are not prohibited by Article IX, Section 6.25 of the General Appropriations Act.

91. **Cybersecurity Training.** Respondent represents and warrants that it will comply with the requirements of Section 2054.5192 of the Texas Government Code relating to cybersecurity training and required verification of completion of the training program.

92. **Check below if preference is claimed under 34 TAC § 20.306.**

- [ ] Supplies, materials or equipment: Produced in Texas/offered by Texas bidders
- [ ] Agricultural products produced or grown in Texas
- [ ] Agricultural products and services offered by Texas bidders
- [ ] Products offered by Texas Bidder owned by a Texas resident service-disabled veteran
- [ ] USA Produced supplies, materials or equipment
- [ ] Products of persons with mental or physical disabilities
- [ ] Products made of recycled, re-manufactured, or environ-sensitive materials including recycled steel
- [ ] Energy efficient products
- [ ] Rubberized asphalt paving material
- [ ] Recycled motor oil and lubricants
- [ ] Products produced at facilities located on formerly contaminated property
- [ ] Products and services from economically depressed or blighted areas
- [ ] Vendors that meet or exceed air quality standards
- [ ] Recycled or Reused Computer Equipment of Other Manufacturers
- [ ] Foods of Higher Nutritional Value

93. **Binding Offer and Effect of TDA Acceptance.** By submitting a Response to this Solicitation, if such Response is not withdrawn prior to the time for opening offers arrives, Contractor understands and
agrees that it is making a firm offer to enter into a contract, which firm offer may be accepted by TDA and which will result in a binding contract.

(Respondent must initial and date here to show agreement)

94. **Capital Outlay.** If Contractor purchases capital outlay, such as furniture or equipment, to accomplish the contract project, title will remain with Contractor for the period of the contract. TDA reserves the right to transfer capital outlay items for contract noncompliance during the contract period, or if the items are needed after expiration or termination of the contract. This provision applies to furniture or equipment purchased by Contractor for the performance of the contract, regardless of price or how the item is classified in Contractor’s accounting record.

95. **Notices.**
   a. **Delivery of Written Notices.** Any notice required under a contract resulting from this Solicitation shall be in writing and shall be addressed to the receiving party at the address specified in the notice of award. The notice shall be deemed to have been given immediately if delivered in person or by electronic transmission. If notice is given through the United States Postal Service, notice shall be deemed to have been given five days following the date the notice is deposited with the United States Postal Service, postage prepaid, for delivery by registered or certified mail with return receipt requested, addressed to the receiving party at the address specified in the notice of award or otherwise specified by Contractor in accordance with Section 91.b below.
   b. **Change of Address.** Contractor shall notify TDA’s Contract Manager in writing of any change in the contact person or address for delivery of notices within ten (10) calendar days of the date of such change.

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**Failure to sign will disqualify the proposal.**

<table>
<thead>
<tr>
<th>Company</th>
<th></th>
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<tbody>
<tr>
<td>Physical Address</td>
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<tr>
<td>Website</td>
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<tr>
<td>Address</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Name</th>
<th>Phone</th>
<th>Email</th>
</tr>
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</table>

<table>
<thead>
<tr>
<th>Title</th>
<th></th>
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</table>

Signature | Date
---|---
ATTACHMENT 2
Vendor Information & Evaluation Preferences

SECTION 1 – RESPONDENT INFORMATION

<table>
<thead>
<tr>
<th>Entity Name:</th>
<th>D.B.A. Name (if applicable)</th>
<th>Respondent’s Social Media links, if any</th>
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<tbody>
<tr>
<td></td>
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<td>Web</td>
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<table>
<thead>
<tr>
<th>Type of Business (check one):</th>
<th>Corporation</th>
<th>Limited Liability Co.</th>
<th>Limited Partnership</th>
<th>General Partnership</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>(check one):</td>
<td>Corporation</td>
<td>Limited Liability Co.</td>
<td>Limited Partnership</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Federal Employee Identification Number (must be nine (9) digits and match W-9)</th>
</tr>
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<tbody>
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<table>
<thead>
<tr>
<th>Texas Identification Number (if sole proprietor)</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

SECTION 2A. APPLICANT - List the full legal name (no aliases or nicknames) of the primary person (Partner, Manager or Owner) responsible for the business and can enter into legal agreements on behalf of the business.

