



REQUEST FOR QUALIFICATIONS NO. 580-21-RFQ-0002

FOR

NATIONAL WEATHER SERVICE HYDROLOGIC MODEL CALIBRATION

CLASS-ITEM CODE(S): 925/17

RELEASE DATE: SEPTEMBER 24, 2020

DEADLINE FOR SUBMISSION: OCTOBER 15, 2020, 2:00 PM (CDT)

Solicitation point of contact:
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You, the respondent, are responsible for checking the Electronic State Business Daily (ESBD) website, <http://www.txsmartbuy.com/sp>, for any addenda to this Solicitation. Please search under Agency Code 580 (Texas Water Development Board). The Respondent's failure to periodically check the ESBD will in no way release that Respondent from any addenda or additional information resulting in additional requirements of the Solicitation.

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SECTION I – EXECUTIVE SUMMARY, DEFINITIONS AND AUTHORITY

1.1 EXECUTIVE SUMMARY

The Texas Water Development Board (TWDB) requests responses to this Request for Qualifications (RFQ) to award a Services Contract(s) to one or more Contractors to conduct model calibration for at least 60 National Weather Service West Gulf River Forecast Center (WGRFC) locations in Texas (hereinafter referred to as “Project”). The locations are identified in the National Weather Service’s list of 88 locations that require model calibration (Table A.1. in Attachment 1).

The TWDB will consider qualifications from business entities that demonstrate the ability to complete the Project within the guidelines of this Solicitation and any applicable federal, state, and local laws, rules, and regulations. Respondents must execute **Content Item 1**, *Execution of Response to the Request for Qualifications*, and complete other items listed under 4.1.B, Contents, to be considered. Additional information on the TWDB and its programs can be found at <http://www.twdb.texas.gov>.

1.2 DEFINITIONS

“[ADA](#)” means the Americans with Disabilities Act.

“[Addendum](#)” means a written clarification or revision to the Request for Qualifications issued by the Texas Water Development Board. Respondents must acknowledge receipt of any addenda in the submission of the Solicitation Response.

“[Affiliate](#)” means any individual or entity that, directly or indirectly, controls, is controlled by, or is under common control with, Respondent. “Control” means the ability to directly or indirectly direct the management and policies of an entity, whether through the ownership of voting securities or membership interests, by contract, or otherwise.

“[Contract Documents](#)” means all documents that govern this Solicitation and any resulting contract, including, without limitation, the Project Manual, this Solicitation, the Architect/Engineer’s specifications and drawings, the Uniform General and Supplementary Conditions, Special Conditions, and all bonds and insurance.

“[Contract Price](#)” means the total compensation payable to Contractor for completion of the work in accordance with the terms of the contract.

“[Contractor](#)” means the Respondent(s) awarded a contract under this Solicitation.

“[ESBD](#)” means the Electronic State Business Daily, <http://www.txsmartbuy.com/sp>.

“[General Conditions](#)” means those items and related costs that are specified in in this document.

“[HUB](#)” means Historically Underutilized Business as defined by Chapter 2161 of the Texas Government Code.

“[HUB Subcontracting Plan](#)” or “[HSP](#)” means the form required by Texas Government Code § 2161.252 and 34 Texas Administrative Code § 20.285 for each contract with an expected value of \$100,000 or more, in which Respondent must demonstrate a Good Faith Effort to subcontract with HUBs. The HSP must be included with the Solicitation Response.

“Key Staff” means experienced, professional and/or technical personnel who will have major responsibilities under the contract and/or provide unusual or unique expertise essential for successful completion of the work performed.

“Notice to Proceed” or “NTP” means written notice provided by the TWDB to begin construction of the Project.

“OSHA” means the U.S. Occupational Safety and Health Administration.

“PIA” means the Public Information Act, Chapter 552 of the Texas Government Code.

“Project” means the work solicited under this Solicitation.

“Respondent” means the entity responding to this Solicitation.

“RFQ” means Request for Qualifications.

“Solicitation” means this RFQ.

“Solicitation Response” means the Respondent’s entire response to this Solicitation, including all documents requested.

“SOQ” means Statement of Qualifications.

“State” means the State of Texas and any state agency; the Texas Water Development Board or state agency identified in this Solicitation, its officers, employees, or authorized agents.

“TAC” means Texas Administrative Code.

“TWDB” means Texas Water Development Board.

“Uniform General Conditions” or “UGCs” means the governing contractual terms and conditions as amended in the Project Manual.

“WGRFC” means West Gulf River Forecast Center.

1.3 BACKGROUND

The National Weather Service River Forecast Centers are responsible for providing hydrologic forecast services and are part of the ongoing efforts to implement the Advanced Hydrologic Prediction Service for the WGRFC area of responsibility in Texas. Hydrologic models are needed in order to produce more accurate flow and height forecasts, and more accurately portray surface and subsurface conditions. After initial calibration projects for the Advanced Hydrologic Prediction Service were completed over the last decade, additional locations have been added to the growing list of forecast locations. These sites require new assessments of model parameters so they can be added into the forecast system.

The National Weather Service WGRFC, located in Fort Worth, Texas, requires model calibration for locations that are designated as headwater, local, inflow, or reservoir sites in Table A.1 (Attachment

1). The sites are located within the region covered by the WGRFC. Each site listed in Table A.1 requires a unit hydrograph and Sacramento Soil Moisture Accounting (SAC-SMA) calibration.

The goal of the Project described herein is to produce well-calibrated models for at least 60 watershed locations in Texas identified as sites to be included in this project in Table A.1. However, one or more of these locations may be replaced as needed (based on data limitations or other conditions) with others listed as additional sites in Table A.1. following discussion with the WGRFC and the TWDB. Implementation of these models will enable the WGRFC to (a) improve forecast accuracy, (b) produce short-range hydrologic forecasts, and (c) expand the number of locations where forecasts can be generated.

All models will be calibrated to a one- or three-hour time step as specified in Table A.1. for each site. Wherever possible, calibration work will leverage internal gages operated by the U.S. Geological Survey or other entities. Use of data from these gages may require rating development and/or review. Existing hydraulic modeling may be helpful for rating curve development where measured data is not available.

Final results will be delivered as a study report and calibrated Community Hydrologic Prediction System models in stand-alone configuration capable of running a single warm-state simulation (T0-5 days to T0) of the entire calibrated basin from headwaters to the most downstream point. The stand-alone configuration workflows should be consistent with the typical WGRFC workflow templates, where upstream flows are routed downstream, local flows are computed and combined, flows are adjusted to observed flows, and stages are computed (see Appendix A, Attachment 2 as a template/example).

SECTION II – SCOPE OF WORK

2.1 SCOPE OF SERVICES REQUESTED

The selected Contractor(s) will provide services in accordance with the requirements contained in this request for qualifications. Services set forth that contain the words “must” or “shall” are mandatory and must be provided as specified with no alterations, modifications, or exceptions. Services set forth that contain the words “may” or “can” allow Respondents to offer alternatives to the manner in which the Services are provided.

This request for qualifications has multiple tasks. Each task requires the Contractor to perform various hydrologic model calibration activities for the WGRFC. The Contractor is expected to work directly with the WGRFC, and copy the TWDB, to achieve successful completion of each task. The awarded Contractor shall complete the following tasks:

Task 1 – Historic Precipitation Data Collection

- 1) The Contractor must develop Mean Areal Precipitation-Radar estimates based on XMRGs provided by the WGRFC.
- 2) The WGRFC will provide radar time series data in XMRG format that Contractor will use to derive Mean Areal Precipitation estimates.

