

TXShare

Your Public Sector Solutions Center

REQUEST FOR PROPOSALS
For
Street Pavement Crack Sealing Services
RFP # 2024-107

Sealed proposals will be accepted until 2:00 PM CT, **September 18, 2024**, and then publicly opened and read aloud thereafter.

Legal Name of Proposing Firm

Contact Person for This Proposal

Title

Contact Person Telephone Number

Contact Person E-Mail Address

Street Address of Principal Place of Business

City/State

Zip

Mailing Address of Principal Place of Business

City/State

Zip

Point of Contact for Contract Negotiations

Title

Point of Contact Telephone Number

Point of Contact Person E-Mail Address

Acknowledgment of Addenda (initial): #1 _____ #2 _____ #3 _____ #4 _____ #5 _____

NOTE: Any confidential/proprietary information must be clearly labeled as “confidential/proprietary”. All proposals are subject to the Texas Public Information Act.

(Cover Sheet)

SECTION 1: OVERVIEW

1.0 PURPOSE

The North Central Texas Council of Governments (“NCTCOG”) seeks one or more experienced vendor(s) to provide the goods or services described herein to the members of its TXShare Cooperative Purchasing Program (“TXShare”). The awarded contracts will be promoted via TXShare. The purpose of this Request for Proposals is to solicit responses that result in a contract with one or more vendor(s) that are qualified to provide one or more categories of the goods or services.

The desired service categories are as listed below:

- Category 1: Hot Poured Polymer Material Only.
- Category 2: Hot Poured Polymer Material & Application.
- Category 3: Ready-Mixed Cold-Applied Material Only.
- Category 4: Ready-Mixed Cold-Applied Material & Application.
- Category 5: Thermoplastic Cold-Applied Material Only.
- Category 6: Thermoplastic Cold-Applied Material & Application.
- Category 7: Ancillary Service and Related Supplies

1.0.1 Definitions:

- “RFP” or “solicitation” – this Request for Proposals document;
- “Vendor” - interested business;
- “You” or “Offeror” - vendor responding with a proposal;
- “Contractor” – Offeror awarded a contract;
- “Governmental Entity” – a government agency or non-profit organization;
- “Customer” – a governmental entity.

1.0.2 Outcome

The desired outcome of this RFP is for NCTCOG to enter into a Master Services Agreement (“MSA”) with one or more Contractors to supply municipalities, counties, school districts and other governmental agencies as well as non-profit organizations (“Customer”, “Government Entity”) with assistance to obtain the described services from fully licensed vendors authorized to do business in the locations selected on Exhibit 3.

The North Central Texas Council of Governments intends to award Contracts through its TXShare purchasing cooperative to multiple Contractors. Members of TXShare (“Customer” or “Member”) will have the option to utilize these contracts to fulfill their needs. The contract award does not guarantee any specific number of sales to any firm awarded under this contract. The goods or services will be provided on an as needed basis. There are no scheduled orders at this time, but there is the expectation that needs will arise among the various Customers of the TXShare cooperative. Vendors awarded contracts will be uniquely positioned to market their products to the Customers. Each Customer will negotiate their own orders on an as needed basis.

SECTION 2: TXSHARE COOPERATIVE PURCHASING PROGRAM

2.0 BENEFITS OF A COOPERATIVE PURCHASING PROGRAM

2.0.1 How Does a Cooperative Purchasing Program Work?

A government cooperative purchasing program, such as TXShare, is a cooperative arrangement for acquiring goods or services that involves aggregating the demand of two or more government agencies to obtain a more economical purchase.

Government entities (cities, counties, water districts, school districts, etc.) sign up as members to use cooperative purchasing programs through a cooperative purchasing agreement. Additionally, non-profit organizations are allowed to sign up as members.

2.0.2 How Does a Government Entity Benefit?

Cooperatives help government agencies find the right goods and services that best fits their need and expedite purchases without requiring additional solicitations (RFP or IFB) to comply with laws and regulations.

TXShare uses the North Central Texas Council of Governments (“NCTCOG”) as the lead public entity to publicly solicit and award contracts through a Request for Proposal (“RFP”) process. TXShare members are eligible to access these contracts by signing an intergovernmental agreement with the NCTCOG, thereby eliminating the need to complete their own RFP process.

Membership in the TXShare cooperative purchasing program provides the agencies with access to contracts for goods and services at pre-negotiated rates or prices. Typically, the entity member then purchases the goods or services by negotiating with the cooperative’s awarded vendors and places purchase orders, or enters into sub-agreements, based on the rates or prices listed in the cooperative purchasing program’s contracts.

2.0.3 How Does A Vendor Benefit?

A Request for Proposal (RFP) such as this one is a document that competitively solicit bids from potential vendors for goods or services. The lead public entity (NCTCOG) is an independent government entity that carries out the advertising and bid procedures required by state law.

All of TXShare’s contracts are competitively bid and publicly awarded through this process. NCTCOG prepares the RFP incorporating the required cooperative purchasing language that allows its entity members across the nation to utilize the awarded contract(s).

Vendors respond to the RFP by submitting their proposals. NCTCOG evaluates the responses and awards a Master Services Agreement for the TXShare cooperative, thus establishing the availability for nationwide use of the resulting contracts.

Vendors who successfully compete in the RFP process and are awarded a contract will market to any public entity or non-profit and can then forgo the RFP process for an individual entity.

When marketing to a customer, the awarded vendor can provide a quote to the customer for its unique needs based on the pricing, terms and conditions of its contracts. For a vendor, being awarded a cooperative contract can help shorten the sales cycles considerably. This is especially beneficial for smaller firms, like startups, that may not otherwise be able to access the government market.

2.0.4 Mutual Benefits

Performing a competitive bidding process typically takes often in excess of 90 days to create the RFP solicitation, collect and evaluate proposals, then negotiate and award the contract. Reducing the amount of time that purchasing staff spend managing new solicitations and generating new contracts, especially for goods or services that don’t require too much customization, saves months of administrative time and effort. Reducing the need to respond to every bid process and market directly to the customer saves time and money as well as is an “ace in the hole” for a vendor when closing the sale on its goods or services covered by a cooperative contract. Smaller governments customers can achieve price-saving advantages from purchasing off a cooperative program with greater purchasing power.

Note: There is no obligation on the part of any Customer to purchase goods or services through the awarded

contracts nor is there any guarantee, implied or otherwise, that the awarded contractor(s) will make any sales based on this solicitation.

2.1 NCTCOG OVERVIEW

The North Central Texas Council of Governments is a voluntary association of, by, and for local governments and was established to assist local governments in planning for common needs, cooperating for mutual benefit and coordinating for sound regional development.

NCTCOG serves a 16-entity metropolitan region surrounding the cities of Dallas and Fort Worth. Currently the Council has 236 members, including 16 counties, 168 cities, 23 independent school districts, and 29 special districts. The area of the region is approximately 12,800 square miles, which is larger than nine states, and the population of the region is over 7.0 million, which is larger than 30 states.

NCTCOG's governing structure is as follows: each member government appoints a voting representative from their governing body. These voting representatives make up the General Assembly, which annually elects a 17-member Executive Board. The Board also includes one ex-officio non-voting member of the legislature. The Executive Board is supported by policy development, technical advisory, and study committees, as well as a professional staff.

2.2 TXSHARE PROGRAM EXPLANATION

NCTCOG intends to make the contract awarded from this solicitation available to other public entities through TXShare. By promoting their TXShare contract(s) to public entities, contractors reduce the need to repeatedly respond to public customer bids or requests for proposals. The contractor then realizes substantial efficiencies that will increase sales opportunities. Contractors agree to pay an administrative fee to TXShare calculated as a percentage of sales processed through the TXShare contracts awarded and held by the contractor. This administrative fee is not an added cost to be invoiced by the contractor to TXShare participants. This administrative fee covers the costs of contract marketing and facilitation incurred by TXShare.

Under the TXShare program, any public customer or non-profit can use the TXShare contract and its selected contractor(s) to make purchases necessary to pursue their own needs. Offerors awarded a contract under the TXShare program may offer their services nationwide if they desire to do so. The TXShare contract offers a unique advertising advantage to a contractor to promote its services, as the contract satisfies most public entities' procurement requirements.

2.3 CONTRACT MANAGEMENT AND REPORTING

The contractor will be required to track and report to NCTCOG its TXShare sales activities relating to the master contract. The contractor will be required to provide management reports on a quarterly basis. Examples of management report data include, but are not limited to:

- Participating public customer's name; pricing option chosen; total fee charged. NCTCOG and contractor will agree to form and content of reports after award of contract.

