



INSTRUCTIONS TO RESPONDENTS

THE ATTACHED SOLICITATION SHOULD BE RETURNED AS FOLLOWS:

When mailing or hand delivering your response, please place a label in the lower left-hand corner of the sealed mailing envelope. If response requires more than one envelope, place a label on each sealed envelope. Below is an example of the format:

Bid No.: BXX-XXXX-XXXXXXXXXX
Bid Opening: MM/DD/YY, 00:00 p.m.
Purchaser: Purchaser Name

HAND DELIVERY

Texas Department of Transportation
General Services Division
3800 Jackson Ave.
Austin, TX 78731

or

COURIER SERVICE, CERTIFIED MAIL, EXPRESS MAIL

Texas Department of Transportation
General Services Division
Camp Hubbard, Bldg. 5
200 East Riverside Drive
Austin, TX 78704

or

FAX TO: (Fax Number for Bids)
(512) 374-5484

Facsimile responses are only accepted for procurements less than \$25,000, unless otherwise stated in the solicitation.

USE OF NATIONAL INSTITUTE OF GOVERNMENTAL PURCHASING CODE

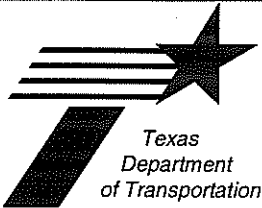
The Texas Department of Transportation (TxDOT) uses the National Institute of Governmental Purchasing, Inc., (NIGP) code to standardize purchases by conforming to the class, item, and group structure of the code. The NIGP code is used to select vendors for our master vendor file from the Texas Building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

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

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

TBPC's CMBL information is available online at:

<http://www.tbpc.state.tx.us/communities/procurement/prog/cmb/>, or by phoning 1-512-463-3459.



INVITATION FOR BID

08/ 7/2007

SOLICITATION NO: Q442007050722000

OPENING DATE 03:00PM Aug 30, 2007

To: _____ **Return Sealed Response To:** _____

TEXAS DEPARTMENT OF TRANSPORTATION
 GENERAL SERVICES DIVISION
 PURCHASING SECTION
 125 E 11TH ST
 AUSTIN TX 78701-2483

VENDOR ID: _____ **BUYER: 887 - JAMES X GONZALEZ Q 050722**

Show opening date and number in lower left hand corner of sealed response envelope and show return address of vendor.
 Vendor agrees to comply with this solicitation below and all terms and conditions.
 F.O.B. destination means vendor retains title to goods until delivered and the price quoted includes all freight charges.

Delivery in _____ Days
 Cash Discount _____ % _____ Days

QUOTE F.O.B. DESTINATION

Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
	<p>SHIP TO THE FOLLOWING LOCATION UNLESS OTHERWISE NOTED: TEXAS DEPARTMENT OF TRANSPORTATION THIS IS A SERVICE AND NO SHIPPING IS REQUIRED.</p>					
1.	<p>NIGP 905-14-40-0000. PILOT OR CO-PILOT SERVICES</p> <p>CO-PILOT SERVICES IN ACCORDANCE WITH TXDOT SPECIFICATION 905-14-40, DATED AUGUST 2007.</p>	1	DAY			
2.	<p>NIGP 962-99-25-0000. PER DIEM EXPENSES</p> <p>TRAVEL COST INCURRED BY CONTRACT CO-PILOT WHILE ON FLIGHT FOR TXDOT.</p> <p>THIS IS A NON-BIDDABLE ITEM. RESPONDENT DOES NOT NEED TO INSERT A PRICE ON THE IFB. LEAVE THE UNIT COST AND EXTENDED COST BLANK.</p> <p>THE FOLLOWING APPLIES TO THIS ENTIRE SOLICITATION.</p>	1	LOT			

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

Failure to sign will disqualify response.

Authorized Signature _____

Date _____

Printed Name _____

By signing solicitation, respondent certifies that if a Texas address is shown as the address of the respondent, respondent qualifies as a Texas Bidder as defined in 1TAC Rule 113.2(68).



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08/ 7/2007

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 GENERAL SERVICES DIVISION
 PURCHASING SECTION
 125 E 11TH ST
 AUSTIN TX 78701-2483

VENDOR ID: _____ **BUYER: 887 – JAMES X GONZALEZ Q 050722**

Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
	<p>TERM OF SERVICE: SERVICE SHALL COMMENCE UPON ISSUANCE OF PURCHASE ORDER FOR A PERIOD OF 24 MONTHS WITH THE OPTION TO RENEW FOR TWO ADDITIONAL TERMS OF 24 MONTH PERIODS.</p> <p>IN THE EVENT OF ANY CONFLICT, TERMS CONTAINED IN THE DOCUMENTS SHALL PREVAIL IN THE ORDER AS LISTED BELOW. CONTRACTED CO-PILOT SERVICES SHALL BE PERFORMED IN ACCORDANCE WITH:</p> <p>SPECIFICATION NO. TXDOT 905-14-40, AUGUST 2007</p> <p>SCHEDULE 1 – PROFILE AND QUALIFICATIONS</p> <p>SCHEDULE 2 – REFERENCES</p> <p>TXDOT TERMS AND CONDITIONS, REVISED MAY 2007</p> <p>EXCEPTION: DELETE PART I, PARAGRAPH 1.20 OF THE TXDOT TERMS AND CONDITIONS AND REPLACE WITH PARAGRAPH 8 OF TXDOT SPECIFICATION NO. 905-14-40.</p> <p>PAYMENT SHALL BE IN ACCORDANCE WITH PART II, PARAGRAPHS 7 AND 7.2 OF THE TXDOT TERMS AND CONDITIONS</p> <p>DELETE INSURANCE REQUIREMENTS UNDER PART II, PARAGRAPH 8 OF THE TXDOT TERMS AND CONDITIONS IN ITS ENTIRETY.</p> <p>QUANTITY(IES): QUANTITIES ARE ESTIMATED: TXDOT DOES NOT GUARANTEE TO PURCHASE ANY MINIMUM QUANTITY.</p>					



INVITATION FOR BID

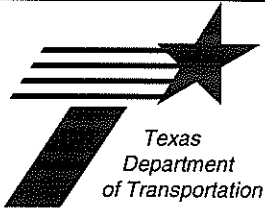
08/ 7/2007

SOLICITATION NO: Q442007050722000

OPENING DATE 03:00PM Aug 30, 2007

To:	Return Sealed Response To:
	TEXAS DEPARTMENT OF TRANSPORTATION GENERAL SERVICES DIVISION PURCHASING SECTION 125 E 11TH ST AUSTIN TX 78701-2483
VENDOR ID:	BUYER: 887 - JAMES X GONZALEZ Q 050722

Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
	<p>TXDOT RESERVES THE RIGHT TO INCREASE THE QUANTITY(IES) OF THE PURCHASE ORDER AT THE SAME ORIGINAL TERMS AND CONDITIONS. THE VENDOR WILL BE NOTIFIED IN WRITING BY PURCHASE ORDER CHANGE NOTICE OF ANY REQUIREMENTS FOR ADDITIONAL QUANTITY(IES).</p> <p>THE STATE OF TEXAS WILL PERMIT "UNIT PRICE" ADJUSTMENTS UPWARDLY OR DOWNWARDLY WHEN CORRELATED WITH THE PRICE INDEX SPECIFIED HEREIN. UNLESS OTHERWISE INDICATED, THE PRICE INDEX SHALL BE THE SPECIFIED INDEX AS PUBLISHED BY THE BUREAU OF LABOR STATISTICS, WASHINGTON, DC 20212. THE BASELINE INDEX SHALL BE THE INDEX ANNOUNCED FOR THE MONTH IN WHICH THE BIDS OPENED. UNIT PRICES MAY BE ADJUSTED FOR EACH RENEWAL PERIOD IN ACCORDANCE WITH CHANGES IN INDEX. THE ALLOWABLE PERCENT CHANGE SHALL BE CALCULATED BY SUBTRACTING THE BASELINE INDEX FROM THE INDEX ANNOUNCED FOR THE MONTH IN WHICH THE RENEWAL OPTION IS EXERCISED AND DIVIDING THE RESULT BY THE BASELINE INDEX. THE ALLOWABLE PERCENT CHANGE SHALL BE ROUNDED TO THE NEAREST ONE-HUNDREDTH OF ONE PERCENT AND SHALL BE THE MAXIMUM UNIT PRICE ADJUSTMENT PERMITTED, EXCEPT THAT THE VENDOR MAY OFFER PRICE DECREASES IN EXCESS OF THE ALLOWABLE PERCENT CHANGE. PRICE INCREASES FOR THE FIRST AND SECOND EXTENSION PERIODS WILL BE BASED ON THE CPI-W.</p>					



INVITATION FOR BID

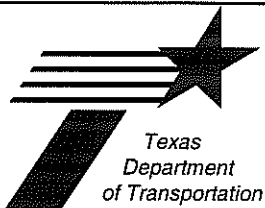
08/ 7/2007

SOLICITATION NO: Q442007050722000

OPENING DATE 03:00PM Aug 30, 2007

To:	Return Sealed Response To:
	TEXAS DEPARTMENT OF TRANSPORTATION GENERAL SERVICES DIVISION PURCHASING SECTION 125 E 11TH ST AUSTIN TX 78701-2483
VENDOR ID:	BUYER: 887 – JAMES X GONZALEZ Q 050722

Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
	<p>PLEASE PROVIDE A VENDOR POINT- OF- CONTACT FOR SERVICES: NAME _____</p> <p>TELEPHONE _____</p> <p>FOR CLARIFICATION OF THE SPECIFICATION OF THIS REQUISITION, BIDDERS MAY CONTACT:</p> <p>PURCHASER: JAMES GONZALEZ TELEPHONE: 512-374-5434 EMAIL: JGONZ19@DOT.STATE.TX.US</p> <p>THE INDIVIDUAL LISTED ABOVE MAY BE TELEPHONED OR VISITED FOR CLARIFICATION OF THE SPECIFICATIONS ONLY. NO AUTHORITY IS INTENDED OR IMPLIED THAT SPECIFICATIONS MAY BE AMENDED OR ALTERNATIVES ACCEPTED TO BID OPENING WITHOUT WRITTEN APPROVAL.</p> <p>THE BID OPENING WILL BE HELD AT THE TEXAS DEPARTMENT OF TRANSPORTATION, GENERAL SERVICES DIVISION, PURCHASING SECTION, 3800 JACKSON AVE. BLDG. 5, 1ST FLOOR, ROOM B-107, AUSTIN, TEXAS</p> <p>A MAXIMUM OF 15 PURCHASE ORDERS MAY BE AWARDED.</p> <p>TEXAS HUB SUBCONTRACTING PLAN</p> <p>THE TEXAS DEPARTMENT OF TRANSPORTATION HAS DETERMINED THAT SUBCONTRACTING OPPORTUNITIES UNDER 1 TAC 111.14 ARE NOT AVAILABLE FOR THIS SOLICITATION.</p>					



INVITATION FOR BID

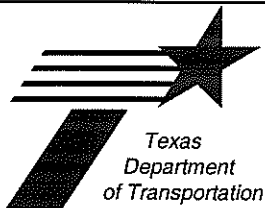
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SOLICITATION NO: Q442007050722000

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VENDOR ID:	BUYER: 887 – JAMES X GONZALEZ Q 050722

Item No.	Item Description	Quantity	Unit	Make/Model	Unit Price	Extended Price
	<p>PREFERENCE AND VENDOR ID NUMBER CHECK BELOW IF PREFERENCE CLAIMED UNDER RULE 1TAC 113.8.</p> <p>TIE-BID PREFERENCES <input type="checkbox"/> SUPPLIES, MATERIALS OR EQUIPMENT PRODUCED IN TEXAS OR OFFERED BY A TEXAS BIDDER <input type="checkbox"/> AGRICULTURAL PRODUCTS PRODUCED OR GROWN IN TEXAS <input type="checkbox"/> AGRICULTURAL PRODUCTS AND SERVICES OFFERED BY TEXAS BIDDER <input type="checkbox"/> USA PRODUCED SUPPLIES, MATERIAL OR EQUIPMENT <input type="checkbox"/> PRODUCTS PRODUCED AT FACILITIES LOCATED ON FORMERLY CONTAMINATED PROPERTY <input type="checkbox"/> PRODUCTS AND SERVICES FROM ECONOMICALLY DEPRESSED OR BLIGHTED AREAS</p> <p>SOURCE PREFERENCES <input type="checkbox"/> PRODUCTS OF PERSONS WITH MENTAL OR PHYSICAL DISABILITIES <input type="checkbox"/> VENDORS THAT MEET OR EXCEED AIR QUALITY STANDARDS. FOR CONTRACTS TO BE PERFORMED, IN WHOLE OR IN PART, IN A DESIGNATED NONATTAINMENT AREA OR AN AFFECTED COUNTY, AS THOSE TERMS ARE DEFINED BY SECTION 386.001, HEALTH AND SAFETY CODES.</p> <p>SPECIFICATION PREFERENCES <input type="checkbox"/> PRODUCTS MADE OF RECYCLED MATERIALS, REMANUFACTURED, OR ENVIRONMENTALLY SENSITIVE MATERIALS INCLUDING RECYCLED STEEL</p>					



INVITATION FOR BID

08/ 7/2007

SOLICITATION NO: Q442007050722000

OPENING DATE 03:00PM Aug 30, 2007

To: _____ **Return Sealed Response To:** _____

_____ TEXAS DEPARTMENT OF TRANSPORTATION
 _____ GENERAL SERVICES DIVISION
 _____ PURCHASING SECTION
 _____ 125 E 11TH ST
 _____ AUSTIN TX 78701-2483

VENDOR ID: _____ **BUYER: 887 - JAMES X GONZALEZ Q 050722**

Item No.	Item Description	Quantity	Unit	Make/ Model	Unit Price	Extended Price
	<p> __ ENERGY EFFICIENT PRODUCTS __ RUBBERIZED ASPHALT PAVING MATERIALS __ RECYCLED MOTOR OIL AND LUBRICANTS </p> <p> IF THE NAME OF YOUR COMPANY IS NOT PRINTED ON THE HEADING OF THIS SOLICITATION, YOU MUST WRITE THE FULL NAME OF COMPANY, FULL NAME OF SIGNER, MAILING ADDRESS AND RESPONDENT S EMPLOYER IDENTIFICATION NUMBER (EIN) ON THE FACE OF THE SOLICITATION. </p> <p> IN AN EFFORT TO MINIMIZE IDENTITY THEFT, EVERY COMPANY MUST HAVE AN EMPLOYER IDENTIFICATION NUMBER (EIN), ALSO KNOWN AS A FEDERAL TAX IDENTIFICATION NUMBER, PRIOR TO AWARD OF A CONTRACT. </p> <p> FOR INFORMATION ON OBTAINING YOUR EIN YOU MAY CALL 800-829-4933 OR VISIT THE FOLLOWING WEBSITE: HTTP://WWW.IRS.GOV/BUSINESSES/SMALL/ </p>					

TEXAS DEPARTMENT OF TRANSPORTATION
GENERAL SERVICES DIVISION

SPECIFICATION NO.
TxDOT 905-14-40
DATED: AUGUST 2007

CONTRACTED CO-PILOT SERVICES
PUBLICATION

This specification is a product of the Texas Department of Transportation (TxDOT). It is the practice of TxDOT to support other entities by making this specification available through the National Institute of Governmental Purchasing (NIGP). This specification may not be sold for profit or monetary gain. If this specification is altered in any way, the header, and any and all references to TxDOT must be removed. TxDOT does not assume nor accept any liability when this specification is used in the procurement process by any other entity.