Task 2 –Data Preparation and Analysis

- 1) The Contractor must review all of the data provided by the WGRFC and perform basic quality control on these data by checking for consistency. These data must then be used for water balance calculations and model calibration.
- 2) Historical Streamflow Development
 - a) The Contractor must review the historical instantaneous and mean daily streamflow data and quality control these data both before and during the calibration process.
 - b) The mean daily streamflow data must be used to estimate an average annual basin runoff for each sub-basin for the calibration period.
 - c) The calibration period must be based on the period of record of the Mean Areal Precipitation-Radar time series provided by the WGRFC.
 - d) Relationships between monthly streamflow data collected at different gages must be used to estimate runoff during periods of missing data. These estimated data must not be used for model calibration, but only for the water balance analysis described below.
- 3) Mean Areal Precipitation
 - a) Average annual estimates of Mean Areal Precipitation Time Series must be computed for each sub-basin from the time series provided by the WGRFC.
 - b) These annual averages must be compared to data from the Parameter- elevation Regressions on Independent Slopes Model (PRISM) for the same areas to check for reasonableness.
 - c) The Mean Areal Precipitation data must be used in hydrologic model calibration and the water balance described below.
- 4) Potential Evapotranspiration Estimates
 - a) Average monthly Potential Evapotranspiration values are one of the inputs for the Sacramento Soil Moisture Accounting model. The Contractor must estimate mean monthly Potential Evapotranspiration values for each zone using the Food and Agriculture Organization of the United Nations Penman-Monteith method and temperature characteristics.
 - b) The Potential Evapotranspiration estimates may be adjusted during model calibration.
 - c) WGRFC operations use daily computed Evapotranspiration demand values as an input to Sacramento Soil Moisture Accounting Models rather than using a parameterized monthly evapotranspiration demand. The Contractor must deliver monthly Sacramento Soil Moisture Accounting Model Potential Evaporation adjustment factor parameters incorporating the adjustments made to convert daily Potential Evaporation into daily Evapotranspiration demand during calibration.

Task 3 –Hydrologic Model Calibration

- 1) The Contractor must calibrate Sacramento Soil Moisture Accounting and Unit Hydrograph model parameters for each of the sub-basins listed in the subtask.
- 2) Both manual (Community Hydrologic Prediction System [CHPS] calibration) and automatic calibration (Automatic Parameter Optimization Program [OPT3]) techniques may be employed during the calibration.
- 3) Calibration efforts must include reducing monthly and annual biases as much as possible while still maintaining a physically sensible and regionally consistent parameter set.

- 4) Each model calibration will undergo both a peer review and senior review process.
- 5) Water Balance Analysis
 - a) A water balance analysis must be conducted for all of the sub-basins to validate the areal precipitation, potential evapotranspiration, and discharge estimates.
 - b) For each sub-basin, actual evapotranspiration must be estimated by subtracting runoff from the precipitation.
 - c) Runoff coefficients must be computed as the ratio of the depth of runoff to Mean Areal Precipitation.
 - d) The water balance components must be analyzed for consistency from sub-basin to sub-basin.
 - e) If major discrepancies are observed, the corresponding data must be inspected further and an attempt made to resolve the discrepancies.
 - f) The water balance analysis must be used to provide insight into which sub-basins are thought to be hydrologically similar and how model parameters may vary among the sub-basins.
- 6) Sacramento Soil Moisture Accounting Model Calibration
 - a) The Contractor must calibrate Sacramento Soil Moisture Accounting Model Calibration parameters for each sub-basin specified in the subtask table.
 - b) Prior to the start of the calibration, the Contractor must contact the WGRFC to discuss typical ranges of model parameters considered reasonable by the WGRFC and the overall modeling approach.
 - c) Initial parameter estimates can be derived from a combination of hydrograph analysis as well as an assessment of parameters from similar basins, topography, soils, land use, and other available geographic data.
 - d) Manual Community Hydrologic Prediction System calibration techniques shall be employed.
 - e) Efforts will be made to ensure that final parameters are physically reasonable and consistent from sub-basin to sub-basin.
 - f) During the calibration, the Contractor may find that the Mean Areal Precipitation-Radar Time Series supplied by the WGRFC requires adjustment. Mean Areal Precipitation adjustment factors will be provided to the WGRFC for use in generating new Mean Areal Precipitation-Radar Time Series. The Contractor must incorporate the updated time series into the calibrations prior to delivering the initial calibration input files for review.
- 7) Unit Hydrograph Verification
 - a) The WGRFC will deliver the initial Unit Hydrograph Operation (UNIT-HG) parameters for all zones. The Contractor must verify the Unit Hydrograph Operation parameters for the sub-basins listed in subtask table.
 - b) Verification of existing parameters must be by comparing simulated flow to the instantaneous discharge data.
 - c) Besides visual comparison of the instantaneous discharge hydrographs, the Contractor must review statistical output (from the Community Hydrologic Prediction System STATQ module) to evaluate performance of model parameters.
 - d) Unit hydrograph ordinates may be adjusted during the basin calibration process.

8) Withdrawal/Gain Model Development and Calibration

- a) For any sub-basin with consumptive use or channel gains and losses, the Contractor must approach the modeling with the objective of improving the total flow simulation at the downstream outflow of the sub-basin.
- b) The selected models shall also be sufficiently complex to improve short-term deterministic forecast capabilities and still remain manageable on a daily basis given current WGRFC resources.
- c) In reaches where withdrawals/gains exist, but are negligible, the Contractor must coordinate with the WGRFC to determine whether withdrawal/gain modeling is necessary. In some cases, a simple modeling approach such as a single Consumptive Use (CONS_USE) or Channel Loss (CHANLOSS) model may be utilized to capture the withdrawal or gain effect in that particular reach.
- d) Where withdrawal/gain modeling is already in use:
 - i) The current modeling structure must be maintained for each sub-basin.
 - ii) Any Channel Loss model parameters must be adjusted to improve the total flow simulation.
 - iii) During the calibration effort, the Contractor may determine that the current modeling structure does not provide sufficient flexibility to simulate the total observed flows or that the modeling could be simplified. WGRFC staff must be consulted regarding any proposed model structure changes.
- e) In some cases, the Contractor may identify additional diversions at which point the WGRFC can be contacted to assist in collecting diversion data.

9) Routing Model Calibration

- a) Streamflow routing is required to estimate the total discharge for headwater and downstream forecast points. The Contractor must provide calibrated variable Lag/K and Tatum Coefficient Routing (TATUM) model parameters for the reaches required to model total streamflow for the sub-basins listed the subtask tables.
- b) The Contractor must begin by using the routing model (Lag/K) defined in the existing WGRFC segment definitions.
- c) Calibration of parameters must be by comparing simulated flow to the downstream instantaneous discharge using the calibration routines available in the Community Hydrologic Prediction System software environment.
- d) Besides visual comparison of the instantaneous discharge hydrographs, the Contractor must review statistical output from the Community Hydrologic Prediction System STATQ module to evaluate performance of derived routing model parameter sets.
- e) Where instantaneous data are unavailable, mean daily flow data must be used in the routing parameter evaluation. In these cases, the adjusted simulated discharge operation (ADJUST-Q) will be used in the upstream sub-basins to adjust the six (6) hour simulated flows to the observed daily volumes, and the adjusted time series will be routed downstream.
- f) The routing model performance must be further evaluated when upstream routed flows are combined with local area contributions during the basin calibration.
- g) In reaches where data quality is poor or where flow characteristics do not justify a variable parameter set, the Contractor may recommend a constant Lag and/or K value in reaches where the Lag/K model is implemented.