<table>
<thead>
<tr>
<th>First Name</th>
<th>Last Name</th>
<th>Mr.</th>
<th>Dr.</th>
<th>Ms.</th>
<th>Other</th>
</tr>
</thead>
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<table>
<thead>
<tr>
<th>Mailing Address</th>
<th>City</th>
<th>State</th>
<th>Zip</th>
<th>County</th>
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<tbody>
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<table>
<thead>
<tr>
<th>Business Phone (   )</th>
<th>Cell Phone (   )</th>
<th>E-mail Address</th>
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</table>

<table>
<thead>
<tr>
<th>Title</th>
<th>Respondent’s Website</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

SECTION 2B. PRIMARY CONTACT INFORMATION – (if different from applicant) This person can answer day-to-day questions about the organization.

<table>
<thead>
<tr>
<th>Same As Above</th>
<th>First Name</th>
<th>Last Name</th>
<th>Mr.</th>
<th>Dr.</th>
<th>Ms.</th>
<th>Other</th>
</tr>
</thead>
<tbody>
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<table>
<thead>
<tr>
<th>Contact phone number (   )</th>
<th>Contact E-mail Address</th>
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</table>

| Title | |
|-------| |

SECTION 3. BUSINESS PRODUCTS

Check below if preference in the evaluation process is claimed under Title 34, Part 1, Chapter 20, Subchapter C, Rule 20.38 of the Texas Administrative Code,

<table>
<thead>
<tr>
<th></th>
<th>Supplies, materials or equipment: Produced in Texas/offered by Texas bidders</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Agricultural products produced or grown in Texas</td>
</tr>
<tr>
<td></td>
<td>Agricultural products and services offered by Texas bidders</td>
</tr>
<tr>
<td></td>
<td>Products offered by Texas Bidder owned by a Texas resident service-disabled veteran</td>
</tr>
<tr>
<td></td>
<td>USA Produced supplies, materials or equipment</td>
</tr>
<tr>
<td></td>
<td>Products of persons with mental or physical disabilities</td>
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<tr>
<td></td>
<td>Products made of recycled, re-manufactured, or environ-sensitive materials including recycled steel</td>
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<tr>
<td></td>
<td>Energy efficient products</td>
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<tr>
<td></td>
<td>Rubberized asphalt paving material</td>
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<tr>
<td></td>
<td>Recycled motor oil and lubricants</td>
</tr>
<tr>
<td></td>
<td>Products produced at facilities located on formerly contaminated property</td>
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<tr>
<td></td>
<td>Products and services from economically depressed or blighted areas</td>
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<td></td>
<td>Vendors that meet or exceed air quality standards</td>
</tr>
<tr>
<td></td>
<td>Recycled or Reused Computer Equipment of Other Manufacturers</td>
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<tr>
<td></td>
<td>Foods of Higher Nutritional Value</td>
</tr>
</tbody>
</table>
Identification of a Key Persons relationship does not prohibit contracting, but allows the Texas Department of Agriculture to manage the contracting process with greater transparency.*

Vendor:

KEY CONTRACTING PERSONS:
Texas Department of Agriculture policy defines Key Persons as those who have a reasonable expectation of participating in the solicitation, preparation, management, oversight, or enforcement of a contract. Participation is defined as having authority to make recommendations and decisions of serious import to the contracting process, whether or not that authority is exercised.

DISCLOSABLE RELATIONSHIP:
Texas Department of Agriculture policy defines a disclosable relationship as having done business with a Key Person within 2 calendar years prior to the deadline for responding to the agency’s solicitation, or as having a familial relationship with a Key Person.

DOING BUSINESS WITH:
For purposes of the Key Persons policy, a person or company responding to a formal solicitation has done business with a Key Person if within 2 years prior to the contract solicitation date, the person or company responding to the solicitation:

- Paid or received in money or valuable thing worth more than $500 in the aggregate in a calendar year, in exchange for personal services or the purchase of any property or property interest, either real or personal, either legal or equitable, or
- Loaned or received a loan of money or goods or otherwise created any legal obligation or debt with a value of more than $500 in the aggregate in a calendar year.