1. SCOPE: This solicitation is an Invitation for Bid (IFB) to provide contracted co-pilot services for TxDOT's Aviation Division.
2. APPLICABLE LAWS AND STANDARDS: The vendor shall provide service in accordance with all federal, state and local applicable laws, standards and regulations necessary to perform the services, including, but not limited to:
 - 2.1. Texas Government Code 612, Section 612.002
 - 2.2. 14 CFR, Parts 1, 61, 63, 67, 91
 - 2.3. 49 CFR. Subtitle A - Office of the Secretary of Transportation
 - 2.4. Federal Aviation Act of 1958 (49 U.S.C. Section 1422, latest version)
 - 2.5. TxDOT Flight Operations Manual [For copies of the manual, please contact the TxDOT Aviation Division, Flight Services Section at (512) 936-8900]
 - 2.6. All applicable aircraft pilot operating handbooks
3. BACKGROUND: TxDOT currently has four full-time pilots. TxDOT Flight Services policy requires there be two pilots on each flight. There are instances when two or more flights are scheduled concurrently and in order to stay in compliance with the TxDOT Flight Services policy, TxDOT must utilize contracted co-pilot services.
 - 3.1. All flights originate and terminate in Austin (KAUS). The large majority of all flights are one day trips and are passenger generated. Emergency logistical movements may occur (such as those associated with hurricane relief or contra-flow operations).
 - 3.2. TxDOT's fleet consists of the following high performance multiple propeller aircraft: King Air 200 and Cessna 425 Conquest.
4. RESPONDENT QUALIFICATIONS: The respondent shall:
 - 4.1. Be a company or an individual engaged in the business of providing commercial piloting services for a minimum of three years within the last five years.
 - 4.2. Be or provide a co-pilot that has a minimum of 2,000 flight hours experience and possess a minimum of the following Federal Aviation Administration (FAA) issued certificates and ratings:
 - 4.2.1. Commercial Pilot Certificate
 - 4.2.2. Instrument Rating
 - 4.2.3. Multi-Engine (Land), Rating

- 4.3. Have or provide a co-pilot that has a current FAA Class II Medical Certificate.
5. REFERENCES: Respondent shall references for all identical and similar services, which are alike in size and scope that verify the qualifications and experience requirements for services completed within the past 24 months. References shall illustrate respondent's ability to provide the services outlined in the specification. References shall include name, point of contact, telephone number, and dates services were performed. The response may be disqualified if TxDOT is unable to verify qualification and experience requirements from the respondent's references. The response may be disqualified if TxDOT receives negative responses. TxDOT will be the sole judge of references (Ref. Schedule 2 – References).
6. VENDOR REQUIREMENTS: The vendor or vendor's co-pilot shall:
 - 6.1. Adhere to the TxDOT Terms and Conditions identified in the solicitation.
 - 6.2. Be evaluated by a TxDOT evaluator pilot prior to being released for revenue operations.
 - 6.3. Maintain 90-day currency (three takeoffs and three landings).
7. SERVICE REQUIREMENTS: The vendor or vendor's co-pilot shall:
 - 7.1. Report one hour prior to the scheduled departure.
 - 7.2. Be responsible to the aircraft Captain.
 - 7.3. Execute pre-flight planning activities as directed by the aircraft Captain.
 - 7.4. Be certified to fly high performance multiple propeller aircraft, including but not limited to, aircraft in TxDOT's current fleet.
8. WORK HOURS
 - 8.1. Work hours for performance of the service are defined by Chapters 1 and 4 of the TxDOT Flight Operations Manual pertaining to Crew Rest and Duty Day/Time Limitations.
 - 8.2. Work hours will be based on flight scheduling and TxDOT requirements. Work hours will be determined by designated TxDOT representative.
 - 8.3. CANCELLATION OF FLIGHT: In the event that a scheduled flight is cancelled, TxDOT Aviation Division's Flight Operations will immediately contact the co-pilot and notify him/her of the cancellation. Reimbursement for services will only be paid if the co-pilot is at the airport when notified of the cancellation.
9. TRAVEL: If TxDOT requires the vendor or vendor's co-pilot to travel overnight during the performance of this purchase order, TxDOT will reimburse the vendor or vendor's co-pilot for all approved travel expenses. These expenses shall be clearly detailed and receipts attached to the invoice.
 - 9.1. Reimbursable travel expenses include: hotel accommodations and meals.
 - 9.2. Reimbursement will be at current legislated rates and comply with the current Texas Mileage Guide and Texas State Travel Guide. These guides are located through the *Window on State Government* located at:

www.window.state.tx.us/comptrol/texastra.html

www.window.state.tx.us/fm/pubs/travallow
10. INVOICING INSTRUCTIONS: The vendor shall provide a comprehensive and detailed invoice with reference to the basis for each item charged. Original documentation that validates the charges shall be attached. The original invoice shall be mailed to the address shown on the purchase order and shall include the following:
 - 10.1. Purchase order number.

- 10.2. Vendor Employer Identification Number (EIN).
- 10.3. Date and time of service.
- 10.4. Location of service.
- 10.5. Co-pilot's name
- 10.6. Invoices that require correction(s) shall be re-submitted with a new invoice date.
11. TXDOT RESPONSIBILITIES: TxDOT will:
 - 11.1. Provide a contract manager and point-of-contact.
 - 11.2. Provide contract administration, perform periodic audits or field reviews as needed to ensure the vendor is operating under the requirements of state law and the terms of the purchase order.
 - 11.3. Contact the co-pilot via a "rotating list". TxDOT reserves the right to rotate co-pilots as needed. Selection of co-pilot may be based on factors, including but not limited to, experience, availability, familiarity with aircraft, prior assignments, level of success, and satisfaction of service provided. Co-pilot will be contacted as soon as a flight has been identified and the requirement is determined. Some flights are scheduled as much as one week in advance, however most are identified with less than 24 hours notice. The list of approved co-pilots will be maintained in TxDOT Aviation Division's Flight Operations.
 - 11.4. Schedule all flights and coordinate with available co-pilots.
 - 11.5. Track flights and flight hours of all contracted co-pilots.
 - 11.6. Make hotel reservations on all overnight trips, if required.
12. RESPONSE SUBMISSION: The following shall be submitted with the response:
 - 12.1. Original, signed, dated, and completed IFB.
 - 12.2. Schedule 1 – Profile and Qualifications (Note: include copies of certifications and ratings)
 - 12.3. Schedule 2 – References
13. AWARD: Multiple purchase orders will be awarded from this solicitation. Awards will be made to the most responsive and responsible respondents meeting TxDOT service requirements.
14. CONTRACT ADMINISTRATION: Administration of the purchase order is a joint responsibility of the TxDOT Aviation Division and TxDOT Purchasing. TxDOT Purchasing staff will be responsible for administering the contractual business relationship with the vendor.
 - 14.1. Any proposed changes to work to be performed, whether initiated by TxDOT or the vendor, must receive final written approval in the form of a purchase order change notice signed by the authorized TxDOT purchasing agent.
 - 14.2. Upon issuance of purchase order, TxDOT will designate an individual who will serve as the Contract Manager and point-of-contact between the agency and the vendor. The Contract Manager does not have any express or implied authority to vary the terms of the purchase order, amend the purchase order in any way or waive strict performance of the terms or conditions of the purchase order. This individual's contract management and contract administration responsibilities include, but are not limited to:
 - 14.2.1. Monitoring the vendor's progress and performance and ensuring services conform to established specification requirements.
 - 14.2.2. Managing the financial aspects of the contract including approval of payments.
 - 14.2.3. Meeting with the vendor as needed to review progress, discuss problems, and consider necessary action.