Task 4 –Draft and Final Report and Technical Deliverables

The objective of this task is to prepare a draft and final report that details the methodology, analysis, results completed at each screening level, and summary-level findings and conclusions. In the draft and final report, the Contractor must do the following:

- 1) Summarize each task and include a description of methods used with accompanying charts, tables, example calculations, and maps depicting the topography, drainage, and forecast point locations.
- 2) At downstream locations, provide statistics for both local contribution and total flow.
- 3) Demonstrate and document a fully viable modeled system (run using historical data) through reporting of final performance statistics (Community Hydrologic Prediction System STATQ module) within the final Task Completion Report.
- 4) Prepare and submit draft final report to the West Gulf River Forecast Center (WGRFC) and TWDB by study completion date.
- 5) Address WGRFC and TWDB comments and prepare final report.
- 6) Include WGRFC and TWDB comments and Contractor's response in an appendix within the final report.
- 7) Submit final report within 60 days of the study completion date.

In addition to the summary report, the Contractor must provide the following technical deliverables:

- 1) Draft and final model input files for the modeled basins and sub-basins to the WGRFC and TWDB staff via file transfer protocol or equivalent access.
- 2) Model input parameters and Community Hydrologic Prediction System configurations that will contain calibrated Sacramento Soil Moisture Accounting.
- 3) Unit Hydrograph Operation hydrologic models for all sub-basins.
- 4) Calibrated Lag/K routing models for downstream (local area) sub-basins.
- 5) Reservoir calibration parameters and files for modeled reservoirs.
- 6) All input and output time series used in the calibration work for each sub-basin.
- 7) A shapefile, based on 30 m or higher resolution terrain modeling, that represents the hydrologic basin boundary for all calibration basins.

Task 5 –Project Management

The Contractor must perform project management, tracking, and reporting functions. Work product must include the following:

- 1) Conduct at minimum five meetings via teleconference or web-based seminar with WGRFC and TWDB staff at different stages of the project including but not limited to:
 - a. Project kickoff,
 - b. Task 1 completion,
 - c. Task 2 completion,
 - d. Task 3 completion,
 - e. Delivery of Draft Final Report and Technical Deliverables.
- 2) Communicate and/or meet with WGRFC and TWDB staff to discuss progress and issues as necessary throughout the project.
- 3) Notify TWDB contract manager of any issues affecting staffing, schedule, or budget with the project immediately.

- 4) Submit detailed monthly progress reports to the WGRFC and TWDB outlining the activities accomplished in the previous month, problems encountered with impacts, anticipated future problems with recommended solutions, deliverable status, and schedule tracking. Invoices cannot be processed without detailed descriptions of the progress made on task.
- 5) Maintain proposed schedule based on the following milestones:
 - a. December 15, 2020
 - i. Obtain Board approval and start study (Contract Initiation Date).
 - b. January 13, 2021
 - i. Sign contract by deadline or sooner (Deadline for Contract Execution).
 - c. January 31, 2021
 - i. Schedule a project kickoff meeting and address WGRFC and TWDB comments.
 - d. March 12, 2021
 - i. Present results of Task 1 and address WGRFC and TWDB comments.
 - e. April 16, 2021
 - i. Schedule a meeting after completion of Task 2 and address WGRFC and TWDB comments.
 - f. May 21, 2021
 - i. Present results of Task 3 and address WGRFC and TWDB comments.
 - g. June 18, 2021
 - i. Submit draft final report (Study Completion Date).
 - h. July 9, 2021
 - i. WGRFC and TWDB staff review the report and provide comments.
 - i. July 30, 2021
 - i. Address the WGRFC and TWDB comments and submit final report.
 - j. August 6, 2021
 - i. Contract expires (Contract Expiration Date).
 - k. August 6, 2021
 - i. Submit all final invoices to include request for release of retainage.

2.2 REQUIREMENTS

Respondents to this RFQ are required to have the following abilities:

- Experience providing model calibration data to the National Weather Service in the past seven years.
- Proven familiarity and knowledge of the climate, meteorology, and hydrology of Texas.
- Experience with Community Hydrologic Prediction System and/or other software packages used by the National Weather Service River Forecast Centers.
- Experience calibrating rainfall-runoff and hydraulic routing models.
- Ability to clearly communicate the results of requested analyses in graphical, written, and oral formats.
- Technical staff with the ability to understand, interpret, and analyze scientific data.
- Project management staff with the ability to meet strict deadlines, stay within budget, and communicate well with others.

2.3 SUBCONTRACTORS

Subcontractors providing services shall meet the same requirements and level of experience as required of the Respondent. No subcontract should relieve the primary Respondent of

responsibility for the service. If the Respondent uses a subcontractor for any or all work required, the following conditions must apply under the listed circumstances:

- (a) Respondents planning to subcontract all or a portion of the work shall identify the proposed subcontractors on the HUB Subcontracting Plan.
- (b) Subcontracting must be at the Respondent's expense.
- (c) TWDB retains the right to check a subcontractor's background and decide to approve or reject the use of submitted subcontractor. A subcontractor may not be compensated for any work prior to the approval date of the subcontract agreement between the Contractor and the Subcontractor by TWDB.
- (d) The Respondent shall be the only contact for TWDB and subcontractors. Respondent shall list a designated point of contact for all TWDB and subcontractor inquiries.

2.4 CONTRACT TERM

The Service requested will be provided upon execution of the Contract through August 6, 2021. Contract extensions for this study will not be granted.

Excess Obligations Prohibited: The Contract is subject to termination or cancellation without penalty to TWDB, either in whole or in part, subject to the availability of state funds.

2.5 COMPENSATION

Total dollars available for this project is \$400,000.00. Pricing will be evaluated based on cost reasonableness. The final and agreed upon costs may be negotiated. Failure to arrive at mutually agreeable terms of a contract with the most qualified respondent will constitute a rejection of TWDB's offer and may result in subsequent negotiations with the next most qualified respondent. TWDB reserves the right to reject any or all responses.

The awarded vendor will only receive compensation once a Task has been completed, reviewed and accepted by TWDB and an invoice is submitted requesting funds for that approved Task.

2.6 LIQUIDATED DAMAGES

If the selected Contractor breaches its obligation to provide deliverables in accordance with the schedule in Section 3.1, the selected Contractor shall pay TWDB \$100.00 per day for each day of delay as liquidated damages. The parties agree that quantifying losses arising from the selected Contractor's delay is inherently difficult, and stipulate that the sum agreed upon for liquidated damages is not a penalty, but rather a reasonable measure of damages based on the parties' experience in the industry and the nature of the losses that may result from delay.

SECTION III – DELIVERABLES

3.1 CONTRACT DELIVERABLES

Task 4 –Draft and Final Report and Technical Deliverables

Deliverables related to the summary report must include the following:

- 1) Five (5) hard copies and one (1) digital versions (on flash drive) of the draft final report submitted by the study completion date.
- 2) An appendix with TWDB and WGRFC comments and contractor's responses in the final report.

- 3) Five (5) hard copies and one (1) digital versions (on flash drive) of the final report submitted within 60 days of the study completion date.