Any retail transaction for goods or services sold or provided to a Key Contracting Person at a posted, published, or marked price available to the public is not required to be disclosed under this Key Persons Disclosure policy.
<table>
<thead>
<tr>
<th>Position Held</th>
<th>Person Holding Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commissioner</td>
<td>Sid Miller</td>
</tr>
<tr>
<td>Deputy Commissioner</td>
<td>Jason Fearneyhough</td>
</tr>
<tr>
<td>Assistant Commissioner, Policy &amp; External Relations</td>
<td>Walt Roberts</td>
</tr>
<tr>
<td>Assistant Commissioner, Trade &amp; Business Development</td>
<td>Dan Hunter</td>
</tr>
<tr>
<td>Assistant Commissioner, Consumer Protection, Enforcement &amp; Border Security</td>
<td>Terry Keel</td>
</tr>
<tr>
<td>Assistant Commissioner, Food &amp; Nutrition</td>
<td>Angela Olige</td>
</tr>
<tr>
<td>General Counsel</td>
<td>Tim Kleinschmidt</td>
</tr>
<tr>
<td>Chief Financial Officer</td>
<td>Shirley Beaulieu</td>
</tr>
<tr>
<td>Chief Information Officer</td>
<td>Ruben Sanchez, Interim</td>
</tr>
<tr>
<td>Internal Auditor</td>
<td>Zoi Kondis</td>
</tr>
<tr>
<td>Deputy General Counsel/Ethics Officer</td>
<td>Susan Maldonado</td>
</tr>
<tr>
<td>Deputy General Counsel</td>
<td>David Castillo</td>
</tr>
<tr>
<td>Assistant General Counsel</td>
<td>William “Clay” Harris</td>
</tr>
<tr>
<td>Assistant General Counsel</td>
<td>Skyler Shafer</td>
</tr>
<tr>
<td>Assistant General Counsel</td>
<td>Danielle Mitchell</td>
</tr>
<tr>
<td>Assistant General Counsel</td>
<td>Chris Gee</td>
</tr>
<tr>
<td>Assistant General Counsel</td>
<td>Lisa Hoy</td>
</tr>
<tr>
<td>Assistant General Counsel</td>
<td>Susana Esparza</td>
</tr>
<tr>
<td>Procurement &amp; Contracting Office Director</td>
<td>April Bacon</td>
</tr>
<tr>
<td>Sr. Purchaser</td>
<td>Segundo Sanchez</td>
</tr>
<tr>
<td>Sr. Contract Specialist, Purchasing</td>
<td>Vacant</td>
</tr>
<tr>
<td>Purchaser</td>
<td>Jeffrey Trevathan</td>
</tr>
<tr>
<td>HUB/MWBE Coordinator</td>
<td>Jack Hammond</td>
</tr>
<tr>
<td>Budget &amp; Financial Reporting Director</td>
<td>Vacant</td>
</tr>
<tr>
<td>Accounting Director</td>
<td>Irma Rodriquez</td>
</tr>
</tbody>
</table>
### Contracting Program Area Participants/Key Persons

<table>
<thead>
<tr>
<th>Name</th>
<th>Procurement/Contract Role</th>
<th>Division</th>
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</table>

Select the response below that most accurately describes the relationship of the proposing company/team to TDA employees listed above.

- [ ] Vendor is not doing business and has not done business during the 24-month period immediately prior to the date on which this proposal is due with any key person.
- [ ] Vendor is doing business or has done business during the 24-month period immediately prior to the date on which this proposal is due with the following key persons, and attests that these listed below are the only such key persons.

1. ____________________________________________
2. ____________________________________________
3. ____________________________________________
4. ____________________________________________

These named persons will not create a conflict of interest in the solicitation or contracting processes because ____________________________________________________________

*The agency cannot contract with a vendor if any of the following persons have a financial interest in the vendor’s business:*

- Commissioner
- Deputy Commissioner
- General Counsel
- Assistant Commissioners
- Chief Financial Officer
- Procurement Director
- Procurement Staff
- A family member related to a person listed above within the second degree of blood or marital relationship.

**Financial interest means a state agency employee or official who:**

- owns or controls, directly or indirectly, at least 1% in the business, including the right to share in profits, proceeds, capital gains, or
- could reasonably foresee that a contract could result in a personal financial benefit.

---

### SIGNATURE AND DATE

I hereby attest that all information provided is complete and accurate to the best of my knowledge. I acknowledge my responsibility to submit promptly a new or amended disclosure statement if any of the above information changes during the course of the solicitation or contract if awarded to me or the company I represent.

Vendor
Signature: Date:

Printed Name & Company Represented: ____________________________________________
ATTACHMENT 4
FINANCIAL AND ORGANIZATIONAL CAPACITY

UNDER ANY NAME OR BUSINESS ENTITY:

A. During the past **three (3) years**, has the Respondent failed to file or pay any tax returns required by federal, state, or local tax laws?