- 14.2.4. Identifying a breach of contract by assessing the difference between contract performance and non-performance.
- 14.2.5. Other areas as identified by the Texas Building and Procurement Commission State of Texas Contract Management Guide, latest edition.

ATTACHMENT A
MINIMUM RESPONSE SUBMISSION REQUIREMENTS
(PROVIDED FOR INFORMATION ONLY)

Respondent: _____

Reviewed Minimum Response Submission Requirements: _____

RESPONSE SUBMISSION REQUIREMENTS	YES	NO	COMMENTS
1. Signed and dated Invitation for Bid (IFB) (Para. 12.1.)			
2. Schedule 1 - Profile and Qualifications (Para. 4 and Para.12.2.) <ul style="list-style-type: none"> A. Minimum Three Years of Piloting Services within the last Five years B. Minimum 2000 Flight Hours C. Commercial Pilot Certificate D. Instrument Rating Certificate E. Multi-Engine (Land) Rating F. FAA Class II Medical Certificate 			
3. Schedule 2 – References (Para. 12.3.)			

SCHEDULE 1
PROFILE AND QUALIFICATIONS

The Respondent shall complete one profile not to exceed 1 page. Respondent shall use this schedule or a facsimile to clearly show how they meet the requirements set forth in the response submission, Paragraph 12.2.

Respondent Name:	
Addresses: Physical: Mailing:	
Phone Number: Fax Number:	
Number of years in business and scope of operation.	
Name and title of person signing the response:	

This form may be modified as needed to comply with the requirement to document company information.

QUALIFICATIONS AND REQUIREMENTS	# YRS EXP.	HOW/WHERE OBTAINED
NUMBER OF YEARS PILOTING EXPERIENCE:		
NUMBER OF FLIGHT HOURS:		
LICENSES, CERTIFICATES, OR RATINGS (Respondent shall submit copies of the following): A. Commercial Pilot Certificate B. Instrument Rating C. Multi-Engine (Land) Rating D. FAA Class II Medical Certificate		

TxDOT reserves the right to reject the response if references or past working performance are questionable or unfavorable.

THIS PAGE OR A REASONABLE FACSIMILE SHALL BE RETURNED WITH THE RESPONSE. FAILURE TO RETURN THIS PAGE OR A REASONABLE FACSIMILE WILL RESULT IN THE RESPONSE BEING CONSIDERED NON-RESPONSIVE.

SCHEDULE 2
REFERENCES

RESPONDENT: _____

Company Name:		
Address:		
City:	State:	Zip Code:
Phone Number:	Fax Number:	
Point of Contact:		

Reference Response (to be filled in by TxDOT):

Company Name:		
Address:		
City:	State:	Zip Code:
Phone Number:	Fax Number:	
Point of Contact:		

Reference response:

Company Name:		
Address:		
City:	State:	Zip Code:
Phone Number:	Fax Number:	
Point of Contact:		

Reference response:

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

**TEXAS DEPARTMENT OF TRANSPORTATION
TERMS AND CONDITIONS**

PART I

GENERAL TERMS AND CONDITIONS

Part I of the General Terms and Conditions shall apply to all solicitations [Request for Quote (RFQ), Invitation for Bids (IFB), Request for Offer (RFO) and Request for Proposal (RFP)] offered by the Texas Department of Transportation (TxDOT). Parts II and III are solicitation specific additions to Part I.

This procurement falls under the statutory authority of Texas Government Code (TGC), Title 10, Subtitle D, Section 2151, et seq. (commonly known as the "Purchasing Act"). The purchasing procedures include statutory requirements and those requirements established by rule of the Texas Building and Procurement Commission (TBPC) as contained in TBPC Rule 1TAC 113.1, et seq.

All purchases are on a firm, fixed price basis unless otherwise stated in the solicitation.

The purchase order may contain a "Total Cost Not to Exceed" statement. Vendor shall not perform any work that may exceed either the purchase order total or the not-to-exceed total without prior written authorization from TxDOT.

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

1. REQUIREMENTS AND ADDITIONAL INFORMATION

- 1.1. Our system requires pricing per unit shown and extensions. Unit prices shall govern in the event of extension errors. If a trade discount is offered on the solicitation response, it should be deducted and net line extensions shown.
- 1.2. Respondent guarantees product offered will meet or exceed specifications identified in this solicitation.
- 1.3. The respondent shall submit the number of responses required and in the manner stated in the specification or on the solicitation. Ring binders or excessive information are not preferred. Responses may be tab indexed.
- 1.4. Response should be submitted on the solicitation form. If submitting multiple responses, each response should be placed in a separate envelope, correctly identified with the solicitation number and opening/closing date. Response must be time stamped in TxDOT's Mail Room or hand delivered to the address on the solicitation before the hour and date specified for the solicitation opening/closing.
- 1.5. Late responses will not be considered under any circumstances. Correctly identified late responses will be returned to respondent.
- 1.6. Documentation provided with the response should be complete and comprehensive. TxDOT will not be responsible for locating or securing information not included in the response. Failure to furnish required documentation with the response may result in the response being deemed incomplete and non-responsive, resulting in rejection. TxDOT will not be responsible for any expenses relating to responses or development of documentation that may result from this solicitation.
- 1.7. All prices shall be F.O.B. destination, freight prepaid and allowed. This means the vendor shall prepay and include the freight charges in the unit price.
- 1.8. All prices shall be firm for acceptance for thirty (30) days from solicitation response date unless otherwise stated in the solicitation. "Discount from list" pricing is not acceptable unless requested. Cash discount will not be considered in determining the low response; however, all cash discounts offered will be taken if earned. Price(s) shall not increase during the term of the purchase order or the agreement unless otherwise stated in the specification. Vendor shall offer price reductions to TxDOT that result from reduced cost to the vendor during the term of the purchase order.

* This Revision Supersedes Previous Revision, Revised: September, 2006.

- 1.9. Failure to sign the solicitation manually in the required space will disqualify the response. The person signing the response must have authorization to bind the company in contract. Solicitation response shall include Texas Identification Number (TIN), full firm name and address of company. The TIN is the taxpayer number assigned and used by the Comptroller of Public Accounts of Texas. Enter this TIN in the space provided on the solicitation.
- 1.10. Any alterations made before opening/closing date and time shall be initialed by respondent or authorized agent. Response cannot be altered or amended after opening/closing date and time.