In addition to the summary report, the Contractor must provide the following technical deliverables:

- 4) Draft and final model input files for the modeled basins and sub-basins to the WGRFC and TWDB staff via file transfer protocol or equivalent access.
- 5) Model input parameters and Community Hydrologic Prediction System configurations that will contain calibrated Sacramento Soil Moisture Accounting.
- 6) Unit Hydrograph Operation hydrologic models for all sub-basins.
- 7) Calibrated Lag/K routing models for downstream (local area) sub-basins.
- 8) Reservoir calibration parameters and files for modeled reservoirs.
- 9) All input and output time series used in the calibration work for each sub- basin.
- 10) A shapefile, based on 30 m or higher resolution terrain modeling, that represents the hydrologic basin boundary for all calibration basins.

Task 5 –Project Management

The Contractor must perform project management, tracking, and reporting functions. Deliverables must include the following:

- 11)Initial plan of action submitted to TWDB’s assigned Contract Manager within 30 days of award of Contract.
- 12)Five presentations via conference call and webinar to WGRFC and TWDB staff at project kickoff, after completion of each major task (Historical Precipitation Data Collection, Data Preparation and Analysis, and Hydrologic Model Calibration), and delivery of draft final report and technical deliverables. WGRFC and TWDB will provide comments that must be addressed.
- 13)Participation in meetings and conference calls with TWDB staff as requested.
- 14)Monthly submittal of invoices and progress reports to the TWDB, that will include:
 - a. Descriptions of tasks completed and in progress,
 - b. Percent completion for tasks in progress, and
 - c. Updates to overall project schedule as warranted.

SECTION IV – GENERAL INFORMATION

4.1 RFQ REQUIREMENTS

A brief transmittal letter must accompany each response, which summarizes the Statement of Qualification’s key points and must be signed by an authorized representative who is responsible for committing the firm’s resources. The response, including attachments, must not **exceed 19 pages**. The font size must be no smaller than 12 point. Telephone, facsimile or emailed submissions will not be considered. **Please restate the question at the beginning of each response and provide a separate section for that response or indicate why no response is given.**

A. Submittals: The Respondent must submit an original electronic copy of the SOQ as follows:

- 1) One (1) complete ORIGINAL SOQ in Portable Document Format (PDF) submitted through email to purchasing@twdb.texas.gov with a copy to angela.wallace@twdb.texas.gov.

- 2) SOQ pages should be numbered and contain an organized, paginated table of contents corresponding to the section and pages of the SOQ. File size is limited to 100mb.
- 3) Proposal must be clearly marked **RESPONSE TO RFQ 580-21-RFQ-0002** and delivered to the address noted in the RFQ.

B. Contents: The Respondent shall submit all information listed below, in the order given, separated by labeled and tabbed sheets, as the response to this RFQ. The response will only be considered if all items are submitted as required. Incomplete/late responses to this RFQ will not be considered.

- 1) Item 1: Signed/dated Execution of Response to the Request for Qualifications (one (1) page)
- 2) Item 2: Company Profile Summary and History (two (2) pages maximum) Response should include the following:
 - a. Company name, address, phone number, and legal status (corporation, partnership, joint venture, sole proprietorship)
 - b. Name and title of person submitting the proposal with the authority to bind the company
 - c. Name, phone number, and email address of contact person for any questions on the proposal
 - d. Describe the general nature of previous work, the number of years in business, size and scope of operation.
- 3) Item 3: Resumes of Individuals - Submit resumes for each individual who will work on this project. **PLEASE NOTE: Resumes do NOT count towards page maximums.**
- 4) Item 4: Historically Underutilized Businesses Subcontracting Plan **PLEASE NOTE: HUB-SUB Plans do NOT count towards page maximums.**
- 5) Item 5: Name(s) and Social Security Number(s) (due to security concerns; if applicable, indicate "to be submitted if contract awarded") of Each Person with at least 25 Percent Ownership of the Business Entity Submitting the RFQ. (one (1) page)
- 6) Item 6: Technical Approach (up to 15 pages)
 - a. Technical approach for each task.
 - b. Schedule for each task and overall project.
 - c. Staff allocations for each task and overall project.
 - d. Deliverables that the TWDB will receive.
 - e. Indicate contractor's abilities as listed in Section 2.2.

4.2 PROPOSAL SUBMISSION

- A. All responses must be received by the Deadline for Submission noted in Section 4.4, SCHEDULE OF EVENTS. TWDB will not and cannot accept late submittals.
- B. Responses must be delivered electronically via email to purchasing@twdb.texas.gov with a copy to angela.wallace@twdb.texas.gov, no later than 2:00 PM (CDT) on October 14, 2020. No other forms of delivery will be accepted. The RFQ must be identified with the RFQ number and Deadline for Submission date and time. It is Respondent's responsibility to appropriately mark and upload the SOQ to TWDB by the specified date and time. File size is limited to 100mb.
- C. Telephone, facsimile, mailed or direct delivery responses will NOT be accepted. Only responses received via email will be accepted.

- D. Receipt of any addenda to this response should be acknowledged by returning a signed copy of each addendum with the submitted response.

NOTE: Failure to return the required items with the response will result in rejection of your SOQ.

TWDB will not be responsible for locating or securing information that is not included in your SOQ.

4.3 DELIVERY OF SUBMISSION

The SOQ may be submitted to TWDB using the following method:

Electronic Delivery via email to purchasing@twdb.texas.gov with a copy to angela.wallace@twdb.texas.gov. File size is limited to 100mb.

4.4 SCHEDULE OF EVENTS

The solicitation process for this RFQ will proceed according to the following schedule:

EVENT DATE (Central Daylight Time)

Issue Solicitation	September 24, 2020
Deadline for Submitting Written Questions	September 29, 2020 no later than 5:00 PM
Anticipated Release of Written Answers	October 6, 2020
Deadline for Submission of Qualifications	October 15, 2020 by 2:00 PM
Expected Date of Award of Contract	UPON EXECUTION
Expected Contract Start Date	UPON EXECUTION

4.5 REVISIONS TO SCHEDULE

TWDB reserves the right to change the dates in the Schedule of Events above upon written notification to prospective Respondent(s) as an addendum posted on the Electronic State Business Daily.

4.6 RESPONSE SUBMITTAL

All submitted proposals become the property of TWDB after the submittal deadline. Responses submitted constitute offers for a period of ninety (90) days or until selection is made by TWDB, whichever occurs first.

4.7 PROPOSAL COSTS

Respondents are responsible for all costs incurred in the preparation and delivery of the Statement of Qualifications to TWDB.

4.8 TRAVEL EXPENSES

Any travel requirements under this contract may include travel throughout the State of Texas to perform the tasks therein. Any and all travel expenses shall be in accordance with the state travel and per diem allowances detailed at <https://fmx.cpa.texas.gov/fmx/travel/>.

4.9 MEETINGS

Any meetings and or/conference calls will be held on regular business days, Monday through

Friday, during regular business hours (8:00 AM – 5:00 PM) upon mutually agreed dates and times.

4.10 INQUIRIES

A. Contact

All requests, questions, or other communications about this Solicitation must be made in writing to the TWDB's Purchasing Department, addressed to the person listed below.

Name Angela Wallace, Contract Administration Manager, CTPM, CTCM

Address 1700 N. Congress Avenue, Austin, TX 78701

Email purchasing@twdb.texas.gov with a copy to angela.wallace@twdb.texas.gov

Subject: Ensure the RFQ number is included in all correspondence.

