



REQUEST FOR QUALIFICATIONS # FM2022-002

PROFESSIONAL ENGINEERING SERVICES FOR INDEFINITE QUANTITY-INDEFINITE DELIVERY GEOTECHNICAL AND CONSTRUCTION MATERIAL TESTING SERVICES

Submittal Deadline: July 26, 2022 at 3:00 PM

THE UNIVERSITY OF TEXAS AT ARLINGTON
OFFICE OF FACILITIES MANAGEMENT
1225 W. MITCHELL STREET, SUITE 205
ARLINGTON, TEXAS 76019

Issue Date: June 22, 2022

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REQUEST FOR QUALIFICATIONS FOR
PROFESSIONAL ENGINEERING SERVICES FOR
INDEFINITE QUANTITY-INDEFINITE DELIVERY GEOTECHNICAL AND
CONSTRUCTION MATERIAL TESTING SERVICES
RFQ No.: FM2022-002

SECTION 1 – GENERAL INFORMATION & REQUIREMENTS

- 1.1 **GENERAL INFORMATION:** The University of Texas at Arlington is soliciting statements of qualifications (“Qualifications”) for selection of an Engineer firm for **Indefinite Quantity-Indefinite Delivery Geotechnical and Construction Material Testing Services** (“Project”), in accordance with the terms, conditions, and requirements set forth in this Request for Qualifications.
- 1.1.1 This Request for Qualifications (“RFQ”) is the first step in a two-step process for selecting an Engineer firm. The RFQ provides the information necessary to prepare and submit Qualifications for consideration and initial ranking by the Owner. Based on the initial ranking, the Owner may select up to five (5) of the top ranked qualified respondents to attend Interviews in the final step of the process.
- 1.1.2 In the final step of the process, Interviews, the “most” qualified respondents may be requested to attend an interview with the Owner to confirm the Qualification submittal and answer additional questions. The Owner will then rank the remaining respondents in order to determine the “most” qualified respondent.
- 1.2 **PUBLIC INFORMATION:** All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act (*Texas Government Code*, Chapter 552.001, *et seq.*) after the solicitation is completed.
- 1.2.1 The Owner strictly complies with all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of RFQ information.
- 1.3 **TYPE OF CONTRACT:** Any contract resulting from this solicitation will be in the form of the Standard Agreement, for Miscellaneous Services on Projects of limited size and scope, copy of which is attached to this RFQ as Exhibit 2.
- 1.3.1 **CLARIFICATIONS AND INTERPRETATIONS:** Any clarifications or interpretations of this RFQ that materially affect or change its requirements will be posted by the Owner as an addendum on the Electronic State Business Daily (ESBD) web site (<http://www.txsmartbuy.com>). It is the responsibility of all respondents to obtain this information in a timely manner. All such addenda issued by the Owner before the proposals are due as part of the RFQ, and respondents shall acknowledge receipt of and incorporate each addendum in its Qualifications.
- 1.3.2 Respondents shall consider only those clarifications and interpretations that the Owner issues by addenda five (5) days prior to the submittal deadline. Interpretations or clarifications in any other form, including oral statements, will not be binding on the Owner and should not be relied on in preparing Qualifications.

1.5 SUBMISSION OF QUALIFICATIONS:

1.5.1 DEADLINE AND LOCATION: The Owner will receive Qualifications at the time and location described below.

Responses must be submitted electronically to ofm_contracts@uta.edu. Submittals will be kept securely in this email box until the appropriate opening date and time. HUB Subcontracting plan must be submitted as a separate file in a separate email. In the subject line of your emails include the following: Response to RFP #FM2022-002 (also indicate “HUB Subcontracting Plan” in the email containing the HUB Subcontracting Plan). DO NOT SUBMIT A HARDCOPY SUBMITTAL IN RESPONSE TO THIS SOLICITATION.

Proposals must be received on or before the date and time listed below:

EMAIL NO. 1 – Qualifications (Response to Section 3) and Section 3.11 Criteria Eleven Execution of Offer (Signed)	<u>July 26, 2022</u> 3:00 PM
EMAIL NO. 2 - HUB Subcontracting Plan (HSP)	<u>July 26, 2022</u> 3:00 PM

All documents should be submitted in 8 ½ “x 11” page size.

1.5.2 Submit One (1) electronic version of the Qualifications **with signature**. A signature must be included on the “Execution of Offer” document submitted.

1.5.3 Submit one (1) electronic version of the HUB Subcontracting Plan as separate attachments to the Qualifications as described in Section 1.13. Email subject should be labeled “RFQ FM2022-002 HUB SUBCONTRACTING PLAN”.

1.5.4 Qualifications received late will be returned to the respondent.

1.5.5 The Owner will not acknowledge or receive Qualifications that are delivered by telephone, facsimile (fax), or in person.

1.5.6 Properly submitted Qualifications will not be returned to respondents.

1.6 POINT-OF-CONTACT: The Owner designates the following person as it’s representative and Point-of-Contact for this RFQ. Respondents shall restrict all contact with the Owner and direct all questions regarding this RFQ, including questions regarding terms and conditions and technical specifications, to the Point-of-Contact person.

The University of Texas at Arlington
Office of Facilities Management
Attention: Viki Lewis, Contract Specialist
1225 W. Mitchell Street, Suite 205
Arlington, Texas 76013
Phone: (817) 272-0192
Fax: (817) 272-5794
E-mail: vlewis@uta.edu

- 1.7 EVALUATION OF QUALIFICATIONS: The evaluation of the Qualifications shall be based on the requirements described in this RFQ. All properly submitted Qualifications will be reviewed, evaluated, and ranked by the Owner. The top five or fewer ranked respondents may be selected by the Owner to participate in step two of the selection process.
- 1.7.1 Qualifications shall **not** include any information regarding respondent’s fees, pricing, or other compensation.
- 1.8 OWNER’S RESERVATION OF RIGHTS: The Owner may evaluate the Qualifications based on the anticipated completion of all or any portion of the Project. The Owner reserves the right to divide the Services into multiple awards, to reject any and all Qualifications and re-solicit for new Qualifications, or to reject any and all proposals and temporarily or permanently abandon the request for qualifications. Owner makes no representations, written or oral, that it will enter into any form of agreement with any respondent to this RFQ for any project and no such representation is intended or should be construed by the issuance of this RFQ.
- 1.9 ACCEPTANCE OF EVALUATION METHODOLOGY: By submitting its Qualifications in response to this RFQ, respondent accepts the evaluation process and acknowledges and accepts that determination of the “most qualified” firm(s) will require subjective judgments by the Owner.
- 1.10 NO REIMBURSEMENT FOR COSTS: Respondent acknowledges and accepts that any costs incurred from the respondent’s participation in this RFQ shall be at the sole risk and responsibility of the respondent.
- 1.11 PRE-SUBMITTAL CONFERENCE: A pre-submittal conference will **not** be held.

There will be an optional “How to successfully complete the HUB Subcontracting Plan (HSP) conference call which will be held on **June 30, 2022 at 10:00a.m.** The call in number is **817-502-2418** and the Phone Conference ID# is **887 123 715**. All methods for completing the plan will be covered in the session with time allotted for questions and answers. We encourage your HSP preparer’s attendance of this session to ensure meeting Texas HUB Subcontracting Plan requirements and avoid your bid being disqualified.

- 1.12 ELIGIBLE RESPONDENTS: Only individual firms or lawfully formed business organizations may apply (this does not preclude a respondent from using consultants.) The Owner will contract only with the individual firm or formal organization that submits a Qualification.
- 1.13 HISTORICALLY UNDERUTILIZED BUSINESSES’ SUBMITTAL REQUIREMENTS: It is the policy of The University of Texas System and each of its component institutions, to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUB) in all contracts. Accordingly, the Owner has adopted Exhibit H, Policy on Utilization of Historically Underutilized Businesses (See attached). The Policy applies to all contracts with an expected value of \$100,000 or more. If Owner determines that subcontracting opportunities are probable, then a HUB Subcontracting Plan is a required element of the Qualifications. Failure to submit a required HUB Subcontracting Plan will result in rejection of the Qualifications.

In accordance with Texas Government Code (TGC) §2161.252, each state agency as defined by TGC §2151.002 that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The University of Texas at Arlington, acting through the HUB Office shall make a good faith effort to utilize

Historically Underutilized Businesses (HUBs) in contracts for construction services, including professional and consulting services; and commodities contracts.

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

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

The University of Texas at Arlington (UTA) shall make a good faith effort to meet or exceed these goals to assist HUBs in receiving a portion of the total contract value of all contracts that UTA expects to award in a fiscal year. UTA may achieve the annual program goals by contracting directly with HUBs or indirectly through subcontracting opportunities in accordance with the Texas Government Code, Chapter 2161, Subchapter F.

It is the policy of The University of Texas System and each of its component institutions, to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUB's) in all contracts. Accordingly The University of Texas at Arlington (UTA) has adopted the UT System Policy on Utilization of Historically Underutilized Businesses (Policy). The Policy applies to all contracts with an expected value of \$100,000 or more.

STATEMENT OF PROBABILITY – University has reviewed this RFQ in accordance with Texas Government Code §2161.252, and has determined that subcontracting opportunities are probable under this contract. Therefore, bidders, including State of Texas certified Historically Underutilized Businesses (HUB's), must complete and submit a State of Texas HUB Subcontracting Plan (“HSP”) as a part of Bidder's Bid. The HSP shall be developed and administered in accordance with the University's Policy on Utilization of Historically Underutilized Businesses attached and incorporated for all purposes. Each Bidder must complete and return the HSP in accordance with the terms of attached HUB Subcontracting Plan. For any questions related to HUB issues, contact Mario Ramirez, HUB Manager, (817) 272-2039 or email mario.ramirez@uta.edu. Forms for HUB Subcontracting Plan are included in the solicitation. **Failure to submit the required HSP will result in the automatic disqualification of the Bid.**

Bidder must submit the HSP to the University at the same time it submits its proposal to the University. The HSP must be submitted under separate email (the "HSP Envelope"). Bidder must ensure that the email is labeled with the subject "HUB Subcontracting Plan". **Any submittal in response to this RFQ that is not accompanied by a HSP email meeting the above requirements may be rejected by the University and will not be opened as that submittal will be considered non-responsive due to material failure to comply with advertised specifications.**

- 1.14 CERTAIN PROPOSALS AND CONTRACTS PROHIBITED: Under Section 2155.004, Texas Government Code, a state agency may not accept a proposal or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the specifications or request for proposals on which the proposal or contract is based. All vendors must certify their eligibility by acknowledging the following statement, "Under Section 2155.004, Government Code, the vendor certifies that the individual or business

entity named in this bid 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." If a state agency determines that an individual or business entity holding a state contract was ineligible to have the contract accepted or awarded as described above, the state agency may immediately terminate the contract without further obligation to the vendor. This section does not create a cause of action to contest a proposal or award of a state contract.