A response may be withdrawn if requested in writing prior to the opening/closing date and time. A response may be withdrawn from consideration after the opening/closing date only with the approval of TxDOT based on respondent's written, acceptable reason. The response will not be considered for award but will be retained by TxDOT according to the Response Information Confidentiality provision.
- 1.11. At the time of opening/closing for negotiated solicitations, only the names of respondents will be announced. Prices will not be disclosed.
- 1.12. Persons with special needs or disabilities who plan to attend any prebid conference or bid opening and who require auxiliary aids or service should contact the individual noted on the solicitation as the point of contact at least 3 days prior to meeting so appropriate arrangements can be made.
- 1.13. Purchases made for State use are exempt from the State Sales tax and Federal Excise tax. Do not include tax in response unless otherwise specified in the solicitation. Excise Tax Exemption Certificate will be furnished by TxDOT on request.
- 1.14. TxDOT reserves the right to accept or reject all or any part of any response, waive minor technicalities and make award to best serve the interests of the State. TxDOT reserves the right to reject any response not prepared and submitted in accordance with the solicitation requirements.
- 1.15. In compliance with the provisions of Texas Government Code, Title 10, Subtitle D, Section 2155.074, Section 2155.075, Section 2156.007, Section 2157.003 and Section 2157.125, and Texas Administrative Code, Title 1, Chapter 113.6, information obtained from the Texas Building and Procurement Commission's Vendor Performance Tracking System (<http://www.tbpc.state.tx.us/stpurch/venvpts.html>) may be used in evaluating responses to solicitations for goods and services to determine the best value for the state.

TxDOT reserves the right NOT to consider a response from a bidder whose goods or services to TxDOT have been documented as unsatisfactory in providing the same goods or service.
- 1.16. Consistent and continued tie response pricing may lead to rejection of the response by TxDOT and/or investigation for antitrust violations.
- 1.17. Facsimile (FAX) responses may be submitted to the FAX number provided in the solicitation for procurements less than \$25,000, unless otherwise stated in the solicitation. For procurements \$25,000 and greater, FAX responses will not be considered unless otherwise stated in the solicitation. All FAX responses must be signed in space provided in the solicitation. TxDOT will not be responsible for failure of electronic equipment or operator error. Responses that are late, illegible, incomplete, or otherwise non-responsive will not be considered.
- 1.18. It is the intent of TxDOT to purchase goods, equipment, and services having the least adverse environmental impact within the constraints of statutory purchasing requirements, departmental need, availability, and sound economical considerations. TxDOT encourages suggested changes and environmental enhancements for possible inclusion in future revisions of this specification.
- 1.19. TxDOT is committed to maintaining an alcohol-, drug-, and firearm-free workplace. Possession, use, or being under the influence of alcohol or controlled substances by vendor's employees while in the performance of any service is prohibited. Violation of this requirement shall constitute grounds for cancellation of the purchase order. Vendor's employees shall comply with TxDOT's policy prohibiting smoking in TxDOT buildings.
- 1.20. All work by the vendor shall be performed between the hours of 8:00 a.m. and 5:00 p.m., unless otherwise specified, only on working days observed by TxDOT. Working days are usually Monday through Friday of each week.

- 1.21. **Response Information Confidentiality:** All information submitted with a response is subject to and will be handled in accordance with the Texas Public Information Act, Government Code, Chapter 552. The Act allows the public to have access to information in the possession of a governmental body through an open records request. Therefore, the respondent must clearly identify in the response any confidential or proprietary information. Proprietary information identified by the respondent in the response, will be kept confidential by TxDOT to the extent permitted by state law. TxDOT will use best efforts to give the respondent or the awarded vendor an opportunity to present its arguments to the Office of the Attorney General why the identified confidential or proprietary information should not be disclosed.

All information submitted in a response must be retained by TxDOT for the period specified in TxDOT's record retention schedule created under Government Code, Chapter 441. The information may not be returned to the respondent.

2. SPECIFICATIONS

- 2.1. The goods furnished or service performed shall be in accordance with the purchase specifications. TxDOT will decide all questions, which may arise as to the interpretation of the specifications and the quality, or acceptability of goods furnished or work performed. If the solicitation is for a service, TxDOT will decide the manner of performance and the rate of progress of the work and the acceptable fulfillment of the service on the part of the vendor.
- 2.2. Any catalog, brand name or manufacturer's reference used in the solicitation is descriptive only (not restrictive), and is used to indicate type and quality desired. Responses on brands of like nature and quality will be considered unless advertised as proprietary or sole source under Texas Government Code (TGC), Title 10, Subtitle D, Section 2155.067. Show manufacturer, brand or trade name, and other description of product offered on response. If offer is for other than example(s) shown, include illustrations and complete description of product in the solicitation response. If respondent takes no exception to specifications or reference data in the response, the vendor will be required to furnish brand names, numbers, etc., as specified.
- 2.3. Unless otherwise specified, all items offered shall be new and in first class condition, including shipping and storage containers. Verbal agreements to the contrary will not be recognized.
- 2.4. Product samples, when requested, must be furnished at no cost to TxDOT. If not destroyed in examination or testing, product samples will be returned upon request, at respondent's expense. Each product sample shall be marked with respondent's name and address, and TxDOT solicitation number. Do not enclose in or attach response to product sample.
- 2.5. TxDOT will not be bound by any oral statement or representation contrary to the written specifications of this solicitation. Any revision, clarification, or interpretations pertaining to this solicitation will be in writing and issued by TxDOT as an Addendum. Any changes or interpretation not in an Addendum will not legally bind TxDOT.
- 2.6. Manufacturer's standard warranty shall apply unless otherwise stated in this solicitation.
- 2.7. All electrical items shall meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC, or NEMA.
3. **TIE RESPONSES:** Award will be made in accordance with Rule 1 Texas Administrative Code (TAC) Section 113.6 (3) and 113.8 (Preferences). **In case of tie bids, one or more preferences described in TAC Rule 113.8 and listed below will be used to make and award. Tie bids which cannot be resolved by application of one or more preferences shall be made by drawing lots.**
4. **PREFERENCES** A respondent may claim a preference under Rule 1TAC 113.8. To claim a preference, a respondent shall identify the preference, on the face of the solicitation. If the appropriate area on the solicitation is not marked, a preference will not be granted unless other documents included in the bid show a right to the preference.

Preferences may be claimed for the following:

Tie-Bid Preferences

- ◆ Supplies, materials or equipment produced in Texas or offered by a Texas bidder
- ◆ Agricultural products **produced or** grown in Texas
- ◆ Agricultural products **and services** offered by Texas bidder
- ◆ USA produced supplies, material or equipment
- ◆ Products produced at facilities located on formerly contaminated property
- ◆ Products and services from economically depressed or blighted areas

Source Preference

- ◆ Products of persons with mental or physical disabilities
- ◆ Vendors that meet or exceed air quality standards. For contracts to be performed, in whole or in part, in a designated nonattainment area or an affected county, as those terms are defined by §386.001, health and safety codes.