B. Clarifications

The TWDB will allow written requests for clarification of this Solicitation. Questions may be e-mailed to the contact listed above. Respondents' names shall be removed from questions when the written answers are released. Questions shall be submitted in the following format. Submissions that deviate from this format may not be accepted:

- a) Identifying Solicitation number
- b) Section number
- c) Text of passage being questioned
- d) Question
- e) Provide company name, address, phone number, e-mail address, and name of contact person when submitting questions.

Note: *The deadline for submitting questions is noted in Section 4.4 above.*

C. Responses

All accepted questions will result in a written response posted to the ESBD at: <http://www.txsmartbuy.com/sp>. Responses shall be posted as an Addendum to the Solicitation. It is Respondent's responsibility to check the ESBD for updated responses.

D. Prohibited Communications

On issuance of this Solicitation, except for the written inquiries described in Section 4.10 above, the TWDB, its representative(s), or partners will not answer questions or otherwise discuss the contents of this Solicitation with any potential Respondent or their representative(s). Attempts to ask questions by phone or in person will not be allowed or recognized as valid. Failure to observe this restriction may disqualify the Respondent. Respondent shall rely only on written statements issued through or by the TWDB's purchasing staff. This restriction does not preclude discussions between affected parties for the purposes of conducting business unrelated to this Solicitation.

4.11 PROPOSAL EVALUATION AND AWARD

- A. The TWDB is not obligated to accept the lowest priced response but will make an award to the Respondent that provides the "Best Value" to the State of Texas, as defined by Texas Government Code, Title 10, Section 2155.074.
- B. A committee will be established by TWDB (including TWDB employees) to evaluate the Statement of Qualifications.

The evaluation committee will determine best value by applying the following criteria:

Points Available	Evaluation Criteria
10	Experience providing model calibration data to the National Weather Service in the last seven years.
10	Proven familiarity and knowledge of the climate, meteorology, and hydrology of Texas.
40	Experience with Community Hydrologic Prediction System and other software packages used by the National Weather Service River Forecast Centers.
20	Experience calibrating rainfall-runoff and hydraulic routing models.
10	Ability to clearly communicate the results of requested analyses in graphical, written, and oral formats.
20	Ability to perform the services requested within the project completion deadline.
20	Proposed Project Cost.
130	Total Points Possible

- C. The evaluation committee will determine if a Best and Final Offer (BAFO) is necessary. Award of a Contract may be made without a BAFO. TWDB may, at its discretion, elect to have Respondents provide oral presentations and respond to inquiries from the evaluation committee related to their proposal. A request for a BAFO is at the sole discretion of TWDB and will be extended in writing.
- D. Past Performance: A Respondent’s past performance will be measured based upon pass/fail criteria, in compliance with applicable provisions of §2155.074, 2155.075, 2156.007, 2157.003, and 2157.125, Gov’t Code. Respondents may fail this selection criterion for any of the following conditions:
 - 1) A score of less than a B or C under current scoring system in the Vendor Performance Tracking System;
 - 2) Having repeated negative Vendor Performance Reports for the same reason; or
 - 3) Having purchase orders that have been cancelled in the previous 12 months for non-performance (i.e. late delivery, etc.).

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

<http://www.txsmartbuy.com/vpts>.

4.12 CONTRACT AWARD

It is the intent of the TWDB to award one (1) contract under this Solicitation. An award notice will be sent to the selected Respondent. Any award is contingent upon the successful negotiation of final contract terms and upon approval of the Executive Administrator of the TWDB. Negotiations shall be confidential and not subject to disclosure to competing Respondents unless and until an agreement is reached. If contract negotiations cannot be concluded successfully, the TWDB may negotiate a contract with the next highest scoring Respondent or may withdraw this Solicitation.

NOTE: Solicitation Responses are subject to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and will be withheld from or released to the public only in accordance therewith.

SECTION V – GENERAL TERMS AND CONDITIONS

5.1 GENERAL TERMS AND CONDITIONS

Any contract awarded as a result of this RFQ will contain the general terms and conditions provided in this document. Subcontractors must also comply, if applicable. The Contractor is required to make any information created or exchanged with the state pursuant to this contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state. In addition, any contract awarded as a result of this RFQ shall be governed, construed, and interpreted under the laws of the state of Texas. The factors listed in Texas Government Code Title 10, Subtitle D, Sections 2155.074, 2155.144, 2156.007, and 2157.003 will also be considered in making an award when specified. Any legal actions must be filed in Travis County, Texas.

5.2 PATENTS OR COPYRIGHTS

The Contractor agrees to protect the State and TWDB from claims involving infringement of patents or copyrights. TWDB will not consider any RFQ that bears a copyright. RFQs will be subject to the Texas Public Information Act, Texas Government Code Chapter 552, and may be disclosed to the public upon request. Subject to the Act, Respondents may protect trade and confidential information from public release. Trade secrets or other confidential information submitted as part of a SOQ shall be clearly marked in **boldface type and at least 14-point font**.

5.3 CONTRACTOR ASSIGNMENTS

Respondent hereby assigns to TWDB any and all claims for overcharges associated with the contract arising under the antitrust laws of the United States, 15 U.S.C.A. Section 1 et seq. (1973), and the antitrust laws of the state of Texas, Tex. Bus. & Com. Code Sec. 15.01 et seq. (1967).

5.4 CONTINUING PERFORMANCE

Any contract(s) awarded as a result of this RFQ shall include reporting responsibilities related to Historically Underutilized Business (HUB) subcontracting. Awarded contractors may not change any subcontractor without submitting a revised HUB Subcontracting Plan (HSP) to TWDB. Any change to a subcontractor and revised HSP must be approved in writing by TWDB prior to implementation.

5.5 HISTORICALLY UNDERUTILIZED BUSINESSES SUBCONTRACTING PLAN

It is the policy of TWDB to make a good faith effort to 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, and HUB Rules promulgated by the Comptroller of Public Accounts (CPA), 34 TAC, Chapter 20.

HUBs are strongly urged to respond to this RFQ. Under Texas law, state agencies are required to make a good faith effort to assist HUBs in receiving certain percentages of the total value of contract awards. The contractors who meet the qualifications are strongly encouraged to apply for certification as HUBs.

ALL CONTRACTORS RESPONDING TO THIS RFQ, INCLUDING THOSE THAT ARE HUB CERTIFIED OR THOSE WHO DO NOT PLAN TO SUBCONTRACT, MUST COMPLETE A HUB SUBCONTRACTING PLAN (HSP) IN ACCORDANCE WITH THE STATE'S POLICY ON UTILIZATION OF HUBS. THE HSP MUST BE

INCLUDED AS PART OF THE PROPOSAL TO THIS RFQ. FAILURE TO COMPLETE THE HSP AS INSTRUCTED MAY RESULT IN DISQUALIFICATION OF THE PROPOSAL FROM CONSIDERATION. Please review the HSP forms carefully and allow sufficient time to identify and contact HUBs and allow them to respond. Note that the contractors must demonstrate a good faith effort to contract with new HUBs if currently proposed HUBs have performed as subcontractors to the contractor for more than five (5) years. If the contractor does not plan to subcontract, the contractor must state that fact in their plan. The completed plan will become part of the contract that may be awarded as a result of this RFQ.