2.4 ADMINISTRATIVE FEE

TXShare will collect an administrative fee, in the form of a percentage of sales, that will apply to all sales between the contractor and public entities using the cooperative program awarded contract. NCTCOG is included as a public entity customer as it may also make purchases through the contract. The administrative fee will be remitted by the contractor to NCTCOG on a quarterly basis, along with required quarterly reporting. The administration fee for this program will be 2% of sales.

2.5 INTERLOCAL AGREEMENT

Governmental entities are extended the opportunity to purchase from contracts awarded by the NCTCOG TXShare purchasing cooperative by virtue of an interlocal agreement between the entity and NCTCOG. However, all parties understand, and all parties hereby expressly agree, that the NCTCOG is not an agent of, partner to, or representative of those government entities and that NCTCOG is not obligated or liable for any action or debts that arise out of the government customer's purchase.

SECTION 3: GENERAL INFORMATION

3.0 CONTRACT INTENT

NCTCOG intends to contract with one or more qualified Offeror(s) based upon the qualifications of the Offeror and the categories of goods or services they are able to provide. However, NCTCOG anticipates exploring any viable alternative for providing these goods or services and may decide, after reviewing the proposals submitted, to reject all proposals and not to enter into any agreement.

3.1 ADMINISTRATIVE GUIDANCE

The information provided herein is intended to assist vendors in the preparation of proposals necessary to properly respond to this solicitation. The solicitation is designed to provide interested vendors with sufficient basic information to submit proposals meeting minimum requirements but is not intended to limit a submission's content or to exclude any relevant or essential data there from. You are at liberty and are encouraged to expand upon the specifications to give additional evidence of your ability to provide the services requested in this solicitation.

3.2 ADDENDA

Addenda to this solicitation will be made available to vendors of record by posting the addenda on [the Public Purchase website](#). A “vendor of record” is defined as a vendor who has downloaded the solicitation directly from the www.publicpurchase.com website. It is the vendor’s responsibility to check Public Purchase for any addenda that may be issued. You shall acknowledge receipt of addenda by checking the appropriate spaces on the cover sheet of this RFP and submit with their proposal.

3.3 SOLICITATION SCHEDULE

The anticipated schedule for the RFP process is given below. All times indicated are Central Time (CT).

The anticipated schedule is as follows:

RFP Issued	August 21, 2024	
Pre-Proposal Conference	August 29, 2024	10:00 AM CT
Inquiry Period Ends	September 11, 2024	5:00 PM CT
Proposal Due Date	September 18, 2024	2:00 PM CT
Planned Contract Award	November 2024	

NCTCOG reserves the right to change this schedule at any time.

3.4 PRE-PROPOSAL CONFERENCE

There will be a non-mandatory pre-proposal conference at **10 AM** on **August 29, 2024**, via Microsoft Teams. The invitation is as follows:

Microsoft Teams
Meeting ID: 219 271 222 54
Passcode: TqjsCe
Dial in by phone
[+1 903-508-4574](tel:+19035084574), [192993463#](tel:+192993463) United States, Tyler
Phone conference ID: 192 993 463#

3.5 QUESTIONS AND REQUESTS FOR CLARIFICATION (INQUIRY)

Questions arising subsequent to the issuance of this solicitation will be received until 5:00 PM CT on **September 11, 2024**, and must be submitted electronically to www.publicpurchase.com. Questions received after this time may not be answered in sufficient time to benefit the vendor in preparing a proposal. General questions about the process may be answered directly to the inquirer. Any questions of a material nature that require clarification of, or additional information added to, the solicitation will be published via addenda posted to the Public Purchase website and available for viewing of all registered participants.

Proposers are responsible for reviewing the solicitation posting on the website www.publicpurchase.com for any updates related to this RFP prior to the closing date.

3.6 PROPOSAL SUBMISSION

To respond to this RFP, as well as receive notifications, updates, addenda, and other solicitation information, vendors are required to download the solicitation from the Public Purchase website. Failure to do so may result in vendor not receiving important information.

Submission of your proposal must be through uploading the proposal via Public Purchase website no later than **2:00 PM CT on September 18, 2024**, the proposal due date. Proposals shall be made in English in a searchable PDF format. It is your responsibility to ensure that the proposals are properly uploaded as described above by the designated due date and time. NCTCOG assumes no responsibility for delays caused by any reason. Late proposals will not be accepted nor considered. Proposals may be withdrawn at any time prior to the submittal deadline, but they may not be withdrawn after the official opening.

NOTE: Any confidential/proprietary information must be clearly labeled as “confidential/proprietary”. All proposals are subject to the Texas Public Information Act.

3.7 PUBLIC OPENING

The public opening for this RFP will be conducted beginning approximately 2:05 PM CT on the date proposal submissions are due. The opening meeting will be held virtually via Microsoft Teams and will be recorded. Please note that a large volume of proposals may result in a lengthy opening process. Meeting access information and the Teams meeting invite will be posted to Public Purchase prior to the date of the public opening. Only the names of the Offerors submitting a proposal will be read aloud. No other information will be disclosed at the time of opening.

Proposal information is restricted and not publicly available until after the award of a contract. All documents associated with the proposal submitted, unless the Offeror indicates a portion of the proposal is proprietary, may be subject to public inspection in accordance with the Texas Public Information Act. Any part of the proposal that you desire to declare as confidential information must be noted as such where the information is found in the proposal. Claims of confidentiality are subject to the opinion of the Texas Office of the Attorney General, should NCTCOG receive an open records request. All information obtained during this solicitation will become property of NCTCOG.

The opening will be on Microsoft Teams as follows:

Microsoft Teams

Meeting ID: 248 117 053 399

Passcode: cpQgft

Dial in by phone

[+1 903-508-4574,,718778429#](tel:+19035084574718778429)

Phone conference ID: 718 778 429#

SECTION 4: SPECIFICATIONS

4.0 SCOPE OF WORK

The desired outcome of this RFP is to retain a contractor(s) to supply municipalities, counties, school districts and other government agencies as well as non-profit organizations on an as-needed basis with the various types of goods and services listed below:

Category 1: Hot Poured Polymer Material Only.

Category 2: Hot Poured Polymer Material & Application.

Category 3: Ready-Mixed Cold-Applied Material Only.

Category 4: Ready-Mixed Cold-Applied Material & Application.

Category 5: Thermoplastic Cold-Applied Material Only.

Category 6: Thermoplastic Cold-Applied Material & Application.

Category 7: Ancillary Service and Related Supplies

In your proposal narrative, please explain which services you can provide and any special features of the services.

4.1 SPECIAL REQUIREMENTS

The following are special conditions and specifications that apply to this RFP.

In your proposal narrative, please explain which services you can provide and any special features of the services.

Please understand that there is no specific project ready at this time. This is for work to be determined in the future on an as-needed basis. The work to be performed under this contract will be defined on a project-by-project basis through a supplemental order from the Customer.

The Contractor shall furnish all labor, tools, equipment, materials, supplies and mobilization required to effectively perform the required services in accordance with the specifications described herein. All travel time or mileage is the responsibility of the Contractor.

4.1.1 Work Schedule

The Contractor's work schedule must reflect adequate time for completion of all routine work activities on a daily, weekly and if necessary, monthly basis.

Work shall be performed during the days and hours as coordinated with the Customer. No work shall be performed outside of these days and times unless otherwise approved by the Customer. No work shall be performed on City, State or Federal holidays without prior written approval from the Customer.

The schedule shall be defined and approved prior to commencement of work; however, the Customer reserves the right to make adjustments to the schedule at any time in order to avoid conflict with construction or maintenance operations, or to better serve the Customer's needs.

Once the schedule has been approved, any significant changes shall be submitted in writing to the Customer and shall be accompanied by a proposed revised schedule. Upon approval by the Customer, the Contractor shall implement the revised schedule.

The Contractor shall adhere to the approved work schedule and shall complete all work during the calendar week in which it is scheduled, unless circumstances occur which are beyond the control of the Contractor.

If the Contractor falls behind schedule at any time, additional workers shall be assigned at no additional cost to the Customer until the work is back on schedule.

4.1.2 Maintenance & Protection of Traffic Control

If requested by the Customer, all traffic shall be maintained through the work area and protected in accordance with the requirements of the Manual on Uniform Traffic Control Devices (MUTCD) current edition.