- 1.15 SALES AND USE TAXES: Section 151.311, Tax Code, as amended effective October 1, 1993, permits the purchase free of state sales and use taxes of tangible personal property to be incorporated into realty in the performance of a contract for an improvement to realty for certain exempt entities that include The University of Texas System. The section further permits the purchase tax-free of tangible personal property (other than machinery or equipment and its accessories and repair and replacement parts) for use in the performance of such a contract if the property is "necessary and essential for the performance of the contract" and "completely consumed at the job site." In addition, the section permits the purchase tax-free of a tangible service for use in the performance of such a contract if the service is performed at the job site and if "the contract expressly requires the specific service to be provided or purchased by the person performing the contract" or "the service is integral to the performance of the contract."
- 1.16 CERTIFICATION OF FRANCHISE TAX STATUS: Respondents are advised that the successful respondent will be required to submit certification of franchise tax status as required by State Law (H.B. 175, Acts 70th Leg. R.S., 1987, Ch. 283, p. 3242). The contractor agrees that each subcontractor and supplier under contract will also provide a certification of franchise tax status.
- 1.17 REQUIRED NOTICES OF WORKERS' COMPENSATION INSURANCE COVERAGE: The Texas Workers' Compensation Commission has adopted a new rule, 28 TAC, sec. 110.110, relating to REPORTING REQUIREMENTS FOR BUILDING OR CONSTRUCTION PROJECTS FOR GOVERNMENTAL ENTITIES. The rule applies to all building or construction contracts advertised for bid on or after September 1, 1994. The rule implements sec. 406.096, Texas Labor Code, which requires workers' compensation insurance coverage for all persons providing services on a building or construction project for a governmental entity. The requirements of the rule are set forth in Article 6 of the Uniform General and Supplementary General Conditions for University of Texas System Building Construction Contracts.
- 1.18 PREVAILING WAGE RATE DETERMINATION: Respondents are advised that the Texas Prevailing Wage Law will be administered in accordance with the policies and procedures set forth in the U. T. System document, entitled "Prevailing Wage Guidelines." A copy is attached to the Special Conditions. The penalty for violation of prevailing wage rates has been increased from \$10.00 per underpaid worker per day or portion thereof to \$60.00.
- 1.19 DELINQUENCY IN PAYING CHILD SUPPORT: Under Section 231.006, 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.
- 1.20 STATE REGISTRATION OF ENGINEERING FIRMS: Respondents are advised that the Texas Board of Professional Engineers requires that any entity providing engineering services to the public must register with the Texas Board of Professional Engineers. An entity is defined as a sole proprietorship, firm, partnership, corporation or joint stock association.
- 1.21 POLICY REGARDING RECEIVING BENEFITS, GIFTS AND HONORARIA: This administrative policy defines, and in most cases restricts, the benefits, gifts, honoraria and other entertainment activities all UT-System staff may be exposed to and supplements any

provisions of state law or UT System rule or policy that is less restrictive. The policy covers "Conflicts of Interest" not allowed and items typically allowed.

Surveyor and its employees, agents, representatives and subcontractors have read and understand University's Conflicts of Interest Policy available at

<http://www.uta.edu/policy/hop/adm/5/508>

University's Standards of Conduct Guide available at

http://www.uta.edu/compliance/pdf/conduct_guide.pdf

and applicable state ethics laws and rules available at

<http://www.utsystem.edu/offices/systemwide-compliance/ethics>

Neither Surveyor nor its employees, agents, representatives or subcontractors will assist or cause University employees to violate University's Conflicts of Interest Policy, provisions described by University's Standards of Conduct Guide, or applicable state ethics laws or rules.

1.22 CRIMINAL BACKGROUND CHECKS. Individual who is assigned to perform the Work under this Agreement will be an employee of Engineer or an employee of permitted subcontractor engaged by Engineer. Engineer is responsible for the performance of all individuals performing the Work under this Agreement. Prior to commencing the Work, Engineer will (1) provide University with a list ("List") of all individuals who may be assigned to perform the Work, and (2) have an appropriate criminal background screening performed on all such individuals within the last twelve (12) months. Engineer or Engineer shall determine on a case-by-case basis whether each individual assigned to perform the Work is qualified to provide such services. Engineer will not knowingly assign any individual to provide services on University's campus, which has a history of criminal conduct unacceptable for a university campus, including:

- 1) Drug distribution activity or felony drug possession
- 2) Sexual offenses
- 3) Crimes of violence involving physical injury to another person
- 4) Child abuses, molestation or other crimes involving child endangerment
- 5) Murder
- 6) Kidnapping
- 7) Theft or embezzlement
- 8) Any crime involving moral turpitude

Engineer will update the List each time there is a change in the individuals assigned to perform the Work.

Prior to commencing performance of the Work under this Agreement, Engineer will provide University a letter signed by an authorized representative certifying compliance with this Section. Engineer will provide University an updated certification letter each time there is a change in the individuals assigned to perform the Work.

1.23 GROUP PURCHASE AUTHORITY: Texas law authorizes institutions of higher education (defined by Section 61.003, *Education Code*) to use the group purchasing procurement method (ref. Sections 51.9335, 73.115, and 74.008, *Education Code*). Additional Texas institutions of higher education may therefore elect to enter into a contract with the successful Professional under this RFQ.

SECTION 2 – EXECUTIVE SUMMARY

2.1 HISTORICAL BACKGROUND:

The University of Texas at Arlington ("University") is a comprehensive public university located in the dynamic and growing Dallas-Fort Worth Metroplex. The University has a population of

approximately 37,800 students, faculty, and staff. University offers 80 baccalaureates, 74 master and 31 doctoral degrees to approximately 34,000 students. University has approximately 4,800 full-time and part-time employees. The University's main campus in Arlington includes approximately 400 acres, 108 buildings, and 5,007,170 gross square feet. The University's three (3) other satellite campuses operated by University are located in Fort Worth, Texas and include the University of Texas at Arlington Research Institute, Arlington Regional Data Center, and the University of Texas at Arlington Fort Worth Center at Santa Fe Station.

2.2 MISSION STATEMENT:

The mission of The University of Texas at Arlington is to pursue knowledge, truth and excellence in a student-centered academic community characterized by shared values, unity of purpose, diversity of opinion, mutual respect and social responsibility. The University is committed to life-long learning through its academic and continuing education programs, to discovering new knowledge through research and to enhancing its position as a comprehensive educational institution with bachelors', masters', doctoral, and non-degree continuing education programs.

2.3 PROJECT DESCRIPTION, SCOPE AND BUDGET:

- 2.3.1 The scope of services is to provide, upon notification of a need, after providing a proposal and after contracting through a properly executed assignment document (task order), GeoTechnical and Construction Material Testing Services including but not limited to the following:

Feasibility studies for new construction and renovation projects (including the necessary field exploration and laboratory analysis for surface drilling and sampling); laboratory testing of concrete, welding of alloys, soil and rock materials; site preparation and foundation design recommendations; pavement design; report preparation; Project plans and specifications reviews with written peer review reports.

- 2.3.2 Construction Materials Testing and Inspection Services may include, but not limited to, concrete and concrete aggregate testing, masonry and stone materials testing, asphalt testing and inspection, soil compaction testing, structural testing inspection of any type of construction material during construction

- 2.3.3 Evaluation of data may include but not limited to site development, grading, foundations and slabs, retaining walls, pavement designs and surface drainage.
- 2.3.4 Geotechnical Reporting may include but is not limited to the preparation of reports summarizing findings from investigations performed by the respondent or one of their sub-consultants, including construction recommendations regarding excavation, cut and fill and foundation, pavement and slab design based on reports from the Owner or selected design professional, preliminary design documents, working drawings, specifications and construction estimates
- 2.3.5 Additional Geotechnical Services or Construction Material Testing Services as may be required.
- 2.3.6 Services of sub-consultants, as required per specific assignment.
- 2.3.7 Subcontractors providing service under any subsequent agreement shall meet the same requirements and level of experience as required of the respondent. No subcontract under the agreement shall relieve the primary respondent of responsibility for the service. If the respondent uses a subcontractor for any or all of the work required, the following conditions shall apply under the listed circumstances:
- 2.3.8 Respondents planning to subcontract all or a portion of the work shall identify the proposed subcontractors.
- 2.3.9 Subcontracting shall be at the respondent's expense.
- 2.3.10 The Owner retains the right to check subcontractor's background and make determination to approve or reject the use of submitted subcontractors.
- 2.3.11 The respondent shall be the only contact for the Owner and subcontractors. Respondent shall list a designated point of contact for all Owner and subcontractor inquiries.
- 2.3.12 The Respondent shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. The engineer shall to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, sex, religion, age, or national origin. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The engineer agrees to post in conspicuous places, available to employees or applicants for employment, notices to be provided setting forth the provisions of this non-discrimination article. The engineer shall include these provisions in all subcontracts pertaining to the work.
- 2.3.13 Test results indicating material failure to meet design requirements must be quickly identified and notice sent in writing to Owner and Construction Team. Failure to provide notice within designated time may require re-testing at no charge to Owner or may require an alternate testing method. Time limit to provide testing notice will be specified when work is assigned on a task order.
- 2.3.14 This will not be an exclusive contract between the selected Engineer and The University of Texas at Arlington. The University reserves the right to contract for like-type services when such contracting is in the best interest of the University.

SECTION 3 – REQUIREMENTS FOR STATEMENT OF QUALIFICATIONS

Respondents shall carefully read the information contained in the following criteria and submit a complete statement of Qualifications to all questions in Section 3 formatted as directed in Section 4. Incomplete Qualifications will be considered non-responsive and subject to rejection.

3.1 CRITERIA ONE: RESPONDENT'S STATEMENT OF QUALIFICATIONS AND AVAILABILITY TO UNDERTAKE AN INDEFINITE DURATION, INDEFINITE QUANTITY CONTRACT: (Maximum of two (2) printed pages per question)

- 3.1.1 Provide a statement of interest for the project including a narrative describing the Prime Firm's and Project Team's unique qualifications as they pertain to this particular project.
- 3.1.2 Provide a statement on the availability and commitment of the Prime Firm and its principal(s) and assigned professionals to undertake the contract on an "as needed" basis.
- 3.1.3 Provide a brief history of the Prime Firm and each consultant proposed to be used on task orders.
- 3.1.4 Provide a graphic representation of the team for task orders, identifying the Prime Firm and each consultant proposed for task orders.

3.2 CRITERIA TWO: PRIME FIRM'S ABILITY TO PROVIDE SERVICES

- 3.2.1 Provide the following information for the Prime Firm:
 - Legal name of the company as registered with the Secretary State of Texas
 - Address of the office that will be providing services
 - Number of years in business
 - Type of Operation (Individual, Partnership, Corporation, Joint Venture, etc...)
 - Number of Employees by skill group
 - Annual revenue totals for the past ten (10) years
- 3.2.2 State whether Prime Firm will provide a copy of its financial statements for the past two (2) years, if requested by University.
- 3.2.3 Is your company currently for sale or involved in any transaction to expand or to become acquired by another business entity? If yes, please explain the impact both in organizational and directional terms.
- 3.2.4 Provide any details of all past or pending litigation or claims filed against your company that would affect your company's performance under a Contract with the Owner.
- 3.2.5 Is your company currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If yes, specify date(s), details, circumstances, and prospects for resolution.
- 3.2.6 Does any relationship exist by relative, business associate, capital funding agreement, or any other such kinship between your firm and any Owner employee, officer or Regent? If so, please explain.

- 3.2.7 Provide a claims history under professional malpractice insurance for the past five (5) years for the Prime Firm and any team members proposed to provide professional services.

3.3 CRITERIA THREE: PROJECT TEAM'S ABILITY TO PROVIDE PROJECT ADMINISTRATION SERVICES

- 3.3.1 Describe, in graphic and written form, the proposed project assignments and lines of authority and communication for principals and each consultant that will be involved in the project. Indicate the estimated percent of time these individuals will be involved in the project for design and construction.
- 3.3.2 Provide resumes giving the experience and expertise of the members for each consultant that will be involved in the work assigned by task orders including their experience with similar projects, the number of years with the firm, and their city of residence.
- 3.3.3 Clearly identify the members of the proposed team who worked on the listed projects in Criteria 3.4 and 3.5, and describe their roles in those projects.
- 3.3.4 Describe the basis for the selection of the proposed sub-consultants included in the team and the role each will play for this contract on an "as needed" basis.
- 3.3.5 Describe the Prime Firm's process in working with consultants and integrating them into the design process.