Specification Preferences

- ◆ Products made of recycled materials, remanufactured, or environmentally sensitive materials including recycled steel
- ◆ Energy efficient products
- ◆ Rubberized asphalt paving materials
- ◆ Recycled motor oil and lubricants

5. **DELIVERY**

- 5.1. Response should show number of *days* required to place material, or begin service (if required), at TxDOT's designated location under normal conditions. Failure to state delivery time obligates vendor to complete delivery in 14 calendar days. Unrealistic delivery promises may cause response to be rejected.
- 5.2. If delay is foreseen, vendor shall give written notice to TxDOT. TxDOT has the right to extend delivery date if reasons appear valid. Vendor shall keep TxDOT advised at all times of status of order. Default in promised delivery (without accepted reasons) or failure to meet specifications, authorizes TxDOT to purchase goods or services elsewhere and charge full increase, if any, in cost and handling to defaulting vendor.
- 5.3. No substitutions or cancellations permitted without written approval of TxDOT.
- 5.4. Delivery shall be made during normal working hours only, unless prior approval has been obtained from TxDOT or otherwise stated in solicitation.
- 5.5. Receipt of goods does not constitute acceptance.

6. **INSPECTIONS AND TESTS:** Goods and services will be subject to inspection and test by TxDOT to the extent practicable at all times and places. Tests will be performed on samples submitted with the response or on samples taken from regular shipment. In the event samples tested fail to meet or exceed all conditions and requirements of the specification, the cost of the sample used and the cost of the testing shall be borne by the vendor. Goods which have been delivered and rejected in whole or in part may at TxDOT's option, be returned to the vendor or held for disposition at vendor's risk and expense. Authorized TxDOT personnel shall have access to any vendor's place of business for the purpose of inspecting goods and services. Latent defects may result in revocation of acceptance.

7. **AWARD OF PURCHASE ORDER:** A response to a solicitation is an offer to contract with TxDOT based upon the terms, conditions and specifications contained in the solicitation. Responses do not become contracts unless and until they are accepted through an authorized TxDOT designee by issuance of a purchase order.

- 7.1. **BEST VALUE CRITERIA FOR PURCHASE OF GOODS OR SERVICES** – When specified in the solicitation, the factors listed in Texas Government Code, Title 10, Subtitle D, Section 2155.074 will also be considered in making a *best value* award. This section allows TxDOT to develop and apply award evaluation criteria for a procurement in order to obtain goods and services that provide the *best value* for TxDOT.

In determining *best value*, other relevant factors may be considered in addition to purchase price and whether the product meets specifications. Those factors are:

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

Under these guidelines, a vendor is not automatically awarded a purchase order simply because they submit the lowest bid response.

- 7.2. Any purchase order resulting from this solicitation is subject to cancellation without penalty, either in whole or in part, if funds are not appropriated by the Texas Legislature. The purchase order for this procurement shall be governed, construed and interpreted under the laws of the State of Texas.
- 7.3. The purchase order is void if sold or assigned to another company without written approval of TxDOT. Written notification of changes to company name, address, telephone number, etc. shall be provided to TxDOT as soon as possible but not later than 30 days from the date of change.

8. **PAYMENT:** Payment will be made in accordance with the Texas Prompt Payment Law, TGC, Subtitle F, Chapter 2251. Vendor shall submit two copies of a correct itemized invoice showing the purchase order number, payee I.D., remit to address, and phone number on all copies. TxDOT will incur no penalty for late payment if payment is made in thirty (30) days or less from receipt of goods or services and a correct invoice, whichever is later.

NOTE: Warrants will not be issued to a vendor without a current Texas Identification Number and will be held by the State Comptroller if there is a tax liability.

9. **TRADEMARKS, COPYRIGHTS, PATENTS AND INTELLECTUAL PROPERTY:** When applicable, each vendor shall obtain necessary permissions, copyrights, trademarks or patents for TxDOT. The vendor agrees to protect TxDOT and the State from claims involving infringement of permissions, copyrights, trademarks or patents. The vendor shall not assert rights at common law or in equity or establish any claim to intellectual property, including, but not limited to, any permissions, statutory copyright any material or information or claim any patent developed in performance of the services authorized. TxDOT will own all rights and has the right to use, reproduce or distribute any or all of such information and other materials without the necessity of obtaining any permission from the vendor and without expense and charge. The vendor agrees to indemnify, hold harmless and defend TxDOT and the State from claims involving infringement of permissions, trademarks, copyrights or patents at the vendor's expense.
10. **VENDOR ASSIGNMENTS:** Vendor hereby assigns purchaser any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States (15 U.S.C.A. Section 1, et seq. [1973]), and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Comm. Code Ann. Sec. 15.01, et seq. (1967). Inquiries pertaining to this solicitation must give solicitation number and opening/closing date.
11. **RESPONDENT AFFIRMATION:** Signing this solicitation with a false statement is a material breach of contract and shall void the submitted response or any resulting contracts, and the respondent shall be removed from all solicitation lists. By signature hereon affixed, the respondent hereby certifies that:
- 11.1. The respondent has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response.
- 11.2. Under TGC, Title 10, Subtitle D, Section 2155.004, the respondent certifies that the individual or business entity named in this response is eligible to receive the specified contract and acknowledges that this contract may be terminated and/or payment withheld if this certification is inaccurate.
- 11.3. Neither the respondent nor the firm, corporation, partnership, or institution represented by the respondent, or anyone acting for such firm, corporation or institution has violated the antitrust laws of this state, codified in Section 15.01, et. seq., Texas Business and Commerce Code, or the Federal Antitrust Laws, nor communicated directly or indirectly the solicitation made to any competitor or any other person engaged in such line of business.
- 11.4. The respondent has not received compensation for participation in the preparation of the specification for this solicitation.
- 11.5. Under TGC, Title 5, Subtitle D, Section 231.006, Family Code (relating to child support), the individual or business entity named in this solicitation is eligible to receive the specified payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.
- 11.6. Under TGC, Section 669.003, TxDOT may not enter into a contract with an individual who was the executive director of TxDOT during the four years before the date of the contract, or with anyone who employs a current or former TxDOT executive director, unless the Transportation Commission approves the contract in an open meeting.
- If Section 669.003 applies, respondent must provide the following information as an attachment to this solicitation response: Name of former TxDOT executive director, date of separation from TxDOT, position with respondent, and date of employment with respondent.
- 11.7. If applicable, pursuant to Texas Family Code, Title 5, Subtitle D, Section 231.006(d), regarding child support, the respondent certifies that the individual or business entity named in the response is not ineligible to receive the specified payment and acknowledges that this purchase order may be terminated and payment may be withheld if this certification is inaccurate. Furthermore, any respondent subject to Section 231.006 must include names and Social Security numbers of each person with at least 25% of ownership of the business entity submitting the response. This information must be provided prior to award.
- 11.8. Respondent agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.