4.1.2.1 Road Closure Guidelines

In addition to the required Maintenance and Protection of Traffic Control, the use of a TL 3 Truck mounted Attenuator shall be required at all times during any work within clear/recovery zone with below exceptions:

- Use of attenuators is not required for work on 2-lane highways with lane closures and flagging/pilot operations.
- Use of attenuators may be omitted on shoulder work when the shoulder is so narrow, soft, etc. that vehicles cannot completely pull off the roadway, which would result in the side of the vehicle obstructing a travel lane. Determination of unsatisfactory shoulder conditions shall be determined on a site-specific basis with the Customer's approval.
- These manuals address only minimum standards for traffic control. If any conditions exist, that are determined by the Customer, that require additional or special traffic control methods or signing, the Contractor shall supply such traffic control at no additional cost to the Customer.
- All traffic control devices shall be furnished by the Contractor and must be in place prior to the start of work.
- The marker installation vehicle, traffic control vehicle(s), with TMA, and traffic control vehicles shall have self-contained flashing arrow panels.
- All moving installation operations shall stop at a regular interval, as determined by the Customer for the clearing of the queued vehicles.
- All traffic control devices shall meet the requirements set forth in the MUTCD for size, color, reflectivity, and construction, and shall be always maintained in a clean and serviceable condition. All traffic control devices shall be kept free from dirt, mud, and roadway grime. Scratched, rips, and tears in reflective sheeting shall be promptly corrected by the Contractor.
- Any unsuitable or unserviceable devices shall be replaced immediately, upon demand of the Customer. The Customer shall be the sole authority in determining the serviceability of the traffic control devices.
- Traffic control set-ups shall be continually observed and maintained by the Contractor's personnel when requested by the Customer.
- The Contractor is responsible to ensure that all traffic control devices are always in place and functional.
- No traffic control devices shall be stored within thirty (30) feet of the roadway.
- During work periods where lane closures are necessary, the Contractor shall maintain a minimum of one (1) lane of traffic. Where no lane closure is necessary but where there is construction alongside the roadway, the Contractor shall place 48" X 48" "ROAD WORK AHEAD" (W20-1) and "SHOULDER WORK AHEAD" (W21-5C) signing as directed by the Customer to alert the public to the construction activities.
- Arrow panels shall be truck or trailer mounted and shall be of the sequential chevron type.

4.1.3 Traffic Control Plans

If requested, the Contractor shall provide the Customer with a traffic control plan for each location along with a detailed schedule showing the work activities and duration and submit them to the Customer for approval prior to the commencement of any work on the project. The Contractor's proposal shall be submitted early enough to allow at least fourteen (14) calendar days for review and approval before use of the proposed traffic control plan.

The individual developing the traffic control plan as well as the Contractor's supervisor must be American Traffic Safety Services Association (A.T.S.S.A.) trained and certified. The certification must be current and must be valid throughout the duration of the project and life of the contract. The Contractor will provide

A.T.S.S.A. certified traffic control technicians for all traffic control activities.

If traffic control is being performed by a Subcontractor, the Contractor shall identify the company on the traffic control plan(s). The traffic control plans shall include the name of the company, address, telephone number, and name of the contact person.

The Contractor shall provide regulatory signs as directed by the Customer.

The Contractor's traffic control plan shall include a flagging operation when the site is a two-way roadway.

4.1.4 Law Enforcement Officer and Vehicle Usage (If Requested by Customer)

Law Enforcement is defined as sworn uniformed off-duty police officers with a properly identified and marked police vehicle that has working blue and red flashing lights. The intent of having law enforcement included in a project is to assist with setting up traffic control and monitoring the work zone.

In utilizing law enforcement in work zones, the officers should be encouraged to be alert and monitor the entire work zone. The officers should not conduct personal business while on the job site. The officer should be encouraged to spend part of their time outside the vehicle, being visible to the public.

Patrols shall be scheduled when workers are present without positive barrier protection (temporary concrete barrier) or when exceptional hazards exist, such as during set up of traffic control.

All Off-Duty Uniformed Law Enforcement personnel utilized under this contract must be certified by the State in which the work is to be performed.

The Contractor shall be responsible for ALL scheduling, contacting, and coordination as well as the payment of Off-Duty Uniformed Law Enforcement Officers used on this contract. Acceptance of the Contractor's request for approval of Off-Duty Uniformed Law Enforcement Officers by the Customer shall not be construed as relieving the Contractor of its obligation to contact the law enforcement agency for any changes in scheduling or coordination.

4.1.5 Mobilization

Mobilization includes, but is not limited to, the movement of personnel, equipment, supplies and incidentals to the project site; the establishment of all offices, buildings and other facilities necessary for work on the project, and for all other work and operations that must be performed and costs incurred prior to beginning work on the various items on the project site.

The Contractor shall not charge more than one (1) mobilization charge per task assignment. If there are multiple projects on one (1) task assignment, the Contractor may include the mileage from one project to the other.

The mobilization rate shall be inclusive of all mobilization costs per mile from the Contractor's nearest yard or jobsite to the jobsite listed on the task assignment.

4.1.6 Safety, Sanitary, & Health Conditions

All employees working on this contract will be required to wear OSHA approved hard hats, OSHA approved high visibility safety vests, steel toed footwear and full-length pants at all times while working within the Right-of-Way.

The Contractor shall provide and maintain a neat and sanitary condition such accommodations for the use of the Contractor's employees as may be necessary to comply with the requirements and regulations of the authorities having jurisdiction therein.

Attention is directed to Federal, State and local laws, rules and regulations concerning construction safety and health standards. The Contractor shall not require any workers to work in surroundings or under conditions that are unsanitary, hazardous or dangerous to their health and safety. The Project Manager shall be notified immediately of any incident or conditions relative to public health and safety.

4.1.7 Contractor's Responsibilities

The Contractor shall comply with the Social Security Act, Workers' Compensation laws and Unemployment laws of the State under which it is operating in as all State, Local and Federal legislation, rules and regulations associated with maintenance and construction relevant to the Contractor's business.

The Contractor shall cooperate fully with the Customer, county, municipal, and local government officials, and all such others as may be required in the performance of this Contract. This shall include attendance at meetings, discussions, and hearings, as may be required; presentation of data, as may be requested from time to time by the Customer to effect such cooperation; and compliance with all directives issued by the Customer.

If a discrepancy arises between the Customer's standard specifications and the specifications within this contract, then the Customer shall provide direction or clarification.

The Contractor shall carry on their operations in such a manner that damage is not inflicted to existing grounds, utilities, highway milepost markers, signs, delineators, or other structures.

Damage to stop signs, yield signs, railroad crossing or other regulatory signs shall be reported to the Customer immediately. Immediate is considered to be within one (1) hour of the occurrence. Damage to delineators shall be repaired within forty-eight (48) hours of occurrence.

The Contractor shall be responsible for any property damaged by work operations.

The Contractor shall be responsible for contacting the state's underground hotline, oversized vehicle, or other entity, for obtaining all necessary guidelines, clearances and permits prior to beginning work.

Parking of employees' personal vehicles within the Right-of-Way will not be permitted at any time.

4.1.8 Contractor's Employees

The Contractor shall provide mentally alert, physically fit, adequately trained, qualified and experienced employees to ensure contracted services progress in a safe, orderly, and timely manner to complete the work at each project.

All persons engaged in performance of work under this contract shall be, unless otherwise approved by the Customer, direct bona fide employees of the Contractor and shall not be leased employees, subcontractors, or independent contractors.

The Customer may require verification of the nature of employment of the employees. This requirement is not intended to preclude the Contractor use of subcontractors for specialty services.

All of the Contractor's employees shall be in compliance with all Occupational Safety and Health Administration (OSHA) and other State, Federal, local regulatory agency requirements.

Employees shall be neat, clean and appropriately dressed in an approved, clean uniform with an identification badge or patch that contains the Contractor's name and employee's name, at all times while on duty. The identification badge shall be worn on the outer garment.

Due to the nature of the work performed, Contractor employees, in a particular sense, will represent the State to the motoring public. Employees shall treat motorists in a friendly, courteous manner. Employees should keep well informed on local road conditions, detours, points of interest, and services available, but shall refrain from recommending any retail service over another.

All of the Contractor's employees shall take all necessary operational and safety precautions during the performance of services to prevent accidents from occurring.

The Contractor shall ensure all of its employees are properly licensed to operate contractor's equipment and are properly trained in its use.

No visitors, spouses, or children of the Contractor's employees shall be allowed in the work location during working hours unless they are bona fide employees of the Contractor.

4.1.9 Language Requirement

The On-Site Supervisor and additional personnel as deemed necessary by the Customer shall communicate in English. This is not meant to require that all Contractor's personnel speak, read, and write English. This requirement is necessary due to the following reasons which include, but are not limited to:

- Warnings of emergencies and hazards
- Preparation of reports
- Communication with Customer personnel

Due to the significance of the above listed reasons, the English requirement is being made with the intent that communications between the Contractor's employees, Customer personnel, and the public will be understood.