5.6 HUB RESOURCES AVAILABLE

A list of certified HUBs is available on the Texas Comptroller of Public Accounts (CPA) Web site at: <https://mycpa.cpa.state.tx.us/tpasscmlsearch/tpasscmlsearch.do>. For additional information, contact the CPA's HUB program office at StatewideHUBProgram@cpa.texas.gov. If contractors know of any businesses that may qualify for certification as a HUB, they should encourage those businesses to contact the CPA HUB program office.

5.7 REQUIRED AFFIRMATIONS AND CERTIFICATIONS

Submitting a Response (CONTENT ITEM 1 - Execution of Response to the Request for Qualifications) with a false statement or material misrepresentations made during the performance of a contract is a material breach of contract and may void the submitted response or any resulting contract(s). By signing CONTENT ITEM 1, the Respondent hereby represents and warrants that:

- A. **Dealings with Public Servants:** Pursuant to Texas Government Code § 2155.003, Respondent certifies that the individual or business entity names in its proposal has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted proposal;
- B. **Antitrust:** In accordance with Texas Government Code § 2155.005, neither Respondent nor the firm, corporation, partnership, or institution represented by the Respondent, or anyone acting for such firm, corporation, partnership or institution, has (1) violated any provision of the Texas Free Enterprise and Antitrust Act of 1983, Chapter 15 of the Texas Business and Commerce Code, or the federal antitrust laws; or (2) communicated directly or indirectly the contents of its proposal to any competitor or any other person engaged in same line of business as the Respondent;
- C. **Financial Participation Prohibited.** Pursuant to Texas Government Code Section 2155.004(a), Respondent certifies that neither Respondent or any person or entity represented by Respondent has received compensation from the TWDB or any agency of the State of Texas for participation in the preparation of the specifications for this proposal. Pursuant to Texas Government Code § 2155.004(b), Respondent certifies that the individual or business entity named in this bid or response is not ineligible to receive the specified contract and acknowledges that the contract may be terminated and payment withheld if this certification is inaccurate.
- D. **Child Support Obligation.** Under Texas Family Code § 231.006, Respondent certifies that the individual or business entity named in its response is not ineligible to receive the specified payment and acknowledges that the contract may be terminated, and payment may be withheld if this certification is inaccurate;
- E. **Prior Disaster Relief Contract Violation.** Texas Government Code §§ 2155.006 and 2261.053 prohibit state agencies from accepting a Response or awarding a contract that

includes proposed financial participation by a person who, in the past five years, has been convicted of violating a federal law or assessed a penalty in connection with a contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster occurring after September 24, 2005, as defined by Texas Government Code § 418.004. Under Texas Government Code §§ 2155.006 and 2261.053, Contractor certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

F. **Debts and Delinquencies.** Respondent agrees that any payments due under the contract will be applied towards any debt or delinquency that is owed to the State of Texas, including but not limited to delinquent taxes, delinquent student loan payments and child support;

G. **Executive Head of a State Agency.** Under Texas Government Code § 669.003, Respondent certifies that it does not employ, or has disclosed its employment of, any former executive head of the TWDB. If § 669.003 applies, Respondent must provide the following information in its Response:

Name of Former Executive: _____

Name of State Agency: _____

Date of Separation from State Agency: _____

Position with Respondent: _____

Date of Employment with Respondent: _____

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

I. **Buy Texas.** In accordance with Texas Government Code § 2155.4441, Respondent agrees that during the performance of a contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside this state.

J. **Disaster Recovery Plan.** Upon request of the TWDB, Respondent shall provide the descriptions of its business continuity and disaster recovery plans.

K. **Entities that Boycott Israel.** Pursuant to Texas Government Code § 2270.002, Respondent certifies that either (i) it meets one of the exemption criteria under § 2270.002; or (ii) it does not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. Respondent shall state any facts that make it exempt from the boycott certification in its Response.

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

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

N. **Foreign Terrorist Organization.** Respondent represents and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Texas Government Code § 2252.152.

- O. **Lobbying Prohibition.** Respondent represents and warrants that TWDB's payments to Respondent and Respondent's receipt of appropriated or other funds under the contract are not prohibited by Texas Government Code §§ 556.005 or 556.0055, related to the prohibition on payment of state funds to a lobbyist or for lobbying activities.

5.8 INDEMNIFICATION

Respondent shall defend, indemnify, and hold harmless the State of Texas and TWDB and/or their officers, directors, agents, employees, representatives, contractors, assignees and/or designees from any and all liability, actions, claims, demands or suits, and all related costs, attorney fees and expenses arising out of or resulting from any acts or omissions of the Respondent or its agents, employees, subcontractors, order fulfillers, or suppliers of subcontractors in the execution or performance of any contract arising from this RF. The defense shall be coordinated by Respondent with the Office of the Texas Attorney General when Texas state agencies are named defendants in any lawsuit, and Respondent may not agree to any settlement without first obtaining concurrence from the office of the Texas Attorney General. Respondent and the TWDB agree to furnish timely written notice to each other of any such claim.

5.9 ADDITIONAL TERMS

Any terms and conditions attached to your SOQ will not be considered unless specifically referred to in this RFQ and may result in disqualification of your SOQ.

5.10 DISPUTE RESOLUTION

The dispute resolution process provided for in Chapter 2260 of the Texas Government Code must be used by the TWDB and the Respondent to attempt to resolve all disputes arising under any contract resulting from this solicitation.

5.11 NON-APPROPRIATION OF FUNDS

Any contract resulting from this solicitation is contingent on the continued availability of lawful appropriations by the Texas Legislature. If the Texas Legislature fails to continue funding for the payments due under an order referencing the contract, the order will terminate as of the date that the funding expires, and TWDB will have no further obligation to make any payments.

5.12 PUBLIC INFORMATION ACT

Information, documentation, and other material in connection with this solicitation or any resulting contract may be subject to public disclosure pursuant to Texas Government Code Chapter 552 (the "Public Information Act"). In accordance with Texas Government Code § 2252.907, Respondent is required to make any information created or exchanged with the State pursuant to the solicitation or contract and not otherwise excepted from disclosure under the Public Information Act available in a format that is accessible to the public at no additional charge to the State.

5.13 GOVERNING LAW AND VENUE

Any contract resulting from this solicitation will be governed by the laws of the State of Texas, without regard to the conflicts of law provisions. The venue of any suit arising under a contract resulting from this solicitation is fixed in any court of competent jurisdiction of Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to the TWDB.

5.14 ETHICS

Under Texas Government Code § 2155.003, an individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Section 1.2 of the state of Texas Procurement Manual, which outlines the ethical standards required of public purchasers, employees, and bidders who interact with public purchasers in the conduct of state business, and with any opinions of or rules adopted by the Texas Ethics Commission. Entities who are interested in seeking business opportunities with the state must be mindful of these restrictions when interacting with public purchasers of TWDB or purchasers of other state agencies. Specifically, a TWDB employee may not have an interest in, or in any manner be connected with a contract or bid for a purchase of goods or services by an agency of the state; or in any manner, including by rebate or gift, accept or receive from a person to whom a contract may be awarded, directly or indirectly, anything of value or a promise, obligation, or contract for future reward or compensation.

5.15 FRAUD STATEMENT

Respondents understand that the TWDB does not tolerate any type of fraud. The TWDB's policy is to promote consistent, legal, and ethical organizational behavior by assigning responsibilities and providing guidelines to enforce controls. Any violations of law, agency policies, or standards of ethical conduct will be investigated, and appropriate actions will be taken. Contractors are expected to report any possible fraudulent or dishonest acts, waste, or abuse to the agency's Internal Audit division at 512-463-7978 or Nicole.Campbell@twdb.texas.gov.