☐ No
☐ Yes, with explanation:

B. Within the past five (5) years, has the Respondent

1. Received any formal unsatisfactory performance assessment(s) from any government entity on any contract?

☐ No
☐ Yes, with explanation:

1. Had any **liquidated damages** assessed over $25,000?

☐ No
☐ Yes, with explanation:

2. Had any liens or judgments over $25,000 filed against the company, other than UCC filings, which have not been discharged?

☐ No
☐ Yes, with explanation:

C. In the last seven (7) years, has the Respondent initiated or been the subject of any bankruptcy proceedings, or is any bankruptcy proceeding pending?

☐ No
☐ Yes, with explanation:

D. The State of Texas regulates the timing of payments. Payment cannot be made before goods are received or services rendered and have been accepted. The State has 30 days after receipt of a correct invoice to make payment. Earlier payment is contingent upon offering an early pay discount. Does the Respondent have sufficient resources available to perform as contracted notwithstanding the state's payment process?

☐ Yes
☐ No, with explanation:
### ATTACHMENT 5
**RFP #551-21-01990**

Questions and Answers during Proposal Submission

(This form for sending Questions to the procurement office during the Questions and Answer period)

<table>
<thead>
<tr>
<th>No.</th>
<th>Reference Corresponding RFP Section number</th>
<th>Respondent Questions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
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<td>10</td>
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</tbody>
</table>
CERTIFICATION FOR CONTRACTS, GRANTS, AND COOPERATIVE AGREEMENTS

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

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

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

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

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

Authorized Signatory Name/Title

Authorized Signature

Date

Chief Financial Officer or Designee Name/Title

Chief Financial Officer or Designee Signature

Date:
ATTACHMENT 7
SPECIAL PROVISION B - Debarment and Suspension Certification
(REQUIRED FOR ALL FEDERALLY FUNDED CONTRACTS)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions

The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552(a), as amended). This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, and 2 C.F.R. §§ 180.300 - 180.330, Participants’ responsibilities. Copies of the regulations may be obtained at www.govinfo.gov or by contacting the Department of Agriculture agency offering the proposed covered transaction.

According to the Paperwork Reduction Act of 1995 an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal and civil fraud privacy, and other statutes may be applicable to the information provided.

(Read Instructions on Page Two Before Completing Certification)

A. The prospective lower tier participant certifies, by submission of this contract or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

B. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this contract or proposal.

________________________________________
Organization Name

________________________________________
Authorized Signatory Name/Title

________________________________________                             __________
Authorized Signature                             Date:
ATTACHMENT 7
Instructions for Certification Debarment and Suspension

1. By signing and submitting this form, the prospective lower tier participant is providing the certification set out on page 1 in accordance with these instructions.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person(s) to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549, at 2 C.F.R. Parts 180 and 417. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the System for Award Management (SAM) database.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
ATTACHMENT 8
DATA SECURITY REQUIREMENTS

1. Ensure rigorous and robust data security. This will extend to the Contractor’s configuration of its infrastructure and deployment of data analytics that delivers all the functionality listed below and adheres to the Data Security requirements described in the Proposal Content section of this RFP:
   a. meets security requirements outlined in the United States National Institute of Standards and Technology (NIST) Special Publication 800-53, Revision 4, commonly referred to as “NIST SP 88-53, and meets all Federal Information Security Modernization Act (FISMA), 44 U.S.C. § 3551, et seq., requirements to protect all Personally Identifiable Information (PII);
   b. provide monthly update, scanning, and vulnerability reports to TDA’s IT department describing all incidents;
   c. report any breach of systems immediately and according to TDA’s incident response requirements (report within 24 hours, resolve within 72 hours);
   d. provide an itemized list of individual(s) whose personally identifiable information (PII) has been compromised according to federal statutes and as defined in OMB Circular A-130(PII), and pursuant to the audit requirements in 2 CFR Part 200 Subpart F;
   e. when processing payments adhere to the Payment Card Industry Data Security Standard;
   f. all PII data is encrypted when stored or transmitted and only transmitted via a Virtual Private Network (VPN) connection;
   g. password standards that include: 10 characters minimum requirement: two uppercase, two lowercase, at least one number and one special character and salted hash passwords;
   h. ensure certificate authentication for HyperText Transfer Protocol Secure (HTTPS) on port 443 (the standard port for hypertext transfer protocol traffic) using Secure Sockets Layer (SSL).
   i. The Contractor’s hardware infrastructure and software configuration must:
      - be Federal Information Processing Standard (FIPS) 140-2 compliant;
      - be Open Web Application Security Project (OWASP) compliant for the web application that is client facing.
   j. The Contractor will:
      - provide quarterly security reports to TDA’s Information Security Officer describing maintenance plans, backups, vulnerability tests, penetration tests, Service Organization Control (SOC) 1 reports, change management reports that include operating system updates, and system updates
      - provide proof of background checks for all Contractor personnel whose responsibilities include managing and having access to PII, (this includes contractors that may have services subcontracted, i.e. vendor-awarded contract third parties);
      - provide lists of all embedded devices or modules for securing applications and ensuring data security when stored on devices;
      - provide annual updated security plan outlining the Contractor’s security processes and that includes diagrams for its database infrastructure;
      - ensure data encryption that is Advanced Encryption Standard 256-bit compliant for applications
      - provide network diagrams; and
      - provide its disaster recovery plan