4.1.10 Supervision

An On-Site Supervisor shall be in the work area at all times when work operations are taking place. The On-Site Supervisor shall have authority to make decisions concerning day-to-day operations and shall assist the Customer in making on-site inspections and in coordinating other operational requirements.

The Contractor's On-Site Supervisor shall always possess a means of communications with the Project Manager. This form of communication may be by cellular phone with hands free capabilities or mobile radio. The cost of cellular or mobile radio shall be the responsibility of the Contractor.

If the work location is within an area that is known to not receive cellular signal, communication shall be agreed upon by the On-Site Supervisor and the Customer.

The On-Site Supervisor shall be competent in all matters relating to the specific job tasks including required licenses and certifications, devices, and services required.

The On-Site Supervisor shall possess a copy of the contract and any amendments thereto when performing work under any resultant contract.

4.1.11 Removal of Contractor's Employees

The Contractor agrees to utilize only experienced, responsible and capable personnel in the performance of the work. The Customer may require that the Contractor remove from the job covered by this contract employees who endanger persons or property or whose continued employment under the contract is inconsistent with the interest of the Customer.

4.1.12 Safety Plan

The Contractor shall provide the Customer with a copy of the safety plan prior to the commencement of work.

4.1.13 Equipment

The Contractor shall provide and maintain equipment sufficient in number, operational condition and capacity to efficiently perform the work and render the services required by this contract during the entire term of this contract. This includes sufficient "back up" equipment to provide uninterrupted service when equipment breakdown occurs.

The Contractor's equipment shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules, and regulations, and the acts, codes, orders, and decrees of any administrative bodies, councils, or tribunals.

All vehicles must be maintained in good repair, appearance, and sanitary conditions at all times. Equipment, machinery, component or system failures that affect the safe operation of any equipment shall be corrected prior to using the equipment and at the cost of the Contractor.

The Customer reserves the right to inspect the equipment at any time, including registrations, and require the replacement of any that does not meet the minimum serviceability standards.

Vehicles used within the scope of this contract shall be equipped with a minimum of one (1) amber rotating light that are equal to code three (3) as specified in the Manual on Uniform Traffic Control Devices (MUTCD). Lights shall be visible to the oncoming traffic at all times and not be blocked by material in truck beds and trailers.

The Contractor's vehicles and mobile equipment shall be clearly marked with the company name and/or logo and an identification number.

4.2 **TECHNICAL SPECIFICATIONS**

It is the intent of these specifications to describe the requirements for the application of crack sealing compound. They shall consist of hot poured polymer or ready-mixed cold-applied sealant, or other material approved by the Customer. It shall not crack or break when exposed to low temperatures. The cured sealant must not pick up or "track" at elevated road temperature. All services described herein are to be compliant with the specifications provided in *Public Works Construction Standards North Central Texas, Amended Fifth Edition*. As part of the continued effort between NCTCOG and the public works industry in North Central Texas, the *Public Works Construction Standards – North Central Texas, Fifth Edition* (2017) version has been updated to the Amended Fifth Edition (2023). A copy of the standards may be obtained at this link [North Central Texas Council of Governments - Construction Standards \(nctcog.org\)](https://www.nctcog.org) or contact JHayes-Jackson@nctcog.org for more information.

The *Public Works Construction Standards* specifications will govern any of the Service Categories covered by a work order issued by a participating government agency. The participating agency will reserve the right to modify specifications through mutually agreed negotiations with the awarded Contractor.

4.2.1 The services are specified as providing material and application of:

- hot poured polymer
- ready-mixed cold-applied sealant
- or other material

Services shall be performed per NCTCOG Specification Item 401 and any other relevant sections within the *Public Works Construction Standards*.

4.3 WARRANTY/GUARANTEE

Please state in your proposal what warranty or guarantee may apply to the goods or services you are proposing. Unless you state otherwise, the Contractor warrants:

- That all services performed hereunder shall conform to the requirements of this contract and shall be performed by qualified personnel in accordance with the highest professional standards.
- That all items furnished hereunder shall conform to the requirements of this contract and shall be free from defects in design materials and workmanship. Any defects of design, workmanship or materials shall be fully corrected by the Contractor (including parts and labor) without cost to the Customer.
- The warranty period on workmanship and materials shall be based on a minimum of twelve (12) months from the time of acceptance.

4.4 QUALITY

It is expected that you have knowledge of all applicable industry standards, laws, and regulations and possess an ability to market and distribute the goods or services to members of the cooperative.

4.4.1 Safety Requirements

All items proposed must comply with current applicable safety or regulatory standards or codes.

4.4.2 Deviation from Industry Standard

Deviations from industry standards must be identified with an explanation of how the equipment, goods, and services will provide equivalent function, coverage, performance, and/or related services.

4.5 NEW GOODS AND SERVICES

New goods and services may be added to the resulting contract(s) during the term of the contract by written amendment, to the extent that those goods or services are within the scope of this RFP and include, but will not be limited to, new services added to the manufacturer's list offerings, and services which reflect new technology and improved functionality. Service Categories or individual items of a fixed price nature are subject to review and approval of the NCTCOG before addition to the contract. Individual items added to catalog awards do not require prior approval of the NCTCOG.

4.6 ALL OR NOTHING AWARD

"All or nothing" proposals are not acceptable and will be rejected. You must be willing to accept a partial award for any combination of the Categories proposed at the discretion of the NCTCOG.

The NCTCOG may award contracts to multiple Offerors supplying comparable goods or services, also known as a multiple award schedule, or award the contract to a single vendor. The NCTCOG's decision to make multiple awards or a single award will be based upon its sole discretion regarding the type of award that provides best value.

4.7 PRICING

When preparing your proposal, you are to offer a percent discount off list price for each item you wish to provide. You are to state "No Bid" for any Categories or category items you will not offer. NCTCOG will consider Categories individually and may make awards on each Category independently. NCTCOG reserves the right to select the proposal or proposals offering the most advantageous combination, with discount and other evaluation criteria considered.

NOTE: The final negotiated discount will be incorporated into the Master Services Agreement with the awarded vendor(s). The discount information provided in your proposal will be public information and will not be accepted marked as proprietary or confidential.

4.7.1 Category Discount

Offerors are requested to submit a proposal that identifies the categories and items within each category you wish to offer. A minimum percentage discount is to be stated for each Category or item on the BID PRICE WORKSHEET. This is commonly referred to as “discount pricing”. You may be creative in the percentage tier discounts to the extent deemed appropriate.

A discount percentage off of list is considered to be a minimum discount, so the awarded Contractor is free to offer greater percentage discounts to a Customer as part of a purchase negotiation. A zero-discount proposal is acceptable but may put the Contractor at a disadvantage when the Customer is comparing prices among competing Contractors. The Contractor may increase the minimum discount percentage to be more competitive in a particular situation.

Any goods or services that are not specifically listed in the awarded Category catalog are ineligible to be sold under the contract except under Category “Optional Ancillary Goods and Services”. These “goods or services not specifically listed” items, which are priced at a discount off of list price, may be only sold in companion with other goods and services specifically stated in the catalog under one of the other Categories. Goods or services that are listed under any Category, including Optional Ancillary Goods and Services, may be sold as stand-alone items.

Note: As previously stated, percentage discounts from list price are allowed but a markup percentage from cost is not, as this method is not allowable for purchases made via Federal grant money. Prices stated as a markup from cost are a cause for disqualification of those portions of your proposal.

Note: You may stipulate different discounts off different products or types of service (subcategories) within each Category, provided you clearly indicate how the different discounts apply to which goods or service subcategories.

4.7.2 General Proposal Information

You must clearly identify which Category your pricing submittal applies to.

You have the option (but are not required) to propose ancillary optional goods or services. Examples are similar product lines, inside delivery, set up, installation, maintenance agreements, travel costs, and other similar goods and services that are not specifically covered by any of the other Category listed in the BID PRICE WORKSHEET. Please provide adequate information explaining what the ancillary good or service consists of.

- For example, if you propose a discount off list, then your current list price card for the items proposed must be made available to the customer so that the customer can calculate the contract price. Such would mean if you were proposing “10% discount off list price of tables”, then you must provide on your quote the current list price for tables offered under the contract.

4.7.3 Exhibit 1 Price List

All bidders must complete the BID PRICE WORKSHEET that accompanies Exhibit 1 and indicate which categories they are offering in their proposal. In addition, the bidder is required to provide a current price list with Exhibit 1. If you are offering an “Other Ancillary Good or Service”, you must list those goods and services under this Category in order for the goods or services to be considered for award. Failure to clearly complete the required information may result in disqualification of the proposal.