3.4 CRITERIA FOUR: RESPONDENT'S PERFORMANCE ON PAST REPRESENTATIVE PROJECTS FOR INDEFINITE QUANTITY-INDEFINITE DELIVERY FOR GEOTECHNICAL AND CONSTRUCTION MATERIAL TESTING SERVICES

- 3.4.1 List a maximum of five (5) projects for which you have provided services that are most related to indefinite duration, indefinite quantity contract work. List the projects in order of priority, with the most relevant project listed first. Provide the following information for each project listed:
- Project name, location, contract delivery method, and description
 - Actual start and finish dates for project
 - Actual Notice To Proceed and Substantial Completion dates for construction
 - Type of construction (new, renovation, or expansion)

References (for each project listed above, identify the following):

- The Owner's name and representative who served as the day-to-day liaison(s) during the project, including telephone number
- Geo technical and construction material testing representatives name and representative who served as the day-to-day liaison(s) during the design and construction phase of the project, including telephone number
- Length of business relationship with the Owner.

References shall be considered relevant based on specific project participation and experience with the Respondent. The Owner may contact references during any part of this process. The Owner reserves the right to contact any other references at any time during the RFQ process.

3.5 CRITERIA FIVE: TESTING LAB

3.5.1 List capabilities of **local** testing lab. Include list of lab equipment and tests performed by that equipment.

3.5.2 List testing that will need to be performed at non-local testing lab outside of Dallas-Fort Worth Metroplex. Include list of lab equipment and tests performed by that equipment.

3.6 CRITERIA SIX: TESTING RESULTS

State procedure for how quickly and accurately test results will be distributed to project team.

3.7 CRITERIA SEVEN: NOTICES FOR TEST RESULTS NOT MEETING SPECIFICATIONS

3.7.1 Describe system used for tests not meeting design specifications and how notice of failed tests will be provided to Owner and Construction Team.

3.7.2 Describe how remedial recommendations, consistent with industry standards for tests not meeting specifications, will be provided to Owner and Construction Team.

3.8 CRITERIA EIGHT: RESPONDENT'S GENERAL UNDERSTANDING OF THE CONTRACT AGREEMENT

3.8.1 Provide a detailed list (i.e. bulleted) of all services and consultants you will provide to the Owner under Basic Services on this contract.

3.8.2 Provide a detailed list (i.e. bulleted) of all services and consultants you will provide to the Owner as Additional Services for this contract.

3.8.3 Provide a detailed list (i.e. bulleted) of all reimbursable services/expenses you will request from the Owner on this contract.

3.8.4 In order to help facilitate and expedite execution of a UT Arlington Agreement following selection of the "most" qualified candidate, please identify any terms of the Agreement you may request to be changed prior to signing the Agreement.

3.9 CRITERIA NINE: RESPONDENT'S KNOWLEDGE OF BEST PRACTICES

3.9.1 Describe the Prime Firm's philosophy, methodology, and its process for integrating institutional standards into services.

3.9.2 Describe the Prime Firm's quality assurance program explaining the method used and how the firm maintains quality control during the performance of a project. Provide specific examples of how these techniques or procedures were used for any combination of three (3) projects listed in response to Criteria 3.4 and 3.5.

3.9.3 Describe your project team's demonstrated technical competence and management qualifications with institutional projects, particularly those for higher education.

3.9.4 The Owner has specific standards and specification requirements for projects. Describe how you propose to incorporate these requirements into your services.

- 3.9.5 Describe your firm's experience working with the indefinite duration, indefinite quantity "as needed" delivery method .
- 3.9.6 Describe the way in which your firm develops and maintains work schedules to coordinate with the Owner's "as needed" schedule. For any combination of three (3) projects listed in response to Criteria 3.4 and 3.5, provide examples of how these techniques were used.
- 3.9.7 Describe your firm's service support philosophy, how is it carried out, and how success in keeping this philosophy is measured.
- 3.9.8 Describe the types of records, reports, monitoring systems, and information management systems, which your firm used in the management of the projects listed above. Describe how you used these systems for any combination of three (3) projects listed in response to Criteria 3.4 and 3.5.
- 3.9.9 Describe how you plan to ensure continuity of task order objectives.
- 3.9.10 Describe the project team's approach to assuring timely completion of a project, including methods you will use for schedule recovery if necessary.
- 3.9.11 Describe how you track Owner input and review comments on your document submittals to confirm that they have been addressed. Provide examples of reports/logs used for tracking response to and closure on Owner comments.

3.10 CRITERIA TEN: RESPONDENT'S ABILITY TO IDENTIFY AND RESOLVE PROBLEMS ON PAST PROJECTS

- 3.10.1 Describe your understanding of the administrative challenges and opportunities associated with providing services for The University of Texas at Arlington, and your strategy for resolving these issues.
- 3.10.2 What do you perceive are the critical issues for this contract?
- 3.10.3 For any combination of three (3) projects listed in response to Criteria 3.4 and 3.5, describe any conflicts with the Owner, Consultants, Contractor, or subcontractors, and describe the methods your firm used to resolve those conflicts.

3.11 CRITERIA ELEVEN: EXECUTION OF OFFER

NOTE TO RESPONDENTS: SUBMIT ENTIRE SECTION WITH RESPONSE.

THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED, AND RETURNED WITH THE RESPONDENT'S QUALIFICATIONS. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE QUALIFICATIONS MAY RESULT IN REJECTION OF THE QUALIFICATIONS.

SIGNING A FALSE STATEMENT MAY VOID THE SUBMITTED QUALIFICATIONS OR ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENTS, WHICH MAY RESULT FROM THE SUBMISSION OF RESPONDENT'S QUALIFICATIONS, AND THE RESPONDENT MAY BE REMOVED FROM ALL PROPOSER LISTS. A FALSE CERTIFICATION SHALL BE DEEMED A MATERIAL BREACH OF CONTRACT AND, AT OWNER'S OPTION, MAY RESULT IN TERMINATION OF ANY RESULTING CONTRACT OR PURCHASE ORDER.

- 3.11.1 By signature hereon, Respondent acknowledges and agrees that (1) this RFQ is a solicitation for Qualifications and is not a contract or an offer to contract; (2) the submission of Qualifications by Respondent in response to this RFQ will not create a contract between the Owner and Respondent; (3) the Owner has made no representation or warranty, written or oral, that one or more contracts with the Owner will be awarded under this RFQ; and (4) Respondent shall bear, as its sole risk and responsibility, any cost which arises from Respondent's preparation of a response to this RFQ.
- 3.11.2 By signature hereon, Respondent offers and agrees to furnish to the Owner the products and/or services more particularly described in its Qualifications, and to comply with all terms, conditions and requirements set forth in the RFQ documents and contained herein.
- 3.11.3 By signature hereon, Respondent affirms that he has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted Qualifications.
- 3.11.4 By signature hereon, a corporate Respondent certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171, Texas Tax Code, or that the corporate Respondent is exempt from the payment of such taxes, or that the corporate Respondent is an out-of-state corporation that is not subject to the Texas Franchise Tax, whichever is applicable.
- 3.11.5 By signature hereon, the Respondent hereby certifies that neither the Respondent nor the firm, corporation, partnership or Owner 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 Qualifications made to any competitor or any other person engaged in such line of business.
- 3.11.6 By signature hereon, Respondent represents and warrants that:
- 3.11.6.1 Respondent is a reputable company regularly engaged in providing products and/or services necessary to meet the terms, conditions and requirements of the RFQ;
- 3.11.6.2 Respondent has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the terms, conditions and requirements of the RFQ;
- 3.11.6.3 Respondent is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances;

- 3.11.6.4 Respondent understands (i) the requirements and specifications set forth in this RFQ and (ii) the terms and conditions set forth in the Contract under which Respondent will be required to operate;
- 3.11.6.5 Respondent, if selected by the Owner, will maintain insurance as required by the Contract;
- 3.11.6.6 All statements, information and representations prepared and submitted in response to this RFQ are current, complete, true and accurate. Respondent acknowledges that the Owner will rely on such statements, information and representations in selecting the successful Respondent. If selected by the Owner as the successful Respondent, Respondent will notify the Owner immediately of any material change in any matters with regard to which Respondent has made a statement or representation or provided information.
- 3.11.7 By signature hereon, Respondent certifies that the individual signing this document and the documents made part of the RFQ is authorized to sign such documents on behalf of the company and to bind the company under any agreements or other contractual arrangements, which may result from the submission of Respondent's Qualifications.
- 3.11.8 (Not used)
- 3.11.9 By signature hereon, Respondent certifies as follows:
- 3.11.9.1 "Under Section 231.006, *Texas 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."
- 3.11.9.2 "Under Section 2155.004, *Texas Government Code*, the vendor or applicant certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."
- 3.11.9.3 "Under Section 2254.004, *Texas Government Code*, the vendor or applicant certifies that each individual or business entity which is an engineer proposed by Respondent as a member of its team was selected based on demonstrated competence and qualifications only."
- 3.11.10 By signature hereon, Respondent certifies that no relationship, whether by relative, business associate, capital funding agreement or by any other such kinship exist between Respondent and an employee of any University of Texas component, or Respondent has not been an employee of any University of Texas component within the immediate twelve (12) months prior to your RFQ response. All such disclosures will be subject to administrative review and approval prior to the Owner entering into any contract with Respondent.
- 3.11.11 By signature hereon, Respondent affirms that no compensation has been received for participation in the preparation of the specifications for this RFQ. (ref. Section 2155.004 Texas Government Code).
- 3.11.12 Respondent represents and warrants that all articles and services quoted in response to this RFQ meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and its regulations in effect or proposed as of the date of this solicitation.
- 3.11.13 By signature hereon, Respondent signifies his compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.

3.11.14 By signature hereon, Respondent agrees to 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 Respondent or any agent, employee, subcontractor, or supplier of Respondent in the execution or performance of any agreements or other contractual arrangements which may result from the submission of Respondent's Qualifications.

3.11.15 By signature hereon, Respondent agrees that any payments that may become due under any agreements or other contractual arrangements, which may result from the submission of Respondent's Qualifications, will be applied towards any debt including, but not limited to, delinquent taxes and child support that is owed to the State of Texas.

3.11.16 By signature hereon, Respondent certifies that no member of the Board of Regents of The University of Texas System, or the Executive Officers of the University of Texas System or its component institutions, has a financial interest, directly or indirectly, in the transaction that is the subject of the contract.

The Respondent must complete, sign and return this Execution of Offer as part of their submittal response. The Respondent's company official(s) who are authorized to commit to such a submittal must sign submittals. Failure to sign and return this form will subject the submittal to disqualification.

Respondent's Name: _____

Respondent's State of Texas Tax Account No: _____
(This 11 digit number is mandatory)

If a Corporation:

Respondent's State of Incorporation: _____

Respondent's Charter No: _____

Identify by name, each person who owns at least 25% of the Respondent's business entity:

(Name)

(Name)

Submitted and Certified By: _____

(Respondent's Name)

(Title)

(Street Address)

(Telephone Number)

(City, State, Zip Code)

(Email Address)

(Authorized Signature)

(Date)

SECTION 4 – FORMAT FOR STATEMENT OF QUALIFICATIONS

4.1 GENERAL INSTRUCTIONS

- 4.1.1 Qualifications shall be prepared SIMPLY AND ECONOMICALLY, providing a straightforward, CONCISE description of the respondent's ability to meet the requirements of this RFQ. Emphasis shall be on the QUALITY, completeness, clarity of content, responsiveness to the requirements, and an understanding of Owner's needs.
- 4.1.2 Qualifications shall be a MAXIMUM OF THIRTY (30) PRINTED PAGES. The cover, table of contents, divider sheets, HUB Subcontracting Plan (Section 1.13), and Execution of Offer do not count as printed pages.
- 4.1.3 Respondents shall carefully read the information contained in this RFQ and submit a complete response to all requirements and questions as directed. Incomplete Qualifications will be considered non-responsive and subject to rejection.
- 4.1.4 Qualifications and any other information submitted by respondents in response to this RFQ shall become the property of the Owner.
- 4.1.5 The Owner will not compensate respondents for any expenses incurred in Qualifications preparation or for any presentations that may be made, unless agreed to in writing in advance or required by law. Respondents submit Qualifications at their own risk and expense.
- 4.1.6 Qualifications that are qualified with conditional clauses, alterations, items not called for in the RFQ documents, or irregularities of any kind are subject to rejection by the Owner, at its option.
- 4.1.7 The Owner makes no representations of any kind that an award will be made as a result of this RFQ. The Owner reserves the right to accept or reject any or all Qualifications, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFQ when deemed to be in Owner's best interest.
- 4.1.8 Qualifications shall consist of answers to questions identified in Section 3 of the RFQ. It is not necessary to repeat the question in the Qualifications; however, it is essential to reference the question number with the corresponding answer.
- 4.1.9 Failure to comply with all requirements contained in this Request for Qualifications may result in the rejection of the Qualifications.