5.16 CONFLICT OF INTEREST

A Respondent will not be selected if there is a conflict of interest that will or may arise during the performance of its obligations under the contract. For this reason, the submission in response to this RFQ must disclose all business interests and all relationships that could reasonably be considered to pose possible conflicts of interest in the respondent's performance of the contract obligations. In addition, respondents must represent and warrant in the response to this RFQ and in the contract that in the performance of services under the contract, (1) Respondent does not have and will not have any actual or potential conflict of interest, and (2) Respondent will take whatever reasonable actions may be necessary and prudent to avoid even the appearance of impropriety.

5.17 RIGHT TO AUDIT

The state auditor may conduct an audit or investigation of any entity receiving funds from the state directly under a contract or indirectly through a subcontract under the contract. The acceptance of funds under a contract or subcontract acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, an entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit.

5.18 CONTRACT ADMINISTRATION

The TWDB shall designate a project manager for the contract. The project manager will serve as the point of contact between the TWDB and the selected contractor. The TWDB's project manager shall supervise the TWDB's review of the contractor's technical work, deliverables, draft reports, final report, payment requests, schedules, financial and budget administration, and similar matters. The project manager does not have any express or implied authority to vary the terms of the contract,

amend the contract in any way, or waive strict performance of the terms or conditions of the contract.

5.19 CONTRACT AMENDMENT/TERMINATION

This contract may be altered or amended by mutual written consent or terminated by the Executive Administrator at any time by written notice to the contractor. Upon receipt of such termination notice, the contractor shall, unless the notice directs otherwise, immediately discontinue all work in connection with the performance of the contract and shall promptly cancel all existing orders insofar as such orders are chargeable to the contract. The contractor shall submit a statement showing in detail the work performed under the contract to the date of termination. The TWDB shall then pay the contractor promptly that proportion of the prescribed fee, which applies to the work actually performed under the contract, less all payments that have been previously made. Thereupon, copies of all work accomplished under the contract shall be delivered to the TWDB.

The State Procurement Division (SPD) has given the TWDB delegation authority to move forward with this solicitation and contract award. However, please note that the SPD may also terminate the contract awarded from this RFQ, with a 30-day written notice, upon an award by the SPD for this same service.

5.20 STOP WORK ORDER

The Executive Administrator may issue a Stop Work Order to the contractor at any time. Upon receipt of such order, the contractor shall discontinue all work under the contract and cancel all orders pursuant to the contract, unless the order directs otherwise. If the Executive Administrator does not issue a Restart Order within 60 days after receipt by the contractor of the Stop Work Order, the contractor shall regard the contract terminated in accordance with the foregoing provisions.

5.21 CONTRACTOR PERFORMANCE

State agencies are required to report a contractor's performance on any purchase of \$25,000 or more from contracts administered by the TWDB or any other purchase made through an agency's delegated authority or a purchase made pursuant to the authority in Government Code, Title 10, Subtitle D or a purchase exemption from CPA/TPASS procurement rules and procedures.

5.22 DEFAULT

If the contractor is found to be in default under any provision of the contract, TWDB may cancel the contract without notice and either re-solicit or award the contract to the next best responsive and responsible Respondent. In the event of abandonment or default, the contractor will be responsible for paying damages to TWDB including but not limited to re-procurement costs, and any consequential damages to the state of Texas or TWDB resulting from the contractor's non-performance. The defaulting contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work, unless the specification or scope of work is significantly changed.

5.23 FORCE MAJEURE

Neither Respondent nor TWDB shall be liable to the other for any delay in, or failure of performance, of any requirement included in the contract resulting from this RFQ caused by force

majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, war, fires, explosions, hurricanes, floods, failure of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each party must inform the other in writing, with proof of receipt, within three (3) business days of the existence of such force majeure, or otherwise waive this right as a defense.

5.24 OWNERSHIP/INTELLECTUAL PROPERTY, INCLUDING RIGHTS TO DATA, DOCUMENTS AND COMPUTER SOFTWARE

For the purposes of the contract, the term "Work" is defined as all reports, statistical analyses, work papers, work products, materials, approaches, designs, specifications, systems, documentation, methodologies, concepts, research, materials, and intellectual property or other property developed, produced, or generated in connection with the contract. All work performed pursuant to the contract is made the exclusive property of TWDB. All right, title and interest in said property shall vest in TWDB upon creation and shall be deemed to be a work for hire and made in the course of the services rendered pursuant to the contract. To the extent that title to any such work may not, by operation of law, vest in TWDB, or such work may not be considered a work made for hire, all rights, title and interest therein are hereby irrevocably assigned to TWDB. TWDB shall have the right to obtain and to hold in its name any and all patents, copyrights, registrations, or such other protection as may be appropriate to the subject matter, and any extensions and renewals thereof. The contractor must give TWDB and/or the state of Texas, as well as any person designated by TWDB and/or the state of Texas, all assistance required to perfect the rights defined herein without any charge or expense beyond those amounts payable to the contractor for the services rendered under the contract.

The contractor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under the contract funds were expended in accordance with the laws and regulations of the state of Texas, including but not limited to, requirements of the Comptroller of the state of Texas and the State Auditor. The contractor shall maintain all such documents and other records relating to the contract and the State's property for a period of four (4) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. The contractor shall make available at reasonable times, upon reasonable notice, and for reasonable periods, all documents and other information related to the "Work" as defined as work products developed by the contractor and subcontractor using funds provided under the contract or otherwise rendered in or related to the performance in whole or part of the contract, including but not limited to reports, drafts of reports, or other material, data, drawings, studies, analyses, notes, plans, computer programs and codes, or other work products, whether final or intermediate. The contractor and the subcontractor shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. The contractor must retain all work and other supporting documents pertaining to the contract, for purposes of inspecting, monitoring, auditing, or evaluating by TWDB and any authorized agency of the state of Texas, including an investigation or audit by the State Auditor.

The contractor shall cooperate with any authorized agents of the state of Texas and shall provide them with prompt access to all of such State's work as requested. The contractor's failure to comply with this Section will constitute a material breach of the contract and will authorize the TWDB and the state of Texas to immediately assess appropriate damages for such failure. Pursuant to Texas Government Code Section 2262.003, the acceptance of funds by the contractor or any other entity or person directly under the contract, or indirectly through a subcontract under the contract, constitutes acceptance of the authority of the State Auditor to conduct an audit or investigation in connection with those funds.

5.25 DRUG-FREE WORK PLACE POLICY

The contractor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) and maintain a drug-free work environment. The final rule detailing requirements for drug-free work place (grants) issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference, and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

5.26 SMOKE FREE POLICY

The TWDB has a smoke free agency policy. The policy reflects our commitment to providing a healthy environment for our employees and visitors. This policy prohibits smoking within any state building or on the grounds. Contractor, by acceptance of this contract, agrees to abide by this policy when on the property of TWDB.

5.27 INSURANCE AND OTHER SECURITY

The contractor represents and warrants that it will obtain and maintain for the term of the Contract all insurance coverage required to ensure proper fulfillment of the Contract and its liabilities thereunder, including but not limited to professional liability coverage. The Respondent shall insure any of its motor vehicles used to fulfill its duties under the Contract and ensure that its subcontractors do the same.