4.7.4 Market Basket Pricing Form

You are asked to fill out and return with your proposal a copy of the *Sample Market Basket Pricing Form*, included as Exhibit 2 in this RFP package. This item is used to score the proposal for the Proposal Pricing criterion.

Note that not all RFPs will have a Market Basket Exhibit included.

4.7.5 Sales Tax & Freight

Do not include sales tax in proposal pricing. Nearly all Customers will be tax exempt. Freight/shipping cost should be addressed in the BID PRICE WORKSHEET. There is full flexibility on the vendor’s behalf as to whether these costs are included in the price, or an additional charge to be determined at the time of the negotiation between the Contractor and Customer. However, this must be stated up front at the time of the submission of the proposal. Failure to state the method in the proposal will result in a default assumption of

“additional charge” for freight/shipping costs when evaluating the proposal.

4.7.6 Bonds

The cost of any customer requested performance, payment or warranty bonds is additional, and not subject to the contractual discount.

4.8 OTHER REQUIREMENTS

4.8.1 Objectives

The Master Agreement awarded for TXShare may cover a variety of goods and services. Each Customer that selects to utilize the Master Agreement will negotiate the specific goods or services it needs into a Supplemental Agreement or purchase order) with a customized SOW for that Customer. All quotes for these supplemental agreements must be made based on the pricing and specifications contained herein.

4.8.2 Service Area

In preparing a proposal, you will designate what geographic region(s) will be served. You must specify, on the service area designation forms included with their proposal, the service areas that they are willing and able to provide goods and services to. A vendor does not have to propose to service the entire State of Texas, nor must propose to service all fifty (50) states, to be considered for an award of a TXShare contract.

Service area designation forms are found in **Exhibit 3**.

4.8.3 Category Offer.

You should prepare a proposal that describes in detail the goods or services that you are proposing to provide. Proposals must demonstrate your capability to provide all or part of the requested goods or services. A proposal will be evaluated only for the goods or services it proposes.

4.8.4 Standard Conditions

4.8.4.1 Purpose

It is the intent of these specifications to describe requirements for referenced goods/services on an as needed basis. Goods and services must meet or exceed the standards set forth in the specifications as described herein.

4.8.4.2 Price Redetermination

The bidder is to submit a percent discount off list price that will be the contracted rate. A percent discount re-determination may be offered by the vendor for consideration no more frequently than every twelve months.

The Contractor has the sole responsibility to request, via written request form, an adjusted discount rate and shall provide a copy of the index and other supporting documentation necessary to support the redetermination of the request. The Contractor will be notified in writing upon approval of the request.

4.8.4.3 Eligible Customers

Any Customer who has an Interlocal Agreement with NCTCOG and wishes to utilize the awarded contract will contact the Contractor directly and Contractor will offer to do business and bill the entity for their usage.

4.8.4.4 Award

NCTCOG reserves the right to award by line item, in whole, or in any combination as it deems to be in the best interest of the TXShare cooperative. Award may be made to one or more vendors. Customers further reserve the right to select the Contractor(s) that provides the best value for its material needs.

4.8.4.5 Vendor Performance

Vendor and their subcontractor(s) shall follow all applicable State of Texas laws and regulations relating to commercial motor vehicles and their proper maintenance, equipment, loading, and operation. Vendor and their subcontractor(s) shall also follow all traffic laws.

4.8.4.6 Subcontracting Vendor shall state names of all subcontractors and the type of work they will be performing. If a Vendor fails to specify a subcontractor, then Vendor shall be deemed to have agreed that it is fully qualified to perform the contract, and that the Vendor will fully perform the contract itself.

No Vendor whose bid is accepted shall (a) substitute any subcontractor, or (b) permit a subcontract to be voluntarily assigned or transferred or allow it to be performed by anyone other than the original subcontractor listed in the original bid without approval in writing from the NCTCOG. The successful Vendor further agrees that Customer and its agents, servants and employees shall not be liable for any loss or damage resulting from personal injury, physical loss, harassment of or discrimination against employee or other violations of the provisions of this contract occasioned by the acts or omissions of the successful Vendor's subcontractors, their agents, or employees. The indemnification provisions of this contract shall apply to all subcontractors.

4.8.4.7 Payment for the material specified herein will be made with the price discounts specified in the BID PRICE WORKSHEET.

4.8.4.8 You are encouraged to offer more than one service or dealer location in your proposal. The awarded contracts are intended to provide as much geographic coverage for as many customers as possible. The awarded contracts may be used by any government agency in the United States, so appropriate service sites are encouraged. If you have multiple locations in various locations, please list all locations and the applicable discount and rates that you wish to have covered under a contract. The number of locations is not limited and may be in every region of every state that you do business in.

4.9 CONTRACT TERM

A contract resulting from this RFP shall be for a period up to twenty-four (24) months commencing on the Effective Date. The contract will be subject to renewal for up to three (3) additional years, not to exceed five (5) years in total, unless earlier terminated as provided herein. NCTCOG reserves the right not to renew it at its discretion.

4.10 CONTRACT TYPE

If awarded, your proposal will result in a fixed price contract based on submitted pricing you propose. It is at your discretion to propose either unit pricing or a percentage discount off the list price for the goods or services you wish to offer. It is generally recommended that you propose a discount, however.

By signing this proposal, you certify that you have obtained and will continue to maintain during the entire term of this contract, all permits, approvals, or licenses, necessary for lawful performance of its obligations under this contract.

SECTION 5: EVALUATION AND AWARD

5.0 TIME FOR EVALUATION

Unless stated otherwise elsewhere in this RFP, all proposals submitted shall remain valid for a minimum of ninety (90) calendar days after the proposal due date to allow adequate time for evaluation and award.

5.1 EVALUATION PROCESS

All submissions in response to this solicitation will be evaluated in a manner consistent with the applicable NCTCOG rules and policies.

First, all nonresponsive proposals (those not conforming to the solicitation requirements) will be eliminated. A proposal review committee will be assembled to perform the evaluations of the remaining responsive proposals. In the initial phase of the evaluation process, the evaluation committee will review all responsive proposals received. You bear sole responsibility for submitting all requested information in the proposal. NCTCOG reserves the right to disqualify any proposal that includes significant deviations or exceptions to the terms, conditions, and/or specifications of this solicitation.

5.2 BAFO AND CLARIFICATION REQUESTS

Once proposals have been submitted, the evaluation committee reviews the proposals and determines which of those are determined to be reasonably qualified for award. Those so determined will be evaluated and scored.

Discussions may be conducted with Offerors who submit proposals that are determined to be reasonably qualified for the award of the contract. To obtain the best and final offers ("BAFO") for those reasonably qualified, revisions may be permitted after submission of the proposals and before the final decision is made to award a contract.

NCTCOG reserves the right to be the sole judge as to the overall acceptability of any submission or to judge the individual merits of specific provisions within competing offers.

5.3 ORAL PRESENTATIONS

NCTCOG reserves the right to require a presentation by the firm to supplement their written submission. These presentations will be scheduled, if required, after proposals are received and prior to the award of the Contract.

5.4 AWARD OF THE CONTRACT

Upon completion of the evaluation process, NCTCOG may award the contracts to one or more Offeror(s) whose submission is determined to be the most advantageous to NCTCOG.

5.5 PROPOSAL EVALUATION CRITERIA

The criteria to be used to evaluate submissions are as follows:

Criteria Factors	Proposal Section	Points
Capacity To Deliver	Tab A	45
Proposal Pricing	Tab D	50
HUB Status	Attachment IX	5

SECTION 6: GENERAL TERMS AND CONDITIONS

6.0 SALES TAX

NCTCOG is exempt from Texas limited sales, federal excise and use tax, and does not pay tax on purchase, rental, or lease of tangible personal property for the organization's use. A tax exemption certificate will be issued upon request.

6.1 DOMESTIC PREFERENCE FOR PROCUREMENTS

As appropriate and to the extent consistent with law, the PROVIDER should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). Consistent with §200.322, the following items shall be defined as: "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Proposers shall certify its compliance with these requirements as part of their proposal response by completing the certifications included with the RFP document "Attachments" section. Failure to submit the required certification statement may be grounds for finding the proposal nonresponsive.