4.2 PAGE SIZE, BINDING, DIVIDERS, AND TABS:

- 4.2.1 Qualifications shall be on letter-size (8-1/2" x 11") paper.
- 4.2.2 Additional attachments shall NOT be included with the Qualifications. Only the responses provided by the respondent to the questions identified in Section 3 of this RFQ will be used by the Owner for evaluation.
- 4.2.3 Separate and identify each criteria response to Section 3 of this RFQ by use of a divider sheet for ready reference.

4.3 TABLE OF CONTENTS:

- 4.3.1 Submittals shall include a "Table of Contents" and give page numbers for each part of the Qualifications.

4.4 PAGINATION:

4.4.1 Number all pages of the submittal sequentially using Arabic numerals (1, 2, 3, etc.); the Respondent is not required to number the pages of the HUB Subcontracting Plan.

4.5 HUB SUBCONTRACTING PLAN SUBMITTAL:

4.5.1 Submit one HUB Subcontracting Plan (attached) at the same time as Qualifications in a **separate email** apart from the submittal of qualifications.

SECTION 5 - ATTACHMENTS TO THE RFQ

5.1 EXHIBIT 1: Evaluation Worksheet

5.2 EXHIBIT 2: Draft Agreement Between UT Arlington and Project Engineer

5.3 EXHIBIT H: Policy on Utilization Historically Underutilized Businesses

EXHIBIT 1:

A/E RFQ EVALUATION WORKSHEET

**RFQ # FM2022-002 INDEFINITE QUANTITY-INDEFINITE DELIVERY GEOTECHNICAL
AND CONSTRUCTION MATERIAL TESTING SERVICES**

RESPONDENT'S NAME: _____

EVALUATOR: _____ **DATE:** _____

Requirements for Statement of Qualifications	Points	Score
3.1 Respondent's Statement of Qualifications and interest in providing "As Needed" services (indefinite duration/indefinite quantity contract)	5	
3.2 Prime Firm's Ability to Provide Services	20	
3.3 Project Team's Ability to Provide Project Administration Services	20	
3.4 Performance on Past Representative Projects	15	
3.5 Testing Lab	10	
3.6 Testing Results	10	
3.7 Notices for Test Results Not Meeting Specifications	10	
3.8 Respondent's General Understanding of Contract Agreement	5	
3.9 Respondent's Knowledge of Best Practices	15	
3.10 Respondent's Ability to Identify and Resolve Problems on Past Projects	10	

TOTAL SCORE: _____

Comments: _____

AGREEMENT
for
MISCELLANEOUS SERVICES PROVIDED or ENGINEERING SERVICES
on
PROJECTS OF LIMITED SCOPE

This Agreement is made as of _____, 20__ (the “Effective Date”), by and between:

The Owner: The University of Texas at Arlington
Office of Facilities Management
1225 W. Mitchell Street, Suite 205
Arlington, Texas 76019

and

Engineer: *Name*
Street Address
City

Texas Tax Account No.

Contract No.

This Agreement is for the provision of miscellaneous architectural or engineering services for projects of limited scope, to be performed on a non-exclusive, indefinite quantity basis, as requested by the Owner in accordance with the terms of this Agreement. Architect or Engineer (individually and collectively “Services Provider”) represents that it has the knowledge, ability, skills and resources to provide such Services in accordance with the terms and requirements of this Agreement.

The Owner and the Services Provider agree as follows:

ARTICLE 1
TERM OF AGREEMENT

1.01 **Initial Term:** This initial term of this Agreement shall begin on the effective date and shall expire twelve (12) months after that date unless renewed or terminated in accordance with the terms of the Agreement.

1.02 **Renewal Option:** The Owner has the option to renew this Agreement terms for two (2) successive twelve (12) month periods upon written notice to the Services Provider at least sixty (60) days prior to the expiration of the initial or any subsequent term.

1.03 **Completion of Work in Progress:** The Owner has the option to extend the term of this Agreement, or any renewal period, as necessary for Services Provider to complete work on any project approved by the Owner prior to the expiration of the Agreement.

ARTICLE 2
AUTHORIZED CONTRACT SUM

2.01 **Contract Sum:** The overall maximum value of this contract is indefinite, subject to the contractual authority delegated by the Board of Regents to the Owner's representative. The overall maximum contract value will not exceed the amount of Two Million Five Hundred Thousand Dollars (\$2,500,000.00) without prior Board of Regents authorization. Allowable fees for each specifically authorized project will be established in an "Authorization to Commence Work" issued by the Owner. Invoices for authorized work performed by the Services Provider shall not exceed the fees established for any portion of authorized work. Established fee amounts shall not be increased except by written amendment to a previously issued Authorization to Commence Work executed by the Owner and the Services Provider.

2.02 **No Minimum Amount of Work:** Owner makes no representations regarding the amount or type of services, if any, that Services Provider will be asked to provide to Owner during the term(s) of this Agreement. It is expressly understood that the Owner is under no obligation to request any services from Services Provider and no minimum amount of work is required or contemplated under this Agreement. All service requests will be made by the Owner on an as-needed basis, subject to future agreement on the scope of the work and the fee.

ARTICLE 3
SCOPE OF WORK

3.01 **In General:** The Services Provider agrees to provide architectural or engineering services on a per-project basis as requested by the Owner in accordance with the terms of this Agreement. These services are generally described as, but are not limited to:

- Laboratory testing of concrete, welding of alloys, soil and rock materials, site preparation and foundation design recommendations, pavement design, report preparation, project plans and specifications reviews with written peer review reports.
- Construction materials testing and inspection services for concrete and concrete aggregate testing, masonry and stone materials testing, asphalt testing and inspection, soil compaction testing, and structural testing inspection of any type of construction materials during construction.
- Participation in possible feasibility studies for new construction and renovation projects including the necessary field exploration and laboratory analysis for surface drilling and sampling.
- Evaluation of data may include site development, grading, foundations and slabs, retaining walls, pavement designs and surface drainage.
- Geotechnical reporting may include reports summarizing finds from investigations performed by engineer or sub-consultant, including construction recommendations regarding excavation, cut and fill and foundation, pavement and slab design based on reports from the Owner or selected design professional, preliminary design documents, working drawings, specifications, and construction estimates.

3.02 **Project Scope:** The specific scope of work for each project shall be determined in advance and in writing between the Owner and the Services Provider.

3.03 **Project RFP:** The Owner shall prepare a Project Request for Proposal (“Project RFP”) identifying the project and describing, in general, the intended scope and character of the project, the preliminary cost estimate and schedule for the project, and the basic services to be provided by the Services Provider for the project.

3.04 **Project Proposal:** In response to a Project RFP, the Services Provider shall provide Owner with a written Project Proposal. The Project Proposal shall include the following:

- a. A narrative description of Services Provider’s understanding of the project scope of work;
- b. A detailed statement of the basic and additional services anticipated for the project, including a list of deliverables;
- c. A description of particular phases of the scope of the work, if applicable;
- d. A Fee Proposal detailing:
 1. the total fee for providing the basic services expressed as a “Not to Exceed” amount;
 2. the total fee for providing additional services expressed as a “Not to Exceed” amount;
 - and
 3. the total anticipated amount for reimbursable expenses;
- e. A proposed date to commence the work;
- f. A list of all consultants, persons and firms that Services Provider proposes to use in the performance of Services Provider’s scope of work;
- g. A schedule of hourly billing rates for any consultants that Services Provider proposes to use in the performance of Services Provider’s scope of work;
- h. A HUB Subcontracting plan, if required;
- i. Any qualifications or conditions applicable to the Project Proposal; and
- j. A summary statement of the amount of all previous proposals entered into under this Agreement to date.

3.05 **Project Proposal Review:** The Owner and the Services Provider shall review Services Provider’s Project Proposal and negotiate any changes, clarifications or modifications thereto. The Services Provider shall submit a revised Project Proposal incorporating any changes, clarifications or modifications made in the review process. The Owner may accept, reject or seek modification of any Project Proposal.

3.06 **Notice to Proceed:** Upon approval of a Project Proposal by the Owner, the Owner shall issue a written *‘Architect/Engineer Services Provider Work Order’* (“Work Order”). The Work Order authorizes the Services Provider to begin the work identified in the Project Proposal on the date specified in the Notice. The Work Order shall include a Work Order number specific to the project.

3.07 **Group Purchase Authority:** Texas law authorizes institutions of higher education (defined by Section 61.003, *Education Code*) to use the group purchasing procurement method (ref. Sections 51.9335, 73.115 and 74.008, *Education Code*). Other Texas institutions of higher education and Services Provider may, therefore, agree to enter into a separate agreement for the provision of these services on the same terms as this Agreement.

ARTICLE 4 SERVICES PROVIDER’S GENERAL SERVICES AND RESPONSIBILITIES

4.01 **Management of Services:** The Services Provider shall manage the Services Provider’s services and administer any project authorized pursuant to this Agreement. The Services Provider shall

provide and/or coordinate the basic services necessary and reasonably inferable for the complete performance of any project authorized pursuant to this Agreement.

4.02 **Standard of Care:** Project Services Provider agrees and acknowledges that Owner is entering into this Agreement in reliance on Project Services Provider's represented professional abilities with respect to performing Project Services Provider's services, duties, and obligations under this Agreement. Project Services Provider shall perform its Services (i) with the professional skill and care ordinarily provided by competent Services Providers practicing in the same or similar locality and under the same or similar circumstances and professional license; and (ii) as expeditiously as is prudent considering the ordinary professional skill and care of a competent Services Provider. Services Provider shall provide all qualified personnel necessary to accomplish Services Provider's Services within the time limits set forth in the schedule.

4.03 **Compliance with Laws:** Services Provider shall endeavor to perform Services Provider's services in compliance with all applicable national, federal, state, municipal, and State of Texas laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction over the Project.

4.04 **Existing Conditions:** Services Provider shall use reasonable efforts to verify the accuracy and suitability of any drawings, plans, sketches, instructions, information, requirements, procedures, requests for action, and other data supplied to Services Provider by Owner, or any other party, that Services Provider uses for the Project. Owner makes no warranties or representations as to the accuracy or suitability of information provided to the Services Provider by the Owner or by others.

4.05 **Correction of Work:** Services Provider's services and its Consultants services shall be reasonably accurate and free from material errors or omissions. Upon notice, Services Provider shall promptly correct any known or discovered error, omission, or other defect without any additional cost or expense to Owner.

4.06 **Phasing:** The Services Provider shall not proceed beyond any previously authorized phase of the work for a project unless authorized by the Owner in writing, except at the Services Provider's own financial risk. Applicable phases of the scope of work shall be identified in the Project Proposal.