The contractor represents and warrants that all the above coverage is with companies licensed in the state of Texas, with "A" rating from A.M. Best, and authorized to provide the corresponding coverage. The contractor represents and warrants that it shall maintain the above insurance coverage during the term of the contract and shall provide TWDB with an executed copy of the policies immediately upon request.

5.28 ORDER PRECEDENCE

In the event of conflicts or inconsistencies between the contract and its exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority: Signed Contract (or Notice of Award), Attachments to the Contract (or Notice of Award), Request for Qualifications, and Respondent's Response to Request for Qualifications.

5.29 PROPRIETARY INFORMATION

The TWDB is a government agency subject to the Texas Public Information Act (PIA), Chapter 552, Texas Government Code. The Proposal and other information submitted to the TWDB by the Respondent are subject to release as public information. The Proposal and other submitted information shall be presumed to be subject to disclosure unless a specific exception to disclosure

under the PIA applies. If it is necessary for the Respondent to include proprietary or otherwise confidential information in its Proposal or other submitted information, the Respondent must clearly label that proprietary or confidential information and identify the specific exception to disclosure in the PIA. Merely making a blanket claim that the entire Proposal is protected from disclosure because it contains some proprietary information is not acceptable and shall make the entire Proposal subject to release under the PIA. In order to trigger the process of seeking an Attorney General opinion on the release of proprietary or confidential information, the specific provisions of the Proposal that are considered by the Respondent to be proprietary or confidential must be clearly labeled as described above. Any information which is not clearly identified as proprietary or confidential shall be deemed to be subject to disclosure pursuant to the PIA.

5.30 PUBLIC DISCLOSURE

No public disclosures or news releases pertaining to the contract may be made without prior written approval of TWDB.

5.31 TAXES

The contractor represents and warrants that it shall pay all taxes or similar amounts resulting from the contract, including, but not limited to, any federal, state, or local income, sales or excise taxes of the contractor or its employees. TWDB shall not be liable for any taxes resulting from the contract.

5.32 ACTS OR OMISSIONS

The contractor shall indemnify and hold harmless the state of Texas and TWDBs, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the contractor or its agents, employees, subcontractors, order fulfillers, or suppliers of subcontractors in the execution or performance of the contract and any purchase orders issued under the contract. THE DEFENSE SHALL BE COORDINATED BY THE CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND THE CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. THE CONTRACTOR AND THE TWDB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

5.33 INFRINGEMENTS

- A. The contractor shall indemnify and hold harmless the state of Texas and the TWDB, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES, from any and all third-party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT. THE CONTRACTOR AND THE TWDB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. THE CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY THE CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND THE CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

- B. The contractor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without the contractor's written approval, (iii) any modifications made to the product by the contractor pursuant to the TWDB's specific instructions, (iv) any intellectual property right owned by or licensed to the TWDB, or (v) any use of the product or service by the TWDB that is not in conformity with the terms of any applicable license agreement.
- C. If the contractor becomes aware of an actual or potential claim, or the TWDB provides the contractor with notice of an actual or potential claim, the contractor may (or in the case of an injunction against TWDB, shall), at the contractor's sole option and expense (i) procure for the TWDB the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that the TWDB's use is non-infringing.

5.34 TAXES/WORKERS' COMPENSATION/UNEMPLOYMENT INSURANCE – INCLUDING INDEMNITY

- A. THE CONTRACTOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, THE CONTRACTOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF THE CONTRACTOR'S AND THE CONTRACTOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. THE CONTRACTOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THE TWDB AND/OR THE STATE SHALL NOT BE LIABLE TO THE CONTRACTOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY TWDB.
- B. THE CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS TWDBS, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. THE CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. THE CONTRACTOR AND THE TWDB AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

5.35 REMEDIES

All remedies available to TWDB for breach or anticipatory breach of the contract by the contractor are cumulative and may be exercised concurrently or separately and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies. Notwithstanding any exercise by Agency of its rights of early termination, Outside Counsel shall not be relieved of any liability to Agency for damages due to Agency by virtue of any breach of this OCC by Outside Counsel or for amounts otherwise due Agency by Outside Counsel.

Liquidated damages, actual damages, cost projections, injunction relief and/or performance bonds may also be invoked either separately or combined with any other remedy in accordance with applicable law.

Section 8 of the Standard Outside Counsel Contract (available from the Office of Attorney General) contains required Certifications of Outside Counsel to include licenses and conduct, prohibitions and compliance with state law provisions. These sections compel compliance and frame the monitoring approach. Counsel is also monitored through the payment approval process that requires three levels of sign off, including the OAG, before reimbursement will occur.

5.36 INTERESTED PARTIES

All non-governmental contractors are required to submit a Certificate of Interested Parties at the time the signed contract is submitted to the TWDB. The Certificate of Interested Parties (Form 1295) is a sworn statement by the contracting business entity and must be submitted even if there is no interested party in the transaction. The Form 1295 and instructions for completing and submitting the form are available at: <https://www.ethics.state.tx.us/tec/1295-Info.htm>. The TWDB is prohibited from executing a contract unless the contracting business entity submits a completed Form 1295. Any contract resulting from a TWDB procurement with a business entity will be void if the Certificate of Interested Parties is not submitted within 30 days of submitting an executed contract.

5.37 CONFIDENTIALITY AND SECURITY

Contractor must maintain and protect any information it receives, compiles, or creates as a result of the Contract in accordance with any federal, state, or local laws and regulations that apply. Contractor must establish a method to secure the confidentiality of records and other information relating to the TWDB in accordance with applicable federal and state laws, rules, and regulations.

**CONTENT ITEM 1
EXECUTION OF RESPONSE
to the
REQUEST FOR QUALIFICATIONS**

Company Name: _____

Project Contact: _____

Address: _____

Vendor ID: _____

(aka: Texas Taxpayer ID)

HUB Status: _____

Phone Number: _____

E-Mail: _____

I, _____, am the above-referenced company's representative and I am authorized to submit this response and sign future contract documents. By signing below, the representative certifies that if a Texas address is shown as the address, the respondent qualifies as a Texas Bidder as defined in 34 TAC Rule 20.32(68).

Authorized Signature

Date

Title:

CONTENT ITEM 2
COMPANY PROFILE SUMMARY AND HISTORY

CONTENT ITEM 3
RESUMES OF INDIVIDUALS

CONTENT ITEM 4
HISTORICALLY UNDERUTILIZED BUSINESSES SUBCONTRACTING PLAN

Please see SECTION IV, GENERAL INFORMATION, 4.1.B, Item 4

All HUB Subcontracting Plan Forms must be completed and submitted with the Response.

The forms are entitled and can be found at:

<http://comptroller.texas.gov/procurement/prog/hub/hub-subcontracting-plan/>

HUB Subcontracting Plan Form

HUB Subcontracting Plan Form, SECTION 2 continuation sheet

HUB Subcontracting Plan Good Faith Effort - Method A (Attachment A)

HUB Subcontracting Plan Good Faith Effort - Method B (Attachment B)

HUB Subcontracting Opportunity Notification Form

CONTENT ITEM 5
OWNERSHIP OF BUSINESS ENTITY
Name(s) and Social Security Number(s) of Each Person with at least
25 Percent Ownership of the Business Entity Submitting the RFQ

Name

Social Security Number

Name

Social Security Number

Name

Social Security Number

Name

Social Security Number

CONTENT ITEM 6
TECHNICAL APPROACH