6.2 CONDITIONS

- 6.2.1 A response to this solicitation does not commit NCTCOG to a purchase contract, or to pay any costs incurred in the preparation of such response.
- 6.2.2 Unless you specify in the proposal, NCTCOG may award the contract for any goods or services or group of goods or services in the solicitation and may increase or decrease the quantity specified.
- 6.2.3 NCTCOG reserves the right to hold and accept any proposals received by the submission deadline for a period of ninety (90) days after the deadline if a determination has not been made for an award.
- 6.2.4 NCTCOG reserves the right to negotiate the final terms of any and all purchase contracts with Offeror(s) selected and such contracts negotiated as a result of this solicitation may be re-negotiated and/or amended in order to successfully meet the customer needs.
- 6.2.5 NCTCOG reserves the right to waive any defect in this procurement process or to make changes to this solicitation, as it deems necessary. NCTCOG will provide notifications of such changes to all Vendors recorded in the official record having downloaded the solicitation from Public Purchase.
- 6.2.6 NCTCOG reserves the right to contact any individual, agencies, or employers listed in a submission, to contact others who may have experience and/or knowledge of your relevant performance and/or qualifications; and to request additional information from any or all Offerors.
- 6.2.7 NCTCOG reserves the right to conduct a review of records, systems, procedures, etc., of any entity selected for funding. This may occur prior to, or after, the award of a purchase contract. Misrepresentation of your ability to perform as stated in the qualification submittals may result in cancellation of the purchase contract award.
- 6.2.8 NCTCOG reserves the right to withdraw or reduce the amount of an award, or to cancel any contract resulting from this procurement if adequate funding is not available.
- 6.2.9 You shall not, under penalty of law, offer or provide any gratuities, favors, or anything of monetary value to any officer, member, employee, or agent of NCTCOG for the purpose of, or having the effect of, influencing favorable disposition toward their own submission or any other submitted hereunder.
- 6.2.10 No employee, officer, or agent of NCTCOG shall participate in the selection, award, or administration of a contract if a conflict of interest, real or apparent, exists.

- 6.2.11 You shall not engage in any activity that will restrict or eliminate competition. Violation of this provision may cause your proposal to be rejected. This does not preclude joint ventures or subcontracts.
- 6.2.12 All proposals submitted must be an original work product of yours. The copying, paraphrasing, or other use of substantial portions of the work product of others and submitted hereunder, as original work of the Offeror is not permitted. Failure to adhere to this instruction may cause the proposal submission(s) to be rejected.
- 6.2.13 The only purpose of this solicitation is to ensure uniform information in the selection of proposals and procurement of services. This solicitation is not to be construed as a purchase contract, or as a commitment of any kind, nor does it commit NCTCOG to pay for costs incurred prior to the execution of a formal contract unless such costs are specifically authorized in writing by NCTCOG.
- 6.2.14 The contents of a successful proposal submission may become a contractual obligation, if selected for award of a contract. Failure of the Offeror to accept this obligation may result in cancellation of the award. No plea of error or mistake shall be available to the successful vendor as a basis for release of proposed services at stated price/cost. Any damages accruing to NCTCOG as a result of the Offeror's failure to contract may be recovered from the Offeror.
- 6.2.15 A contract with the selected Offeror may be withheld at the sole discretion of NCTCOG if issues of contract compliance or questioned/disallowed costs exist, until such issues are satisfactorily resolved. Award of contract may be withdrawn by NCTCOG if resolution is not satisfactory to NCTCOG.
- 6.2.16 NCTCOG is the responsible authority for handling complaints or protests regarding the selection process. This includes, but is not limited to, disputes, claims, protest of award, source evaluation or other matters of a contractual nature. You agree, to the extent possible and not in contravention of any applicable state or federal law or procedure established for dispute resolution, to attempt to resolve any dispute between them regarding this process informally through voluntary mediation, arbitration or any other local dispute mediation process, including but not limited to dispute resolution policies of NCTCOG, before resorting to litigation.
- 6.2.17 NCTCOG reserves the right to accept or reject any and/or all submissions or to cancel this notice at any time.

6.3 HOUSE BILL 89 CERTIFICATION

If you are required to make a certification pursuant to Section 2270.002 of the Texas Government Code, you certify that you do not boycott Israel and will not boycott Israel during the term of the contract resulting from this solicitation. If you do not make that certification, you must indicate that in its proposal and state why the certification is not required.

6.4 INSURANCE REQUIREMENTS

At all times during the term of any awarded contract, Contractor shall procure, pay for, and maintain, with approved insurance carriers, the minimum insurance requirements set forth below, unless otherwise agreed in writing between contractor and participating entities. Further, Contractor shall require all contractors and sub-contractors performing work for which the same liabilities may apply under the contract to do likewise. Contractor may cause the insurance to be effected in whole or in part by the contractors or sub-contractors under their contracts. Coverage shall be endorsed to the Customer as a Named Additional Insured, with the exceptions of Workers Compensation and Professional Liability Insurance. NCTCOG reserves the right to waive or modify insurance requirements at its sole discretion.

Requirements are as follows:

- Workers' Compensation: Statutory limits and employer's liability of \$100,000 for each accident or disease.
- Commercial General Liability:
Required Limits:

\$1,000,000 per occurrence;

\$3,000,000 Annual Aggregate

- Commercial General Liability policy shall include:
 - Coverage A: Bodily injury and property damage;
 - Coverage B: Personal and Advertising Injury liability;
 - Coverage C: Medical Payments;
 - Products: Completed Operations;
 - Fire Legal Liability;

Policy coverage must be on an “occurrence” basis using CGL forms as approved by the Texas State Board of Insurance.

- Business Auto Liability: Coverage shall be provided for all owned hired, and non-owned vehicles. Required Limit: \$1,000,000 combined single limit each accident.
- Professional Errors and Omissions liability:
 - Required Limits:
 - \$1,000,000 Each Claim
 - \$1,000,000 Annual Aggregate

6.5 INDEMNIFICATION

Contractor shall defend, indemnify, and hold harmless NCTCOG and Participating Entities, NCTCOG’s affiliates, and any of their respective directors, officers, employees, agents, subcontractors, successors, and assigns from any and all suits, actions, claims, demands, judgments, liabilities, losses, damages, costs, and expenses (including reasonable attorneys’ fees and court costs) (collectively, “Losses”) arising out of or relating to: (i) Services performed and carried out pursuant to the contract; (ii) breach of any obligation, warranty, or representation in the contract, (iii) the negligence or willful misconduct of contractor and/or its employees or subcontractors; or (iv) any infringement, misappropriation, or violation by contractor and/or its employees or subcontractors of any right of a third party; provided, however, that contractor shall have no obligation to defend, indemnify, or hold harmless to the extent any losses are the result of NCTCOG’s gross negligence or willful misconduct.

6.6 FORCE MAJEURE

It is expressly understood and agreed by both parties that, if the performance of any provision of a contract resulting from this procurement is delayed by force majeure, defined as reason of war, civil commotion, act of God, governmental restriction, regulation or interference, fire, explosion, hurricane, flood, failure of transportation, court injunction, or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of the contract to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated herein, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the period of time applicable to such requirement shall be extended for a period of time equal to the period of time such party was delayed. Each party must inform the other in writing within a reasonable time of the existence of such force majeure.

6.7 FORM 1295

The Texas Legislature has adopted House Bill 1295. In summary, the law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties (Form 1295) to our agency prior to the award of certain contracts. The disclosure of interested parties must be completed electronically and submitted through the Texas Ethics Commission website. If the requirement applies to the contract resulting from this RFP, NCTCOG will notify the vendor that the disclosure is required and will provide a specific contract number for inclusion in the submittal. For more information about the process, please visit the following website: https://www.ethics.state.tx.us/whatsnew/FAQ_Form1295.html.

6.8 EQUAL EMPLOYMENT OPPORTUNITY

Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, or national origin. Contractor shall take affirmative actions to ensure that applicants are employed, and that employees are treated, during their employment, without regard to their race, religion, color, sex, sexual orientation, gender identity, or national origin. Such actions 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.

6.9 DAVIS-BACON ACT

Contractor agrees to comply with all applicable provisions of 40 USC § 3141 – 3148.

6.10 CONTRACT WORK HOURS AND SELECTION STANDARDS

Contractor agrees to comply with all applicable provisions of 40 USC § 3701 – 3708 to the extent this agreement indicates any employment of mechanics or laborers.

6.11 RIGHTS TO INVENTION MADE UNDER CONTRACT OR AGREEMENT

Contractor agrees to comply with all applicable provisions of 37 CFR Part 401.

6.12 CLEAN AIR ACT, FEDERAL WATER POLLUTION CONTROL ACT, AND ENERGY POLICY CONSERVATION ACT

Contractor agrees to comply with all applicable provisions of the Clean Air Act under 42 USC § 7401 – 7671, the Energy Federal Water Pollution Control Act 33 USC § 1251 – 1387, and the Energy Policy Conservation Act under 42 USC § 6201.

6.13 DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

6.14 PROCUREMENT OF RECOVERED MATERIALS

Contractor agrees to comply with all applicable provisions of 2 CFR §200.322.