- 11.9. Respondent agrees to comply with TGC, Title 10, Subtitle D, Section 2155.4441, pertaining to service contract use of products produced in the state of Texas.
- 11.10. Respondent certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <http://www.epls.gov>.
12. **TITLE VI AFFIRMATIONS:** The vendor affirms, with regard to the work performed by it during the purchase order:
- 12.1. Vendor shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The vendor shall not participate either directly or indirectly in the discrimination, including employment practices.
- 12.2. In any solicitations for subcontractors, including procurements of materials or leases of equipment and in all solicitations either by competitive bidding or negotiation made by the vendor for work to be performed under a subcontract, each potential subcontractor or supplier shall be notified by the vendor of the vendor's obligations under its purchase order relative to nondiscrimination on the grounds of race, color, or national origin.
13. **SUBCONTRACTING REQUIREMENTS:** In accordance with Texas Government Code, Title 10, Subtitle D, Sections 2161.181-182 and Texas Administrative Code (TAC), Title 1, Section 111.11 and pursuant to the Texas Building and Procurement Commission's (TBPC) HUB Rules, TAC, Title 1, Section 111.13 and 111.14, all state agencies entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine if it is probable for subcontracting opportunities under the contract. If subcontracting opportunities are probable the state agency will state such probability in its bids, proposals, offers, or other applicable expression of interest and require the submission of a Historically Underutilized Business (HUB) Subcontracting Plan (HSP). The HSP, if acceptable to the agency, will be a provision of the contract. The HSP, if required, may be found at <http://www.dot.state.tx.us/gsd/purchasing/purchasing.htm>.
14. **RESPONDENT EXCEPTIONS OR CONDITIONED RESPONSES:** Respondent exceptions and/or terms conditions attached to a response will not be considered unless specifically referred to and clearly identified as such within the response.
- NOTE: Such exceptions and/or terms and conditions may result in disqualification of the response (e.g., response with the laws of a state other than Texas, requirements for prepayment, limitations on remedies, etc.).**
15. **DISPUTE RESOLUTION:** TxDOT has established a dispute resolution process under 43 TAC § 9.1 to attempt to resolve all disputes that may arise between the department and the vendor under any purchase order resulting from this solicitation. The dispute resolution process provided for in TGC, Title 10, Subtitle F, Chapter 2260 must be used by TxDOT and the vendor to attempt to resolve all disputes arising under this contract.
16. **VENUE AND JURISDICTION:** Venue for any suit concerning this procurement and any resulting purchase order shall be in a court of competent jurisdiction in Travis County, Texas.
17. **VENDOR PERFORMANCE:** Vendors are advised that performance will be reported to the TBPC. In accordance with TGC, Title 10, Subtitle D, Chapters 2155.074 and 2155.075, vendor performance may be used as a factor in the award of a future solicitation.
18. **VENDOR RESPONSIBILITIES**
- 18.1. The vendor shall comply with all federal, state, and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any court or administrative bodies or tribunals in any matter affecting the performance of the purchase order, including if applicable, workers' compensation laws, minimum and maximum salary and wage statutes and regulations, and licensing laws and regulations. The vendor shall maintain all required licenses, certifications, etc. throughout the term of the purchase order. When required, the vendor shall furnish TxDOT with satisfactory proof of its compliance.
- 18.2. If TxDOT determines that any vendor personnel performing under this purchase order are unable to perform in accordance with the service requirements or to communicate effectively, or are, in the opinion of TxDOT, otherwise objectionable, the vendor shall immediately remove that person.
- 18.3. The vendor shall be responsible for damage to TxDOT's equipment, and/or the workplace and its contents, by its work, its negligence in work, its personnel, or its equipment. The vendor shall be responsible and liable for the safety, injury, and health of its working personnel while its employees are performing work for TxDOT.

- 18.4. The vendor shall provide all labor and equipment necessary to furnish the goods or perform the service. All employees of the vendor shall be a minimum of seventeen (17) years of age and experienced in the type of work to be performed. No visitors, wives, husbands, children or other relatives of the vendor's employees will be allowed on state property during working hours, unless they are bona fide employees of the vendor.
- 18.5. The vendor shall at all times have a minimum of one English-speaking employee on the job. All employees shall be well-groomed and appropriately dressed when on TxDOT property.
19. **DAMAGE CLAIMS:** The vendor shall defend, indemnify, and hold harmless the state of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of contractor or any agent, employee, subcontractor, or supplier of contractor in the execution or performance of this contract.
20. **CANCELLATION OF A PURCHASE ORDER**
- 20.1. **FOR CAUSE (ABANDONMENT OR DEFAULT):** If the vendor defaults on the purchase order, TxDOT reserves the right to cancel the purchase order without notice and either re-solicit or re-award the purchase order to the next lowest responsive and responsible respondent. The defaulting vendor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work unless the specification or scope of work is significantly changed.
- 20.2. **FOR CONVENIENCE:** The purchase order may be cancelled in whole or in part, without penalty, by either party by providing thirty (30) days written notice to the other party. TxDOT will pay the vendor the purchase order price prorated for acceptable service performed up to the date specified in the notice of cancellation. Termination under this paragraph shall not relieve the vendor of any obligation or liability that has occurred prior to cancellation. The vendor shall refund any balance of unused prepaid funds.
21. **FORCE MAJEURE:** TxDOT may grant relief from performance of the purchase order if the vendor is prevented from and/or performance by an act of war, order of legal authority, act of God, or other unavoidable cause not attributable to the fault or negligence of the vendor. The burden of proof for the need of such relief shall rest upon the vendor. To obtain release based on force majeure, the vendor shall file a written request with TxDOT.
22. **RIGHT TO AUDIT**
- 22.1. The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under this purchase order or indirectly through a subcontract under this purchase order. Acceptance of funds directly under this purchase order or indirectly through a subcontract under this purchase order acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Any entity subject of an audit or investigation by the state auditor agrees to provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.
- 22.2. TxDOT has the right to audit the vendor's books and records pertaining to the service during the hours of the normal workday.
23. **RENEWAL OF PURCHASE ORDER:** A blanket purchase order for goods may be renewed for the original price, terms and conditions, and any approved changes. Any changes will be clearly detailed in the amended purchase order.
24. **EXTENSION OF PURCHASE ORDER**
- 24.1. A purchase order in its final renewal period may be further extended for a period up to ninety (90) days at the option of TxDOT.
- 24.2. TxDOT reserves the right to extend a purchase order for time only past the stated term to allow the vendor to complete the requirements or to accommodate unanticipated events or requirements.
25. **SITE VISITS:** Prior to and after award of the purchase order, designated TxDOT representatives may conduct unannounced visits to inspect the vendor's facility during normal business hours to visit and inspect the vendor's facility, monitor compliance in accordance with TxDOT specifications or carry out performance audits of the service at any time during normal business hours.

26. **CONFIDENTIALITY CLAUSE:** TxDOT is governed by laws and regulations that make certain information confidential as well as specifying how public information is released. The vendor, its employees or subcontractors shall not divulge any information relative to TxDOT business at any time to a third party without the prior written approval of TxDOT. All information created by or accessible to a vendor while providing a good or service for TxDOT is confidential. If applicable to a service, upon award of a purchase order, the vendor may be required to complete and sign TxDOT Form 2110, Information Resource Confidentiality Agreement and Form 1828, Information Security Compliance Agreement.