4.07 **Representative:** Services Provider shall designate a representative primarily responsible for Services Provider's services under this Agreement. The designated representative shall act on behalf of Services Provider with respect to all phases of Services Provider's services and shall be available as required for the benefit of any project and the Owner. The designated representative shall not be changed without prior approval of the Owner, which approval shall not be unreasonably withheld.

4.08 **Documentation:** The Services Provider shall fully document its project activities, in drawings, reports or other methods as appropriate to the scope of work and as identified in the Project Proposal. The Services Provider shall bear the cost of providing all plans, specifications and other documents used by the Services Provider and its consultants.

ARTICLE 5 THE OWNER'S RESPONSIBILITIES

5.01 **Project Program:** The Owner shall provide a Project RFP setting forth the Owner's description of the project scope; preliminary project budget; schedule; objectives, characteristics and constraints; and a description of the basic services to be provided by the Services Provider for the project.

5.02 **Representative:** The Owner designates Office of Facilities Management as its representative authorized to act in the Owner's behalf with respect to the Project. The Owner designates Director of Facilities Management or his designee as its representative for the purpose of administering this contract.

5.03 **Special Information:** The Owner shall furnish available property, boundary, easement, right-of-way, topographic and utility surveys; plans and specifications; and special data and conditions relevant to the project. Owner shall furnish other special investigations of the Project site as requested by the Services Provider and as reasonably necessary for the Project. Services Provider shall exercise reasonable care in relying upon this information in the performance of its services under this Agreement. Owner makes no warranties or representations as to the accuracy or suitability of information provided to the Services Provider by the Owner or by others.

5.04 **Entry on Land:** The Owner shall assist Services Provider in gaining entry to state owned or controlled property as necessary for Services Provider to perform its services under this Agreement.

5.05 **Administrative Services:** The Owner shall furnish all legal, accounting, auditing and insurance counseling services that it requires for the Project.

5.06 **Review of Work:** The Owner will review the Services Provider's documents at the completion of each stage of development as described in the Project Proposal. Owner's review comments or decisions regarding the documents will be furnished to the Services Provider in a reasonably prompt manner. The Owner will notify the Services Provider in writing of any material error or omission or other defect in the project or any conflict in the contract documents that the Owner becomes aware of, but Owner shall have no obligation or duty to investigate whether such faults, defects, or conflicts exist.

5.07 **Time for Response:** The Owner shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Services Provider's services and of the Work.

ARTICLE 6 ACCEPTANCE OF WORK

6.01 **Owner's Satisfaction:** All work performed under this Agreement shall be completed to the satisfaction of the Owner's representative assigned to the project. The Owner's representative shall decide all questions regarding Services Provider's performance under the Agreement and such decisions shall be final and conclusive.

6.02 **Correction of Work:** Should Services Provider's services not conform to the requirements of this Agreement and the Project Proposal as determined by the Owner's representative, Owner may order the Services Provider to re-perform such services at no additional expense to the Owner or deduct the fees for such services from any other fees payable to the Services Provider.

6.03 **Liability:** Owner's approval or acceptance of Services Provider's services will not release Services Provider from any liability for such services because Owner is, at all times, relying upon Services Provider's skill and knowledge in performing Services Provider's services.

ARTICLE 7
COMPENSATION FOR SERVICES RENDERED

7.01 **Owner's Approval Required:** Owner agrees to pay Services Provider for those services rendered at Owner's specific request, in advance and in writing.

7.02 **Scheduled Billing Rates:** Attached as Exhibit A, and incorporated herein, is Services Provider's Schedule of Billing Rates, including hourly billing rates and/or per service billing rates as applicable. The Billing Rates include all costs for any identified services and the Services Provider shall not be entitled to any additional compensation for providing those services. The Schedule of Billing rates shall remain in full force and effect for the initial two (2) year term of this Agreement. At least ninety (90) days before the expiration of the initial term or any renewal period exercised by the Owner, the Service Provider shall submit any changes to its billing rates that would apply to the subsequent renewal period to the Owner in writing. All rate increases require the Owner's approval prior to the exercise of any renewal option. The increased rates apply only to work performed pursuant to Notices to Proceed issued after the effective start date of any renewal period.

7.03 **Basic Service:** For Basic Services rendered in connection with any project authorized pursuant to this Agreement, Services Provider shall be compensated on an hourly rate basis or on a per-service fee basis in accordance with Services Provider's Project Proposal, up to the maximum "Not to Exceed" amount approved in Services Provider's Project Proposal.

7.04 **Additional Services:** Additional Services are services not identified or reasonably inferable as Basic Services included in a Project Proposal. Additional Services shall be provided only if authorized or confirmed in writing by the Owner. For approved Additional Services provided in connection with any project authorized by this Agreement, Services Provider shall be compensated on an hourly rate basis or on a per-service fee basis in accordance with Services Provider's Additional Services Proposal, up to the maximum "Not to Exceed" amount approved in Services Provider's Additional Services Proposal.

7.05 **Consultant Costs:** Unless approved in advance by the Owner, Services Provider shall pay for all consultant services and costs associated with his services under this Agreement, whether basic services or additional services, out of his fees. Owner is not responsible for any such consultant fees or costs unless otherwise agreed to in writing. When consultant fees or costs are approved by the Owner, the Services Provider's fee or mark up on those consultant fees or costs shall be calculated as an amount not to exceed 10% of the amount that the consultant actually bills the Services Provider.

ARTICLE 8
REIMBURSABLE EXPENSES

8.01 **Reimbursable Expenses:** Reimbursable Expenses are in addition to compensation for basic and additional services. Reimbursable Expenses recoverable by the Services Provider under this Agreement are limited to the following:

- a. Travel from Texas to out of state locations:
 1. Maximum rates for lodging and meals shall be in accordance with the "Out of State Meals and Lodging Rates", Texas Comptroller of Public Accounts, plus city and state taxes.
 2. Notwithstanding the limitation on lodging rates above, if the expenses actually incurred by the Service Provider for lodging exceed the State rate, the Service Provider may be reimbursed for the additional amount incurred up to a maximum

of forty percent (40%) of the State rate, plus city and state tax rates up to the allowable maximum lodging rate.

3. Meals will only be reimbursed on trips involving overnight travel. Reimbursement will be based on the itemized receipts provided and only up to the maximum allowable state rate.

b. Travel to Texas from out of state locations:

1. Lodging: maximum reimbursement for lodging in state shall be limited to current State of Texas per diem rate plus city and state taxes. Meals will only be paid on trips involving overnight travel.

2. Notwithstanding the limitation on lodging rates above, if the expenses actually incurred by the Service Provider for lodging exceed the State rate, the Service Provider may be reimbursed for the additional amount incurred up to a maximum of forty percent (40%) of the State rate, plus city and state tax rates up to the allowable maximum lodging rate, plus city and state tax rates up to the allowable maximum lodging rate.

3. Meals; reimbursement is based on itemized receipts and only up to the maximum allowed per State rate.

c. Automobile Expenses: auto rental for an individual traveler will be reimbursed for small cars category, such as compact or economy. Multiple travelers in the same vehicle will be reimbursed for midsize car category, such as standard or intermediate. Also included is related auto insurance, gasoline, parking, toll road costs and taxi service. Costs include applicable taxes.

d. Airline Travel: coach class air travel with rates nearest to the State contract rate. All airline travel shall be booked no less than 7 days in advance when possible. Reimbursement for air travel booked within 7 days of departure, without the prior approval of the PM/RCM, may be limited. A sales receipt and a boarding pass must be provided for each flight in order to receive reimbursement. Upgrades to the standard air travel charges, such as personal seating selection, business select upgrades, or early boarding, will not be subject to reimbursement.

e. Approval: Unless expressly directed and approved "in writing" by the Owner, amounts exceeding the above stipulated limitations will not be subject to reimbursement.

f. Fees paid for securing approval of authorities having jurisdiction over any particular project;

g. Expenses of reproductions, printing, collating, postage and handling of Drawings, Specifications, Reports and other documents or other project related work product, but excluding plotting costs of drawings, reproductions for the use of Services Provider and Services Provider's consultants as well as up to three (3) review sets as necessary for progressive reviews by Owner in accordance with the Project Proposal;

h. Communication expenses such as long distance telephone, facsimile transmissions, express charges and postage that are directly attributable to the project;

i. Disbursements made by the Services Provider under approved subcontracts;

- j. Reasonable costs for rental or use of special equipment, tools, and electronic data processing equipment required in connection with the project if approved in advance and in writing by Owner;
- k. Expense of any additional insurance coverage or limits, requested by the Owner excluding professional liability and errors and omissions insurance required under Basic Services of this contract that exceed those normally carried by the Services Provider and the Services Provider's consultants.
- l. Vehicle trip charges are applicable to vehicles that are specifically equipped and used to transport testing and sampling equipment, safety equipment, tools, heavy equipment, drilling devices and/or supplies that are specifically required for the scope of services proposed and approved for the subject project.
 Light duty vehicles (pick-up trucks) are applicable when transporting equipment or materials to the jobsite or returning from the jobsite with material samples, equipment or related items.
 Vehicle trip charges are not applicable for standard passenger automobile transportation to the job site regardless of the ownership of the vehicle.
 When a specialty vehicle as noted above is required for the appropriate execution of the proposed scope of services, mileage reimbursement may be allowed when previously identified in a 'vehicle trip rate schedule' and when approved in advance, in writing, by the Owner.
 'Vehicle trip rates' apply to the distance from the location in which the vehicle is usually and customarily located, to the jobsite.
 Specific information shall be submitted that confirms the vehicle's typical permanent location or established base of operation. Also, odometer reporting is expected to be provided to establish the distance of travel and substantiate the amount submitted for reimbursement.
 Standard passenger automobile transportation mileage reimbursement shall be in accordance with Article 8.01(b) of the Agreement.
 When vehicle trip charges are allowed, additional transportation 'mileage' reimbursement, for that vehicle, will not be allowed.
- j. Expenses not allowed for reimbursement include the cost of alcoholic beverages, incidental expenses, laundry, valet service, entertainment or any non-project related items. All tips must be included within the maximum state rate allowances.

8.02 Compensation for Reimbursable Expenses: The Services Provider and its employees and consultants, shall be compensated for the actual, out-of-pocket, reasonable costs for all approved Reimbursable Expenses that are incurred solely and directly in connection with the performance of the Services Provider's services and duties under this Agreement or in the interest of any particular project. No mark-up will be allowed on Reimbursable Expenses by Services Provider or consultants.

8.03 Proposal Costs Not Recoverable: Services Provider is solely responsible for any expenses or costs, including expenditures of time, incurred by the Services Provider and its employees and consultants in the development of Project Proposals or Additional Services Proposals. Such expenses or costs are not Reimbursable Expenses.

ARTICLE 9
INVOICING

9.01 **Monthly Invoices:** Services Provider shall submit a monthly record or invoice of services performed under this Agreement identifying all fees earned and reimbursable expenses incurred in the previous month. Invoices shall be submitted in a format approved by the Owner and must contain at least the following information:

- a. Project Name and Work Order Number;
- b. Owner Agreement Number;
- c. Services Provider's Tax Identification Number;
- d. Name of Project Manager;
- e. Identification of billing period, by calendar month, to which the invoice applies;
- f. Itemized description of services provided including the names, billing rates and amount of time per task expended by all persons who performed services on the project during the billing period.
- g. Completion status of project by percentage;
- h. Total amount of invoice;
- i. Total amount of prior invoices and maximum contract sum;
- j. Copy of all receipts in support of any reimbursable expenses invoiced;

9.02 **Limited to Maximum Contract Sum:** It is the responsibility of Services Provider not to provide services or submit invoices that exceed the allowable fee amount established for any specific project in the Services Provider Work Order issued by the Owner. Services provided, and/or expenses incurred that exceed the established fee amount for any specific project without Owner's written consent will be at Services Provider's financial risk and Owner shall not be obligated to pay for any such services or expenses.