6.15 RESTRICTIONS ON LOBBYING

Contractor is prohibited from using monies for lobbying purposes; Contractor shall comply with the special provision “Restrictions on Lobbying,” which is included as Attachment V of the RFP. Contractor shall include a statement of compliance with the Lobbying Certification and Disclosure of Lobbying Activities in applicable procurement solicitations. Lobbying Certification and Disclosure of Lobbying Activities shall be completed by subcontractors and included in subcontractor contracts, as applicable.

6.16 DRUG-FREE WORKPLACE

Contractor shall provide a drug free workplace in compliance with the Drug Free Workplace Act of 1988.

6.17 TEXAS CORPORATE FRANCHISE TAX CERTIFICATION

Pursuant to Article 2.45, Texas Business Corporation Act, state agencies may not contract with for profit corporations that are delinquent in making state franchise tax payments.

6.18 CIVIL RIGHTS COMPLIANCE

6.18.1 Compliance with Regulations

Contractor will comply with the Acts and the Regulations relative to Nondiscrimination in Federally assisted programs of the U.S. Department of Transportation (USDOT), the Federal Highway Administration (FHWA), as they may be amended from time to time, which are herein incorporated by reference and made part of this agreement.

6.18.2 Nondiscrimination

Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. Contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 45 CFR Part 21.

6.18.3 Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier will be notified by Contractor of obligations under this contract and the Acts and Regulations relative to Nondiscrimination on the grounds of race, color, sex, or national origin.

6.18.4 Information and Reports

Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Acts, Regulations or directives. Where any information required of contractor is in the exclusive possession of another who fails or refuses to furnish this information, Contractor will so certify to NCTCOG, the Texas Department of Transportation (“the State”) or the Federal Highway Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

6.18.5 Sanctions for Noncompliance

In the event of contractor’s noncompliance with the nondiscrimination provisions of the agreement, contractor will impose such sanctions as it the State or the FHWA may determine to be appropriate, including, but not limited to: withholding of payments to the contractor under the agreement until the Contractor compiles and/or cancelling, terminating or suspension of the agreement, in whole or in part.

6.18.6 Incorporation of Provisions

Contractor will include the provisions of the paragraphs listed above, in this section 9.13, in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Acts, the regulations and directives issued pursuant thereto. contractor will take such action with respect to any subcontract or procurement as NCTCOG, the State, or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided that if the contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier because of such direction, contractor may request the State to enter such litigation to protect the interests of the State. In addition, contractor may request the United States to enter such litigation to protect the interests of the United States.

6.18 DISADVANTAGED BUSINESS ENTERPRISE PROGRAM REQUIREMENTS

Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. Contractor shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure non-discrimination in award and administration of DOT-assisted contracts. Each sub-award or subcontract must include the following assurance: *The Contractor, sub-recipient, or sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or such other remedy as the recipient deems appropriate.*

6.19 PERTINENT NON-DISCRIMINATION AUTHORITIES

During the performance of the agreement, contractor, for itself, its assignees, and successors in interest agree to comply with the following nondiscrimination statutes and authorities; including but not limited to:

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- b. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects).
- c. Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), as amended, (prohibits discrimination on the basis of sex).
- d. Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.) as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27.
- e. The Age Discrimination Act of 1975, as amended, (49 U.S.C. § 6101 et seq.), (prohibits discrimination on the

basis of age).

- f. Airport and Airway Improvement Act of 1982, (49 U.S.C. Chapter 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex).
- g. The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, subrecipients and contractors, whether such programs or activities are Federally funded or not).
- h. Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38.
- i. The Federal Aviation Administration’s Nondiscrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex).
- j. Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations.
- k. Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, the parties must take reasonable steps to ensure that LEP persons have meaningful access to the programs (70 Fed. Reg. at 74087 to 74100).
- i. Title IX of the Education Amendments of 1972, as amended, which prohibits the parties from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

6.20 INELIGIBILITY TO RECEIVE STATE GRANTS OR LOANS, OR RECEIVE PAYMENT ON STATE CONTRACTS

In accordance with Section 231.006 of the Texas Family Code, a child support obligor who is more than thirty (30) days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least twenty-five (25) percent is not eligible to:

- a. Receive payments from state funds under a contract to provide property, materials or services; or
- b. Receive a state-funded grant or loan

6.21 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Pursuant to Public Law 115-232, Section 889, and 2 Code of Federal Regulations (CFR) Part 200, including §200.216 and §200.471, NCTCOG is prohibited from using federal funds to procure, contract with entities who use, or extend contracts with entities who use certain telecommunications and video surveillance equipment or services provided by certain Chinese controlled entities.

SECTION 7: HOW TO SUBMIT YOUR PROPOSAL

7.0 INSTRUCTIONS FOR OFFERORS

Your proposal should be comprised of the sections described below. Failure to include or address the items listed will impact the evaluation score of your proposal, up to, and including, disqualification.

Important Note: Your entire proposal must consist of the cover sheet, your responses to Tabs A-D, Exhibits 1-3 (as provided), and the completed Attachments I-XI per the following:

- **COVER SHEET.** The cover to your proposal will consist of the completed page 1 of this solicitation document.

- **TAB A - CAPACITY TO DELIVER**
 - Describe and clearly indicate any exceptions to the specifications, options or alternatives being proposed. You should also indicate any major requirements that cannot be met.
 - Describe your firm's capabilities to deliver the products offered in a timely fashion.
 - List the business location(s) out of which your firm's team members will work from. You are encouraged to provide options to cover multiple geographic areas outside of Dallas/Fort Worth.
 - Provide an overview of Proposer's organization, size, years in business, and experience; major clients; and other information that you feel would assist in our evaluation process.
 - Please provide a description of how your firm intends to interact with the Customer while providing services.
 - Describe your invoicing process. Payment terms? Is payment by credit card accepted? Is a deposit required?
 - Designate and provide names of specific contact person(s) for the following phases: (1) proposal evaluation process (2) contracting process (3) primary point of contact for receiving orders from participating agencies.
 - Include a list of no more than five (5) similar contracts awarded within the last 5 years. These same five projects should be used as your references in Tab C.
 - Identify any contracts within the past three years that were terminated due to non-performance.

NOTE: Any confidential/proprietary information must be clearly labeled as "confidential or proprietary".

- **TAB B - PROPOSAL PRICING**

Under this Tab, you are to furnish Exhibit 1 (BID PRICE WORKSHEET) & Exhibit 2 (MARKET BASKET WORKSHEET). Your BID PRICE WORKSHEET pricing shall be a percentage discount for each category item you are bidding on.

In addition, you are to provide in a separate document your current published unit pricing for the products you intend to provide. Due to constant price changes, the current published unit pricing is not a contractual obligation, but you will provide NCTCOG an updated price list as yours changes over time. However, the awarded vendor will only be obligated to honor the percentage discount. When preparing a quote for a Customer, you are expected to show on the quote your current published unit price, contracted percentage discount, and the net price for the item. The intent of your providing a current price list is for the Customer to be able calculate their actual cost by applying the contracted percent discount to your published unit pricing.

Please make sure that your proposal addresses all applicable costs for the goods/services, including but not limited to:

- Material
- Fuel Surcharge
- Loading Fee
- Any Other Billable Fees

The Exhibit 2 MARKET BASKET WORKSHEET is to be completed for the applicable categories you are offering in your proposal.

NOTE: The final negotiated pricing will be incorporated into the Master Services Agreement with the awarded vendor(s). The information provided in Tab B will be publicly available and may not be marked as proprietary or confidential.

- **TAB C - REFERENCES**

Include a list of five (5) references for relevant contracts awarded within the last five years, preferably from a government customer. Include customer name, point of contact, address, phone number, and email address. NCTCOG may contact references provided regarding the firm's past performance.

NOTE: Any confidential/proprietary information must be clearly labeled as "confidential or proprietary".

- **TAB D - REQUIRED ATTACHMENTS**

Please include ALL ATTACHMENTS (I-XI) and required EXHIBIT 3 (included in this RFP document) completed and signed as applicable. All attachments must be submitted with the proposal, or the proposal may be disqualified as nonresponsive. IF AN ATTACHMENT DOES NOT APPLY, PLEASE MARK AS "NOT APPLICABLE" AND SUBMIT WITH THE PROPOSAL.

NOTE: Any confidential/proprietary information must be clearly labeled as "confidential or proprietary".

EXHIBIT 1
CATEGORIES SELECTED, PRICING & CURRENT PUBLISHED PRICE LIST

Step 1: Please place a checkmark next to each Category that you are offering in your proposal:

- _____ Category 1: Hot Poured Polymer Material Only.
- _____ Category 2: Hot Poured Polymer Material & Application.
- _____ Category 3: Ready-Mixed Cold-Applied Material Only.
- _____ Category 4: Ready-Mixed Cold-Applied Material & Application.
- _____ Category 5: Thermoplastic Cold-Applied Material Only.
- _____ Category 6: Thermoplastic Cold-Applied Material & Application.
- _____ Category #7: Ancillary Service and Related Supplies.