2. In the event of any security issue the Contractor must email Wesley Williams, TDA’s Information Security Officer (ISO), at Wesley.Williams@TexasAgriculture.gov, and Ms. Karen Reichek, Administrator for Trade and Business Development, at Kare.Reichek@TexasAgriculture.gov.

3. The Contractor must provide vulnerability reports to the Contract Manager and ISO by the first business day of every quarter (90 days) throughout the term of the contract and any renewal options. Additionally, the Contractor must engage in regular, scheduled, Vulnerability Assessment and Penetration Testing (VAPT) and notify the ISO of any failures or issues. Additionally, upon inception of a contract with TDA, Contractor shall:
   - Outline its vulnerability management policy.
   - Discover its existing vulnerabilities.
   - Analyze its current level of security and rank vulnerabilities by threat level/remediation actions
required.

- Mitigate the causes of vulnerabilities.
- Maintain security through ongoing testing and discovery.

Contractor is expected to provide annual updates to the ISO regarding its vulnerability management policy, existing vulnerabilities, security risk, threat level and remediation activities, mitigation efforts and ongoing security efforts, including testing and discovery.

4. The Contractor must provide its disaster recovery plan annually and by the first business day after September 1\textsuperscript{st} of every year of the contract to the Contract Manager and TDA's ISO.

5. The Contractor must provide a SOC 2 – Type II report annually and by the first business day after September 1\textsuperscript{st} of every year of the contract to the Contract Manager and TDA's ISO.

The SOC 2 Report will be performed in accordance with the American Institute of Certified Public Accountants Auditing Standards Board’s standard AT-C 205 and based upon the Trust Services Criteria, with the ability to test and report on the design (Type I) and operating (Type II) effectiveness of a service organization’s controls (just like SOC 1 / SSAE 18). The SOC 2 report focuses on a business’s non-financial reporting controls as they relate to security, availability, processing integrity, confidentiality, and privacy of a system.

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Update or Vulnerability Name</td>
<td>Description</td>
</tr>
<tr>
<td>Example: MS Remote Desktop could allow execution remote code vulnerabilities</td>
<td>Example: Fixed remote code execution vulnerabilities in the remote desktop protocol.</td>
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</table>
Title of Proposed Project 

Respondent Name 

Organization Contact Name 

Beginning and Ending Dates of Project: 

Project Deliverables: This table outlines all project deliverables. The Respondent will complete the table by inserting proposed dates and their proposed cost to meet each deliverable.

<table>
<thead>
<tr>
<th>ITEM</th>
<th>PRICE</th>
<th>Initial Year</th>
<th>Renewal Option 1</th>
<th>Renewal Option 2</th>
<th>Renewal Option 3</th>
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<tr>
<td>Units of Service</td>
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<td>Total</td>
<td>Total</td>
<td>Total</td>
<td>Total</td>
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<tr>
<td>1. Work Plan</td>
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<tr>
<td>2. Statewide Financial Needs Assessment</td>
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<td></td>
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<tr>
<td>3. Operational &amp; Financial Improvement Work for 2 At-Risk CAHs</td>
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<tr>
<td>4. Innovative Operational &amp; Financial Improvement Work for 2 High-Performing CAHs</td>
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<tr>
<td>5. 12 Regional Workshops (Total for all 12)</td>
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<td>6. Statewide Conference</td>
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<td>7. Technical Assistance Program</td>
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<td>8. CAH Conversion (if necessary)</td>
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</table>

By signing this exhibit, Respondent certifies that the costs are accurately and fully presented.

SIGNATURE: ____________________________________________

PRINT NAME: ___________________________________________

TITLE: _______________________________________________

TELEPHONE: ___________________________________________

DATE: _______________________________________________

E Mail: _______________________________________________
ATTACHMENT 10

HUB SUBCONTRACTOR PLAN (HSP)