9.03 **Prompt Payment:** For purposes of Texas Government Code § 2251.021(a)(2), the date the performance of service is completed is the date when the Owner's representative approves the invoice. Payment of invoices shall be made within 30 days of Owner's approval.

9.03.1 The Owner's Designated Representative shall determine acceptance of either mailed or electronically-submitted invoices. The payment due date is when the invoice can be viewed by an employee on the first business day following the submittal, if the agency receives the invoice after normal business hour.

9.04 **Invoice Submittal:** Invoices shall be submitted to
The University of Texas at Arlington
Offices of Facilities Management
1225 W. Mitchell Street, Suite 205
Box 19228
Arlington, Texas 76019
Attn: Viki Lewis
vlewis@uta.edu

or to the alternate address specified on the Services Provider Work Order. Invoices shall be sent to the attention of the individual specified on the Services Provider Work Order.

9.05 **Exceptions to Payment:** Regardless of any other provision of this Agreement, Owner shall not be obligated to make any payment requested by Services Provider under this Agreement if any of the following conditions precedent exist:

- a. Services Provider is in breach or default under this Agreement;
- b. The requested payment includes services not performed in accordance with this Agreement; provided, however, payment shall be made the balance of the services that are performed in accordance with this Agreement;
- c. The total of Services Provider's invoices exceed the allowable fee amount established for any specific project;
- d. Services Provider has failed to make payments promptly to consultants or other third parties used in connection with the services for which Owner has made payment to Services Provider;
- e. Services Provider becomes insolvent, makes a general assignment of its rights or obligations for the benefit of its creditors, or voluntarily or involuntarily files for protection under the bankruptcy laws; or
- f. If Owner, in its good faith judgment, determines that the balance of unpaid compensation is insufficient to complete the services required under this Agreement.

9.06 **Partial Payment:** No partial payment by Owner shall constitute or be construed as final acceptance or approval of any services or as a release of any of Services Provider's obligations or liabilities with respect to such services.

9.07 **Subcontractor Payment:** Services Provider shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of the services.

9.08 **Final Payment and Release:** The acceptance by Services Provider or Services Provider's successors of final payment under this Agreement, shall constitute a full and complete release of Owner from any and all claims, demands, and causes of action whatsoever that Services Provider or Services Provider's successors have or may have against Owner pursuant to this Agreement except those claims specifically identified in writing by Services Provider as unsettled at the time of the final request for payment is made .

ARTICLE 10 SERVICES PROVIDER'S ACCOUNTING RECORDS

Services Provider shall maintain records of costs, expenses and billings pertaining to services performed under this Agreement in accordance with generally accepted accounting principles. Such records shall be available to the Owner or the Owner's authorized representative at mutually convenient times for a period of at least three (3) years after expiration or termination of this Agreement. Owner shall have the right to audit and to verify the details set forth in Services Provider's billings, certificates, and statements, either before or after payment. The terms of this paragraph shall survive any termination of the Agreement.

ARTICLE 11 OWNERSHIP AND USE OF DOCUMENTS

11.01 All documents prepared by the Services Provider are instruments of service and shall remain the property of the Services Provider. The Owner shall be permitted to retain copies, including reproducible copies, of all documents prepared by the Services Provider for information and reference in connection with the Owner's use and occupancy of the project. Owner shall have an irrevocable, fully paid-up perpetual

license and right, which shall survive the termination of this agreement, to use the documents, including the originals thereof, and the ideas and designs contained therein, for any purpose, regardless of the Services Provider's involvement. The Services Provider and its consultants shall not be liable for any re-use of or changes made by the Owner to the Drawings or Specifications (including Drawings or Specifications provided in CADD or other electronic format) or for claims or actions arising from any such re-use or changes on projects in which the Services Provider is not involved..

11.02 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the project is not to be construed as publication in derogation of the Services Provider's rights.

ARTICLE 12 TERMINATION OF AGREEMENT

12.01 **Termination for Cause:** This Agreement may be terminated by either party upon ten (10) days written notice should the other party fail substantially to perform in accordance with its terms through no fault of the terminating party and such failure is not fully cured prior to the expiration of the notice period. If a termination for cause under this section is later determined to be improper, the termination shall automatically convert to a termination for convenience under section 12.02 and Services Provider's recovery for termination shall be strictly limited to the compensation allowable under section 12.03.

12.02 **Termination for Convenience:** This agreement may be terminated for convenience by the Owner in whole or in part, upon at least ten (10) days written notice to the Services Provider.

12.03 **Compensation:** In the event of termination not the fault of the Services Provider, the Services Provider shall be entitled to compensation for all services satisfactorily performed to the termination date, together with approved Reimbursable Expenses then due, provided Services Provider delivers to Owner statements, accounts, reports and other materials as required for payment along with all reports, documents and other materials prepared by Services Provider prior to termination.

ARTICLE 13 DISPUTE RESOLUTION

13.01 To the extent that it is applicable, the dispute resolution process provided for in Chapter 2260 of the Texas Government Code shall be used by the Project Services Provider to resolve any claim for breach of contract made by Project Services Provider that is not resolved in the ordinary course of business between Project Services Provider and Owner.

13.02 **Alternative Dispute Resolution Process.** Owner may establish a dispute resolution process to be utilized in advance of that outlined in Tex. Gov't Code, Chapter 2260.

13.03 Nothing herein shall hinder, prevent, or be construed as a waiver of Owner's right to seek redress on any disputed matter in a court of competent jurisdiction.

13.04 In any litigation between the Owner and the Project Services Provider arising from this Agreement or this Project, neither party will be entitled to an award of legal fees or costs in any judgment regardless which one is deemed the prevailing party.

13.05 Nothing herein shall waive or be construed as a waiver of the State's sovereign immunity.

13.06 Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Project Services Provider, in whole or in part. Owner and Project Services Provider agree that any periods set forth in this Agreement for notice and cure of defaults are not waived, delayed, or suspended by Chapter 2260 or this section.

13.07 In accordance with Chapter 2260, the Owner designates Mr. John D. Hall as its representative for the purpose of reviewing Services Provider's claim(s) and negotiating with Services Provider in an effort to resolve such claim(s).

ARTICLE 14 INSURANCE

14.01 Insurance Coverage. Services Provider, consistent with its status as an independent contractor, will carry and will cause its consultants to also carry, at least the following insurance, with companies authorized to do insurance business in the State of Texas or eligible surplus lines insurers operating in accordance with the *Texas Insurance Code*, having an A.M. Best Rating of A-:VII or better, and in amounts not less than the minimum limits of coverage described below. The costs of such insurance will be at the expense of the Services Provider.

- a) Professional Liability Insurance (errors and omissions), acceptable to and approved by the Owner, with a limit of no less than:
- \$1,000,000 each claim/\$2,000,000 aggregate for projects with total project cost less than \$50,000,000;
 - \$2,000,000 each claim/\$2,000,000 aggregate for projects with total project costs between \$50,000,000 and \$100,000,000;
 - \$5,000,000 each claim/\$5,000,000 aggregate for projects with total project cost greater than \$100,000,000.
- For consultants, Professional Liability Insurance (errors and omissions) limits shall be not less than \$1,000,000 each claim/\$2,000,000 aggregate.

Such insurance shall provide coverage for claims arising out of an error, omission or negligent act in the performance of professional services by or on behalf of Services Provider. Coverage shall not be limited to bodily injury and property damage, but shall also include economic loss. Policy shall not include pollution, mold or asbestos exclusions. Claims-made coverage is acceptable, as long as the retroactive date on the policy predates the date that professional services are first performed under this contract. The policy must provide for the reporting of circumstances that may give rise to a claim. The policy must be continuously renewed for at least five (5) years following project completion. If coverage is allowed to lapse or the retroactive date on the policy is advanced, then Services Provider or consultant shall purchase an extended reporting period of five (5) years, or the longest extended reporting period commercially available and any physical property damage, including the loss of use thereof, bodily injury or death resulting there from.

- b) Commercial General Liability \$1,000,000 each occurrence
\$2,000,000 aggregate

The required Commercial General Liability policy will be issued on a form that insures liability for bodily injury (including death), property damage, and personal and advertising injury assumed under the terms of this Agreement.

c) On Site Insurance: If any services are performed on Owner's premises, Services Provider will carry and will cause its consultants also to carry the following additional insurance. The Services Provider shall furnish to Owner Certificates of Insurance as set forth below prior to the performance of any work hereunder and shall maintain such coverage during the full term of the Agreement.

Worker's Compensation	Statutory Limits
Employer's Liability	
Bodily Injury by Accident	\$1,000,000 each accident
Bodily Injury by Disease	\$1,000,000 each employee
Bodily Injury by Disease	\$1,000,000 policy limit
Business Auto Liability	
Single Limit	\$1,000,000 each occurrence
* If a separate Business Auto Liability policy is not available, coverage for hired and non-owned auto liability may be endorsed on the Commercial General Liability policy.	

14.01.01 Evidence of all required insurance shall be provided on a Texas Department of Insurance approved certificate form (Acord Form is a Texas Department of Insurance pre-approved form) verifying the existence of all insurance after the execution and delivery of this Agreement and prior to the performance of any services by Services Provider under this Agreement. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate verifying the continued existence of all required insurance no later than 30 days after each annual insurance policy renewal. All insurance policies, with the exception of worker's compensation, employer's liability and professional liability will be endorsed and name The Board of Regents of The University of Texas System, The University of Texas System and University as Additional Insured for activities arising out of this contract on an ISO (CG 20 10 0704) or equivalent form. Workers compensation insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The University of Texas System, The University of Texas System and University. Commercial General Liability and Business Auto Liability insurance policies will be endorsed to provide primary and non-contributory coverage.

14.01.02 Notice of Cancellation: Required insurance shall not be cancelable without thirty (30) days' prior written notice to Owner.

14.01.03 Services Provider is responsible for any self-insured retentions, or deductibles that apply to any policy limit required herein.

14.01.04 Certificates of Insurance. Approved Texas Department of Insurance certificates will be mailed, faxed, or emailed to the following University contact.

The University of Texas at Arlington
Offices of Facilities Management
1225 W. Mitchell Street, Suite 205
Box 19228
Arlington, Texas 76019
Attn: Viki Lewis
vlewis@uta.edu

Services Provider is responsible for obtaining and maintaining evidence of all required insurance from consultants and will provide copies to University upon request.

14.01.05 The insurance policies required in this Agreement will be kept in force for the periods specified below:

Required coverages will be kept in force until receipt of Final Payment to Services Provider by University;

Workers' Compensation Insurance and Employer's Liability insurance will be kept in force until the Work has been fully performed and accepted by University in writing.

Professional Liability insurance shall be maintained in accordance with Section 14.01 a).

14.01.06 If Owner is damaged by failure of Services Provider (or consultant) to maintain insurance as required herein, then Services Provider shall bear all reasonable costs properly attributable to that failure.

ARTICLE 15 INDEMNITY

15.01 **Indemnification.** Services Provider covenants and agrees to indemnify and hold harmless Owner and the elected and appointed officials, employees, officers, directors, volunteers, and representatives of Owner (collectively "Indemnitees"), from and against liability for all damage to the extent caused by or resulting from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the Services Provider, or its agents, consultants under contract, or another entity over which the Services Provider exercises control.

15.02 The indemnity provided for in this paragraph does not apply to the extent of any liability resulting from the negligence or fault, the breach or violation of applicable law, or the breach of contract of the Indemnitees or their agents or employees, or any third party under their control or supervision other than the Services Provider or its agents, employees, subcontractors or consultants of any tier.

15.03 IN THE EVENT SERVICES PROVIDER AND OWNER ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY WILL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSE OF THE PARTIES UNDER TEXAS LAW.