PART II

PURCHASE OF SERVICES SPECIFIC TERMS AND CONDITIONS

1. **GENERAL:** The following applies to a solicitation for the purchase of services. These terms and conditions are in addition to those in Part I.
 - 1.1. If applicable to the service, TxDOT recommends that the respondent visit the site and examine the space and/or equipment to be serviced.
 - 1.2. The respondent shall carefully examine these specifications and, if necessary, secure additional information from the TxDOT purchaser that may be requisite to a clear and full understanding of the work.
 - 1.3. If products and/or materials are used in the performance of the service, the vendor shall buy Texas products and/or materials when they are available at a comparable price and delivery schedule.
2. **COMPETENCE OF VENDOR:** To be entitled to consideration, the vendor shall have available, the necessary organization and facilities to fulfill all the services required under the purchase order. Only personnel trained in services of this type shall be employed under and for the purchase order. Vendor shall obtain any licenses/permits required for the performance of the service.
3. **INDEMNIFICATION:** It is expressly understood and agreed to by both parties that TxDOT is contracting with the vendor as an independent contractor, and the vendor, as such, agrees to hold TxDOT harmless and to indemnify TxDOT from and against any and all claims, demands and causes of action of every kind and character which may be asserted by any third party, employee or subcontractor of the vendor out of or in connection with the activities to be performed by the vendor for TxDOT. Vendor understands and agrees that individuals performing services are not state employees.
4. **CHANGES IN WORK:** If TxDOT determines it necessary to require corrections to completed work due to errors made by the vendor, the vendor shall correct the work at no additional cost to TxDOT. If TxDOT requires changes in previously approved and completed work, the vendor shall make such changes as directed by TxDOT and will be compensated for such at the same rates established by each vendor's hourly rates.
5. **OWNERSHIP OF MATERIALS, PRODUCTIONS, AND DOCUMENTS**
 - 5.1. All property rights, including publication rights, to all products developed hereunder shall be retained by TxDOT.
 - 5.2. Vendor shall ensure that duplication and distribution rights are secured for TxDOT from all contractors and subcontractors.
 - 5.3. The vendor shall warrant that individuals or characters appearing or depicted in print, videotapes, or audiotapes have provided their written consent and have been compensated by each vendor for their appearance, if appropriate.
6. **RENEWAL OF SERVICES**
 - 6.1. The purchase order may be renewed for up to two additional periods of time, or as otherwise stated in the solicitation, provided both parties agree in writing to do so prior to the expiration of the purchase order.
 - 6.2. TxDOT requires a vendor to provide written justification to request a time only extension of a purchase order per Part I, Paragraph 24 above. TxDOT will approve or decline in writing.
7. **PAYMENT:** Payment will be made in accordance with Part I, Paragraph 8 using one of the following methods as specified on the solicitation.
 - 7.1. The service was completed to the satisfaction of TxDOT, and within thirty (30) days from receipt of a correct invoice or billing statement.
 - 7.2. On a monthly basis and within thirty (30) days from receipt of a correct invoice or billing statement.

7.3. As otherwise stated in the specifications or on the solicitation document.

- 8. **INSURANCE:** Prior to beginning work, the vendor shall provide TxDOT with a completed TxDOT Certificate of Insurance Form 20.102 or Form 1950 or Form 1560 (only TxDOT forms are acceptable) providing the below listed coverage. TxDOT shall be included as an Additional Insured by Endorsement to policies issued for coverage listed in Paragraphs 8.3 and 8.4.

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

Waiver of Subrogation Endorsement in favor of TxDOT shall be a part of each policy for coverage listed. TxDOT will allow deductible policies. The vendor shall pay the deductible amount. Required insurance coverage is specified on the solicitation document.

8.1. **WORKERS' COMPENSATION INSURANCE:** Amount – Statutory, Texas

8.1.1. The vendor is responsible for both Federal and State Unemployment Insurance coverage and Standard Workers' Compensation Insurance coverage. Vendor shall comply with all federal and state tax laws and withholding requirements.

8.2. **ACCIDENT INSURANCE:** This is acceptable, in lieu of Workers' Compensation Insurance, for services that are NOT provided on the highway right of way, and are NOT building or construction services. The successful bidder shall notify the purchaser responsible for the procurement to use this type of insurance and request the appropriate Form 1950. Required coverage shall be inclusive of the following:

- \$300,000 for medical expenses and coverage for at least 104 weeks;
- \$100,000 for accidental death and dismemberment, 70% of employee's pre-injury income for not less than 104 weeks when compensating for loss of income; and
- \$500 for maximum weekly benefit.

8.3. **COMMERCIAL GENERAL LIABILITY INSURANCE:** Bodily Injury/Property Damage each occurrence and in the aggregate:

8.3.1. \$325,000 **OR**

8.3.2. \$150,000

8.4. **TEXAS BUSINESS AUTOMOBILE POLICY**

8.4.1. Amounts – Bodily Injury \$100,000 each person
\$300,000 each occurrence

8.4.2. Property Damage \$ 25,000 each occurrence

PART III

CATALOG PURCHASE SPECIFIC TERMS AND CONDITIONS

1. **GENERAL:** The following terms and conditions apply to solicitations advertised under the Catalog Information Systems Vendor (CISV) Catalog Purchasing Program governed by TGC, Title 10, Subtitle D, Section 2157 and TBPC rule 1TAC 113.19. These terms and conditions supersede those in the CISV Catalog and are in addition to those in Part I and Part II as applicable.

2. **DEFINITIONS**

2.1. **REQUEST FOR OFFER (RFO):** This term is used to identify a solicitation issued to a CISV in order to obtain an offer and facilitate negotiations for prices, terms and conditions through the Catalog purchasing program.

2.2. **CATALOG INFORMATION SYSTEMS VENDOR (CISV):** A vendor that is compliant with TBPC's URL requirements listed at: [http://www.tbpc.state.tx.us/\\$4purch/cisvhtmlreg.html](http://www.tbpc.state.tx.us/$4purch/cisvhtmlreg.html) and provide automated information systems (AIS) type products and/or services to eligible entities in the state of Texas.

- 2.3. **BEST VALUE:** The lowest overall cost for Automated Information System (AIS) equipment or services will be based on the following factors including, but not limited to:
- purchase price
 - compatibility to facilitate exchange of existing data
 - capacity for expansion and upgrading to more advanced levels of technology
 - quantitative reliability factors
 - level of training required to bring end-users to a stated level of proficiency
 - technical support requirements for maintenance of data across a network platform and management of the networks hardware and software
 - compliance with applicable Department of Information Resources (DIR) statewide standards validated by criteria adapted by the department by rule TAC (1 TAC 113.9).
3. **VENDOR REQUIREMENTS:** Vendors that are not approved CISV, may respond to the RFO. However, vendors must seek CISV status and vendor shall be an approved CISV no later than the date TxDOT awards a purchase order. Vendors may check their status with the TBPC by calling 512-463-3459 or at <http://www.tbpc.state.tx.us/cmb/cmbhub.html>
4. **BEST VALUE CRITERIA:** Best value criteria will be used on all Catalog purchases. For purposes of determining the best value available, TxDOT will consider items, features, etc., which are in addition to requirements listed, as well as factors which, in TxDOT's opinion, add value to the product/service but are not specifically required within the specification.
5. **NEGOTIATIONS**
- 5.1. Negotiations for "best value" will occur with Catalog vendors, instead of making selections for goods and services based solely on the published prices, terms and conditions in the Catalogs.
- 5.2. During the evaluation phase, TxDOT reserves the right to conduct formal negotiations with the responsive respondent(s) judged to be the best offer pertaining to price, products, services and terms.
- 5.3. TxDOT will be the sole judge as to which offer is the most advantageous and in the best interest of TxDOT.
6. **TECHNOLOGY ACCESS CLAUSE:** "The Vendor 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 impairments. Accordingly, the Vendor represents and warrants to the Texas Department of Transportation that the technology provided to the Texas Department of Transportation 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:
- 6.1. providing equivalent access for effective use by both visual and non-visual means;
- 6.2. presenting information, including prompts used for interactive communications, in formats intended for non-visual use; and
- 6.3. being integrated into networks for obtaining, retrieving, and disseminating information used by individuals who are not blind or visually impaired.
- 6.4. For purposes of this paragraph, 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."
- 6.5. **EXEMPTION DECLARATION:** Pursuant to the provisions of the Texas Government Code, Chapter 2157.005(d) when the requirement specified on the solicitation is for the purchase of a wireless communication device to be used by emergency response personnel to respond to a public safety emergency, the provisions of the Technology Access Clause do not apply.