15.04 The provisions of this Section will not be construed to eliminate or reduce any other indemnification or right which Indemnitee has, by law or equity.

ARTICLE 16 HISTORICALLY UNDERUTILIZED BUSINESSES

16.01 The Owner has adopted a policy on Utilization of Historically Underutilized Business ("Policy"), which is incorporated herein by reference. The Policy and its requirements can be found on the following website: <http://www.utsystem.edu/offices/historically-underutilized-business/hub-forms>

16.02 Services Provider, as a material provision of the Agreement, must comply with the requirements of the Policy and adhere to any HUB Subcontracting Plan submitted with Services Provider's Proposal. No changes to the HUB Subcontracting Plan can be made by the Services Provider without the prior written approval of the Owner in accordance with the Policy.

ARTICLE 17 MISCELLANEOUS PROVISIONS

17.01 **Appointment of Representative:** Owner may designate a representative to act partially or wholly for Owner in connection with this Agreement. Services Provider shall coordinate its services solely through the designated representative.

17.02 **Independent Contractor:** Services Provider acknowledges that it is engaged as an independent contractor and that Owner shall have no responsibility to provide Services Provider or its employees with transportation, insurance or other fringe benefits normally associated with employee status. Services Provider is responsible for all income taxes required by applicable law.

17.03 **Confidentiality:** The Services Provider shall treat any Owner supplied information or information pertaining to Owner's business as confidential and shall not disclose any such information to others except as necessary for the performance of this Agreement or as authorized by the Owner in writing.

17.04 **Successors and Assigns.** The Owner and the Services Provider, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to the terms and conditions of this Agreement. This Agreement is a personal service contract for the services of Services Provider, and Services Provider's interest in this Agreement, duties hereunder and/or fees due hereunder may not be assigned or delegated to a third party without written consent of Owner. The benefits and burdens of this Agreement are, however, assignable by Owner.

17.05 **Subcontracting:** The Services Provider agrees not to subcontract any part of the work without the prior written consent of Owner. If subcontracting is permitted, the Services Provider must identify the subcontractor(s) to Owner prior to any subcontractor beginning work. Submission and approval of a Historically Underutilized Businesses (HUB) Sub Contractor Plan is considered consent under this Article.

17.06 **Loss of Funding:** Performance by Owner under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of The University of Texas System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then Owner shall issue written notice to Services Provider and Owner may terminate this Agreement without further

duty or obligation hereunder. Services Provider acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Owner.

17.07 Open Records: All information, documentation and other material submitted by the Services Provider may be subject to public disclosure under the Public Information Act, Texas Government Code Chapter 552.

17.08 Family Code Child Support Certification: Pursuant to Section 231.006, *Texas Family Code*, the Services Provider certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

17.09 Franchise Tax Certification: A corporate or limited liability company Contractor certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the *Texas Tax Code*, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.

17.10 Payment of Debt or Delinquency to the State: Pursuant to Sections 2107.008 and 2252.093, *Texas Government Code*, Services Provider agrees that any payments owing to Services Provider under this Agreement may be applied directly toward any debt or delinquency that Contractor owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full

17.11 Taxes: The University of Texas System is a tax exempt State of Texas Agency under Chapter 151, Texas Tax Code and an institution of higher education. Services Provider shall avail itself of all tax exemptions applicable to Services Provider's work or expenses.

17.12 Not Used.

17.13 Captions: The captions of paragraphs in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

17.14 Severability: Should any provisions(s) of this Agreement be held invalid or unenforceable in any respect, that provision shall not affect any other provisions and this Agreement shall be construed as if the invalid or unenforceable provision(s) had not been included.

17.15 Waivers: No delay or omission by either party in exercising any right or power provided under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver of the right or power. A written waiver granted by either of the parties of any provision of this Agreement shall not be construed as a future waiver of that provision or a waiver of any other provision of the Agreement.

17.16 Force Majeure: No party shall be liable or responsible to the other for any loss or damage or for any delays or failure to perform under this Agreement due to causes beyond its reasonable control, including, but not limited to, acts of God, employee strikes, epidemics, war, riots, flood, fire, sabotage, terrorist acts or any other circumstances of like character (force majeure occurrence). In the event of a force majeure occurrence, Services Provider agrees to use its best efforts to mitigate the impact of the occurrence so that the Owner may continue operations during the occurrence.

17.17 **Governing Law:** This Agreement shall be construed, interpreted and applied in accordance with the laws of the State of Texas without regard for choice of law principles. All obligations of the parties created hereunder are enforceable in Travis County, Texas. Travis County is a proper venue for any legal action to enforce this Agreement.

17.18 **Entire Agreement:** This Agreement constitutes the sole and only agreement between the parties with respect to the services contracted for and supersedes any prior understandings, written or oral. No modification, alteration or waiver of this Agreement or any of its provisions shall be effective unless in writing and signed by both parties. No course of prior dealings, no usage of trade, and no course of performance shall be used to modify, supplement or explain any terms used in this Agreement.

17.19 **Ethics Matters; No Financial Interest:** Service Provider and its employees, agents, representatives and consultants have read and understand University's Conflicts of Interest Policy available at <http://www.uta.edu/policy/hop/adm/5/508> University's Standards of Conduct Guide available at http://www.uta.edu/compliance/pdf/conduct_guide.pdf and applicable state ethics laws and rules available at www.utsystem.edu/ogc/ethics.

Neither Services Provider nor its employees, agents, representatives or consultants will assist or cause University employees to violate University's Conflicts of Interest Policy, provisions described by University's Standards of Conduct Guide, or applicable state ethics laws or rules. Services Provider represents and warrants that no member of the Board of Regents of The University of Texas System, or Executive Officers, including component institutions has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

17.20 **Products and Materials Produced in Texas:** If Services Provider will provide services under this Agreement, Service Provider covenants and agrees that in accordance with Section 2155.4441, Texas Government Code, in performing its duties and obligations under this Agreement, Services Provider shall purchase products and materials produced in Texas when such products and materials are available at a price and delivery time comparable to products and materials produced outside of Texas.

17.21 **Authority to Act:** If Service Provider is a corporation or a limited liability company, Service Provider warrants, represents, and agrees that (1) it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization; (2) it is duly authorized and in good standing to conduct business in the State of Texas; (3) it has all necessary power and has received all necessary approvals to execute and deliver this Agreement; and (4) the individual executing this Agreement on behalf of Services Provider has been duly authorized to act for and bind Service Provider.

17.22 **Disclosure of Interested Parties.** By signature hereon, Services Provider certifies that if the value of this Agreement exceeds \$1 Million it has complied with Section 2252.908 of the Texas Government Code and 1 Texas Administrative Code Sections 46.1 through 46.3 as implemented by the Texas Ethics Commission (TEC) and has provided the Owner with a fully executed TEC Form 1295, certified by the TEC and signed and notarized by the Project. See attached exhibit for instructions.

17.23 **Services Provider Certification regarding Boycotting Israel.** To the extent required by Chapter 2270, Texas *Government Code*, Services Provider certifies that it (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Services Provider acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

17.24 Services Provider Certification regarding Business with Certain Countries and Organizations. Pursuant to Subchapter F, Chapter 2252, *Texas Government Code*], Services Provider certifies it (1) is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Services Provider acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

17.25 179 D Benefit Allocation: Owner may decide to seek the allocation of certain tax benefits pursuant to Section 179D of the Internal Revenue Code of 1986, as amended, (the “Code”) through this Agreement with Project Services Provider.

17.25.1 If the Owner and the Internal Revenue Service (IRS) determine that the Project Services Provider is eligible to receive the 179D deduction allocation as a “Designer” for the purposes of Section 179D of the Code or that Project Services Provider could otherwise profit financially from the monetization of the benefit (separately and collectively, the “Rebate”), Project Services Provider hereby agrees to allocate to the Owner a portion of the Rebate in an amount to be determined and contracted for on mutually agreeable terms when the value of the Rebate becomes ascertainable, net of associated costs realized by the Owner and Project Services Provider. At its sole discretion, the Owner shall determine whether to receive its portion of the Rebate in cash, discounted Project Services Provider fees or both.

17.25.2 Owner reserves the right to retain a third-party consultant (the “Consultant”) to manage and administer the process of obtaining and monetizing the Rebate derived from the Project(s).

17.25.3 Project Services Provider agrees to cooperate in all reasonable respects with the Consultant's efforts to obtain and monetize any such Rebates derived from the Project(s) on behalf of the Owner. Certification of eligibility and negotiation of the Rebates should be facilitated by the Owner's 179D Consultant.

17.26 Confidentiality and Safeguarding of Owner Records; Press Releases; Public Information. Under this Agreement, Services Provider may (1) create, (2) receive from or on behalf of Owner, or (3) have access to, Owner records or record systems (collectively, “Owner Records”). Services Provider agrees that it will: (1) hold all Owner Records in strict confidence and will not use or disclose Owner Records except as (a) permitted or required by the Agreement, (b) required by Applicable Laws, or (c) otherwise authorized by Owner in writing; (2) safeguard Owner Records according to reasonable administrative, physical and technical standards that are no less rigorous than the standards by which Contractor protects its own confidential information; and (3) comply with the Owner's rules, policies, and procedures regarding access to and use of Owner's computer systems. At the request of Owner, Contractor agrees to provide a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of Owner Records.

17.26.1 Notice of Impermissible Use. If an impermissible use or disclosure of any Owner Records occurs, Contractor will provide written notice to University within one (1) business day after Contractor's discovery of that use or disclosure. Contractor will promptly provide Owner with all information requested by University regarding the impermissible use or disclosure.

17.26.2 Return of University Records. Contractor agrees that within thirty (30) days after the expiration or termination of the Contract, for any reason, all Owner Records created or received from or on behalf of University will be (1) returned to Owner, with no copies

retained by Contractor; or (2) if return is not feasible, destroyed following twenty (20) days written notice to the Owner. Contractor will confirm in writing the destruction of any Owner Records.

17.26.3 Disclosure. If Contractor discloses any Owner Records to a subcontractor or agent, Contractor will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Contractor by this Section.

17.26.4 Press Releases. Except as required by the Contract, Contractor will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor as an independent contractor of Owner in connection with the Project or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of Owner.

17.26.5 Public Information. Owner strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the *Texas Public Information Act* (“TPIA”), Chapter 552, *Texas Government Code*. In accordance with Section 552.002 of TPIA and Section 2252.907, *Texas Government Code*, and at no additional charge to Owner, Contractor will make any information created or exchanged with Owner pursuant to this Contract that is not otherwise exempt from disclosure under TPIA available in a format reasonably requested by Owner that is accessible by the public.

17.27 Contractor Verification Regarding Discrimination Against Firearm Entities or Trade Associations. Pursuant to Chapter 2274, Texas Government Code (enacted by SB 19, 87th Texas Legislature, Regular Session (2021)), Contractor verifies (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) it will not discriminate during the term of this Agreement against a firearm entity or firearm trade association. Contractor acknowledges this Agreement may be terminated and payment withheld if this verification is inaccurate. **[Note: This provision does not apply to: (1) contracts below \$100,000; (2) contracts with a sole-source provider; and (3) contracts with a non-profit entity, sole proprietorship, or a for-profit entity that has less than 10 full time employees. This provision should not be included in a contract if the University did not receive any bids from a company that is able to provide the written verification required above.]**

ARTICLE 18 NOTICES

18.1 All notices, consents, approvals, demands, requests or other binding communications under this Agreement shall be in writing. Written notice may delivered in person to the designated representative of the Services Provider or Owner; mailed by U. S. mail to the last known business address of the designated representative; or transmitted by fax machine to the last know business fax number of the designated representative. Mail notices are deemed effective three business days after the date of mailing. Fax notices are deemed effective the next business day after faxing.

18.2 The initially designated representatives of the parties for receipt of notices are as follows. Either party may change their designated representative for receipt of notices by written notice.

(a) If to Owner: University of Texas at Arlington
Office of Facilities Management
Attn: Donald J. Lange
1225 W. Mitchell St, Suite 205
Arlington, Texas 76019
Email: donlange@uta.edu

(c) If to Services Provider:

IN WITNESS WHEREOF, Owner and Services Provider have executed and delivered this Agreement effective as of the date identified above.

WITNESS:

SERVICES PROVIDER:

By: _____
Name:
Title:

By: _____
Name:
Title:

Date: _____

The Texas Board of Architectural Examiners, 333 Guadalupe Street, Suite 2-350, Austin, Texas 78701, telephone (512) 305-9000, has jurisdiction over individuals licensed under the Architects' Registration Law, Chapter 1051, Texas Occupations Code.

The Texas Board of Professional Engineers, 1917 IH 35 South, Austin, Texas 78741, telephone (512) 440-7723, has jurisdiction over individuals licensed to practice engineering in Texas.

OWNER:

Name: John D. Hall

Title: Vice President for Administration and
Campus Operations

Date: _____

EXHIBITS

Exhibit A Schedule of Billing Rates

EXHIBIT A

Services Provider's Scope of Work and Schedule of Billing Rates



UNIVERSITY OF
TEXAS
ARLINGTON

Office of HUB Programs
817-272-2039
mario.ramirez@uta.edu

Exhibit H – Policy on Utilization Historically Underutilized Businesses

HUB Subcontracting Plan for

- Architectural/ Engineering Professional Services

Office of Facilities Management (OFM)

Revision dated April 22, 2020



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V.	Prime Contractor Progress Assessment Report (PAR)*	Page 12

* **Note 1:** *If awarded a contract, the Prime Contractor Progress Assessment Report (PAR) is a required form with each payment application submitted. This form is a condition of payment.*

For questions or clarifications regarding the HUB Subcontracting Plan, please contact the appropriate HUB Coordinator listed below:

UT Arlington
Mario Ramirez
HUB Program, Manager
817-272-2039
mario.ramirez@uta.edu

The University of Texas System
Office of HUB Programs

**POLICY ON UTILIZATION OF
HISTORICALLY UNDERUTILIZED BUSINESSES (HUBs)**

Introduction

In accordance with the Texas Government Code, Sections 2161.181-182 and Title 34, Rule 20.281 of the Texas Administrative Code (TAC), The Board of Regents of the University of Texas System, acting through the Office of HUB Programs shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction services, including professional and consulting services; and commodities contracts. The HUB Rules promulgated by the Texas Comptroller of Public Accounts (the "Texas Comptroller"), set forth in 34 TAC Rules 20.281-20.298, encourage the use of HUBs by implementing these policies through race-, ethnic- and gender-neutral means.

The purpose of the HUB Program is to promote full and equal business opportunities for all businesses in State contracting in accordance with UT System specific or statewide HUB goals as specified in TAC Rule 20.284:

- **11.2% for heavy construction other than building contracts;**
- **21.1% for all building construction, including general contractors and operative builders contracts;**
- **32.9% for all special trade construction contracts;**
- **23.7% for professional services contracts;**
- **26% for all other services contracts, and;**
- **21.1% for commodities contracts.**

The University of Texas System shall make a good faith effort to meet or exceed these goals and/or UT System specific goals to assist HUBs in receiving a portion of the total contract value of all contracts that U. T. System expects to award in a fiscal year. The University of Texas System may achieve the annual program goals by contracting directly with HUBs or indirectly through subcontracting opportunities in accordance with the Texas Government Code, Chapter 2161, Subchapter F.

**UT System Administration
Historically Underutilized Subcontracting Plans (HSP)
for Professional Services-23.7%**

All Texas State agencies and institutions of higher education (universities) are required to make a good faith effort to include minority and/or women owned businesses in their procurement opportunities. The State of Texas uses the term Historically Underutilized Businesses (HUB) to distinguish State certified minority and/or women owned businesses.

Statement of Probability - Subcontracting Opportunities are probable in connection with this solicitation.

Responses that do not include a completed HUB Subcontracting Plan shall be rejected due to material failure to comply Government Code, §2161.252(b).

Determination of Good Faith Effort in developing an HSP for professional services contracts is established if the respondent provides documentation of meeting one of the following options:

Option 1 – Complete a **Self-Performing HSP** as follows:

- a) Section 1 – Respondent and Requisition Information. Complete as indicated on the form. VID number refers to the tax ID number.
- b) Section 2A – No, I will not be subcontracting any portion of the contract, and will be fulfilling the entire contract with my own resources.
- c) Section 3 – Self Performing Justification – Check no and provide explanation in box **
- d) Section 4 – Affirmation – include your email address, contact phone number and email address should UTA HUB have any questions.

**Section 3 Sample Statement- edit as needed

_____ will be fulfilling the entire contract with our own resources, including employees, goods, services, transportation and delivery. If sub-contracting opportunities are identified at a future date, we will immediately contact the project manager and HUB Coordinator and commit to performance of a Good Faith Effort through solicitation of HUB firms and submit an amended HUB Subcontracting Plan.

Option 2 – Complete the following if **all sub-contracting opportunities are to be performed by ONLY state of Texas certified HUB vendors.**

- a) Section 1 – Respondent and Requisition information. VID number refers to Tax ID number.
- b) Section 2A – Yes, I will be subcontracting portions of the contract
- c) Section 2B – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors
- d) Section 2C – Yes
- e) Section 4 –Affirmation
- f) Good Faith Effort (Attachment A) – Complete this attachment for each subcontracting opportunity listed in Section 2B

Option 3 – Complete the following if **sub-contracting opportunities by both HUB and non-HUB vendors meets or exceeds the HUB professional services goal** stated above:

- a) Section 1 – Respondent and Requisition information. VID number refers to Tax ID number.
- b) Section 2A – Yes, I will be subcontracting portions of the contract
- c) Section 2B – List all portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors and Non HUB vendors
- d) Section 2C – No
- e) Section 2D – Yes
- f) Section 4 –Affirmation
- g) Good Faith Effort (Attachment A) – Complete this attachment for each subcontracting opportunity listed in Section 2B.

-Instructions continued next page-

- Instructions continued -

Option 4 – If you are subcontracting with HUB vendors and Non-HUB vendors (or only Non-HUB vendors), and the total percentage subcontracting with HUB vendors **does not meet or exceed the HUB Goal**, complete the following:

- a) Section 1 - Respondent and Requisition Information. VID number refers to Tax ID number
- b) Section 2A – Yes, I will be subcontracting portions of the contract
- c) Section 2B – List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to HUB vendors and Non HUB vendors
- d) Section 2C – No
- e) Section 2D – No
- f) Section 4 – Affirmation
- g) Good Faith Effort (Attachment B) – Complete this attachment for each subcontracting opportunity listed in Section 2B.

Determination of Good Faith Effort in developing an HSP for professional services contracts includes but is not limited to the following:

1. Divide the work into reasonable lots or portions to the extent consistent with prudent industry practices.
2. Provide notice a minimum of two (2) minority/ women trade organizations or development centers of sub-consulting opportunities to be disseminated to their membership. The notice shall include: Scope of work; required qualifications; and identify a contact person (including phone number and email address). Notify the minority/women organizations of contracting opportunities with reasonable time to disseminate information to members/participants (no less than **seven (7)** working days from receipt of notice). Weekends and holidays do not count toward the 7 day notice.
3. Notify three (3) or more HUBs of for each discipline that is to be subcontracted in writing. The notice shall include: Scope of work; required qualifications; and identify a contact person (including phone number and email address). Notify the HUBs of contracting opportunities with reasonable time to respond (**no less than seven (7)** working days from receipt of notice). Weekends and holidays do not count toward the 7 day notice.
4. Provide written justification of the selection process if the selected sub-consultant is not a HUB.
5. The respondent shall use the Centralized Master Bidders List (CMBL), HUB Directory, Internet and other directories as identified by the agency when searching for HUB sub-consultants. The Centralized Master Bidders List (CMBL) can be found at: <https://mycpa.cpa.state.tx.us/tpasscmlsearch/tpasscmlsearch.do>. The respondent must keep and provide if requested official written documentation (i.e. electronic mail, written correspondence, etc.) to demonstrate compliance.

Minority prime firms are required to complete the HUB Plan identifying all sub-consultants.

Changes to Plan

Changes to the HSP must be approved in writing by UTA OFM Project Manager and HUB Coordinator **prior** to any work taking place by the new sub-consultant. Justification is required to explain the sub-consultant substitutions. Once the contract has been awarded the HSP is considered part of the contract. Violations to the HSP will be deemed in breach of the contract by UTA.

Reporting – After Award

The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report - PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>).

Exhibit H Attachments: Please use the forms posted with this RFQ .



HUB Subcontracting Plan (HSP)

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

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

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

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

- - Agency Special Instructions/Additional Requirements - -

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

In accordance with 34 TAC §20.13(d)(1)(D)(iii), the goals below are the applicable goals for The University of Texas Arlington effective September 1, 2021.

Professional Services – 23.7% See page 2-3 for HSP completion instructions

- Respondents shall submit a completed HUB Subcontracting Plan (HSP) to be considered responsive. Failure to submit a completed HSP shall result in the bid, proposal or other expression of interest to be considered Non-responsive.
- Prime Contractor Progress Assessment Report (PAR) shall be submitted with each request for payment as a condition of payment.
- Please note that phone logs are no longer acceptable documentation of Good Faith Effort. Only fax, email and certified letter are acceptable.

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

a. Respondent (Company) Name: _____ State of Texas VID #: _____
 Point of Contact: _____ Phone #: _____
 E-mail Address: _____ Fax #: _____

b. Is your company a State of Texas certified HUB? - Yes - No

c. Requisition #: _____ Bid Open Date: _____
 (mm/dd/yyyy)

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

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

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

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

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

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

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

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

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

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

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

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

Enter your company's name here: _____

Requisition #: _____

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

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

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

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

Enter your company's name here: _____

Requisition #: _____

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

[Empty space for self-performing justification]

SECTION 4: AFFIRMATION

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

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

Signature	Printed Name	Title	Date (mm/dd/yyyy)
_____	_____	_____	_____
	email address	Phone Number	

Reminder:

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

HSP Good Faith Effort - Method B (Attachment B)

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

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

SECTION B-1: SUBCONTRACTING OPPORTUNITY

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

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

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

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

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

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

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

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

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

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

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

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

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

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

Enter your company's name here: _____	Requisition #: _____
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SECTION B-4: SUBCONTRACTOR SELECTION

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

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

Item Number: _____ Description: _____

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

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

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

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



HUB Subcontracting Opportunity Notification Form

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

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

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

SECTION A: PRIME CONTRACTOR'S INFORMATION	
Company Name: _____	State of Texas VID #: _____
Point-of-Contact: _____	Phone #: _____
E-mail Address: _____	Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION	
Agency Name: _____	Phone #: _____
Point-of-Contact: _____	Bid Open Date: _____
Requisition #: _____	(mm/dd/yyyy)

SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE DESCRIPTION REQUIREMENTS AND RELATED INFORMATION	
1. Potential Subcontractor's Bid Response Due Date.	
If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2, we must receive your bid response no later than _____ on _____.	
Central Time Date (mm/dd/yyyy)	
<i>In accordance with 34 TAC §20.285, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.282(19)(C).</i>	
<i>(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)</i>	

2. Subcontracting Opportunity Scope of Work:	
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3. Required Qualifications:	<input type="checkbox"/> - NotApplicable
------------------------------------	--

4. Bonding/Insurance Requirements:	<input type="checkbox"/> - NotApplicable
---	--

5. Location to review plans/specifications:	<input type="checkbox"/> - NotApplicable
--	--