Step 2: Proposed Contractual Discounts on Pricing for Items Offered

For each of the bid items you wish to offer from Categories you selected above, provide your proposed **discount** off your list price on the attached **Bid Price Worksheet**.

Step 3: Current Published Price List for Items Offered

For each of the bid items you wish to offer, please provide the current list price. Please attach this information to your proposal on either a separate sheet or via a weblink. Please match the corresponding Bid Item number from the Bid Price Worksheet next to the matching item on your current published price list.

NOTE: The current price list is NOT a part of the contractual obligation and may be modified at the vendor's discretion. Only the percentage discount is contractually obligated.

EXHIBIT 2
SAMPLE MARKET BASKET FORM

For the purposes of evaluation, please provide your firm's pricing as it would exist for the simplified scenario on the Sample Market Basket Form. This scenario is for evaluation purposes only and will not be part of any awarded contract.

These exercises demonstrate equal costs for the exact same materials for all proposers, irrespective of other operating costs that are not asked for in this scenario. This permits fair and reasonable comparison of respondent pricing.

Insert Sample Marketbasket sheet here

EXHIBIT 3

SERVICE DESIGNATION AREAS

Texas Service Area Designation or Identification			
Proposing Firm Name:			
Notes:	Indicate in the appropriate box whether you are proposing to service the entire state of Texas		
	Will service the entire state of Texas	Will not service the entire state of Texas	
	If you are not proposing to service the entire state of Texas, designate on the form below the regions that you are proposing to provide goods and/or services to. By designating a region or regions, you are certifying that you are willing and able to provide the proposed goods and services.		
Item	Region	Metropolitan Statistical Areas	Designated Service Area
1.	North Central Texas	16 counties in the Dallas-Fort Worth Metropolitan area	
2.	High Plains	Amarillo Lubbock	
3.	Northwest	Abilene Wichita Falls	
4.	Upper East	Longview Texarkana, TX-AR Metro Area Tyler	
5.	Southeast	Beaumont-Port Arthur	
6.	Gulf Coast	Houston-The Woodlands- Sugar Land	
7.	Central Texas	College Station-Bryan Killeen-Temple Waco	
8.	Capital Texas	Austin-Round Rock	
9.	Alamo	San Antonio-New Braunfels Victoria	
10.	South Texas	Brownsville-Harlingen Corpus Christi Laredo McAllen-Edinburg-Mission	
11.	West Texas	Midland Odessa San Angelo	
12.	Upper Rio Grande	El Paso	

(Exhibit 3 continued on next page)

(Exhibit 3 continued)

Nationwide Service Area Designation or Identification Form			
Proposing Firm Name:			
Notes:		Indicate in the appropriate box whether you are proposing to provide service to all Fifty (50) States.	
		Will service all fifty (50) states	Will not service fifty (50) states
		<p>If you are not proposing to service to all fifty (50) states, then designate on the form below the states that you will provide service to. By designating a state or states, you are certifying that you are willing and able to provide the proposed goods and services in those states.</p> <p>If you are only proposing to service a specific region, metropolitan statistical area (MSA), or City in a State, then indicate as such in the appropriate column box.</p>	
Item	State	Region/MSA/City (write "ALL" if proposing to service entire state)	Designated as a Service Area
1.	Alabama		
2.	Alaska		
3.	Arizona		
4.	Arkansas		
5.	California		
6.	Colorado		
7.	Connecticut		
8.	Delaware		
9.	Florida		
10.	Georgia		
11.	Hawaii		
12.	Idaho		
13.	Illinois		
14.	Indiana		
15.	Iowa		
16.	Kansas		
17.	Kentucky		
18.	Louisiana		
19.	Maine		

20.	Maryland		
21.	Massachusetts		
22.	Michigan		
23.	Minnesota		
24.	Mississippi		
25.	Missouri		
26.	Montana		
27.	Nebraska		
28.	Nevada		
29.	New Hampshire		
30.	New Jersey		
31.	New Mexico		
32.	New York		
33.	North Carolina		
34.	North Dakota		
35.	Ohio		
36.	Oregon		
37.	Oklahoma		
38.	Pennsylvania		
39.	Rhode Island		
40.	South Carolina		
41.	South Dakota		
42.	Tennessee		
43.	Texas		
44.	Utah		
45.	Vermont		
46.	Virginia		
47.	Washington		
48.	West Virginia		
49.	Wisconsin		
50.	Wyoming		

End of Exhibit 3

**ATTACHMENT I:
INSTRUCTIONS FOR PROPOSALS COMPLIANCE AND SUBMITTAL**

REQUIRED ATTACHMENT CHECKLIST

This checklist is provided as a courtesy to responding firms. Please utilize this checklist to ensure that all required attachments are included with your proposal. IF AN ATTACHMENT DOES NOT APPLY, PLEASE MARK AS “**NOT APPLICABLE**” AND SUBMIT WITH THE PROPOSAL. **FAILURE TO SUBMIT ALL REQUIRED DOCUMENTS MAY NEGATIVELY IMPACT YOUR EVALUATION SCORE.**

- Cover Sheet
- Exhibit 1: Categories Selected, Pricing & Current Published Price List
- Exhibit 2: Sample Market Basket Form
- Exhibit 3: Service Area Designation Forms
- Attachment I: Instructions for Proposals Compliance and Submittal
- Attachment II: Certification of Offeror
- Attachment III: Certification Regarding Debarment
- Attachment IV: Restrictions on Lobbying
- Attachment V: Drug-Free Workplace Certification
- Attachment VI: Certification Regarding Disclosure of Conflict of Interest
- Attachment VII: Certification of Fair Business Practices
- Attachment VIII: Certification of Good Standing Texas Corporate Franchise Tax Certification
- Attachment IX: Historically Underutilized Businesses, Minority Or Women-Owned Or Disadvantaged Business Enterprises
- Attachment X: Federal and State of Texas Required Procurement Provisions
- Attachment XI: Conflict of Interest Questionnaire

Compliance with the Solicitation

Submissions must be in strict compliance with this solicitation. Failure to comply with all provisions of the solicitation may result in disqualification. You recognize that all proposals must be submitted electronically through PublicPurchase.com by the RFP due date and time. All other forms of submissions will be deemed nonresponsive and will not be opened or considered.

Acknowledgment of Insurance Requirements

By signing its submission, you acknowledge that it has read and understands the insurance requirements for the submission. You also understand that the evidence of required insurance may be requested to be submitted within ten (10) working days following notification of its offer being accepted; otherwise, NCTCOG may rescind its acceptance of the your proposals. The insurance requirements are outlined in Section 6.4.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

**ATTACHMENT II:
CERTIFICATIONS OF OFFEROR**

I hereby certify that the information contained in this proposal and any attachments is true and correct and may be viewed as an accurate representation of proposed services to be provided by this organization. I certify that no employee, board member, or agent of the North Central Texas Council of Governments has assisted in the preparation of this proposal. I agree that failure to submit all requested information may result in rejection of this proposal as non-responsive. I acknowledge that I have read and understand the requirements and provisions of the solicitation and that the organization will comply with the regulations and other applicable local, state, and federal regulations and directives in the implementation of this contract.

I also certify that I have read and understood all sections of this solicitation and will comply with all the terms and conditions as stated; and furthermore that I, _____ (typed or printed name) certify that I am the _____ (title) of the corporation, partnership, or sole proprietorship, or other eligible entity named as you and you herein and that I am legally authorized to sign this offer and to submit it to the North Central Texas Council of Governments, on behalf of said Offeror by authority of its governing body.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

**ATTACHMENT III:
CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS**

This certification is required by the Federal Regulations Implementing Executive Order 12549, Debarment and Suspension, 45 CFR Part 93, Government-wide Debarment and Suspension, for the Department of Agriculture (7 CFR Part 3017), Department of Labor (29 CFR Part 98), Department of Education (34 CFR Parts 85, 668, 682), Department of Health and Human Services (45 CFR Part 76).

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

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency;
2. Have not within a three-year period preceding this contract been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or contract under a public transaction, violation of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false Proposals, or receiving stolen property;
3. Are not presently indicated for or otherwise criminally or civilly charged by a government entity with commission of any of the offense enumerated in Paragraph (2) of this certification; and,
4. Have not within a three-year period preceding this contract had one or more public transactions terminated for cause or default.

Where the prospective recipient of federal assistance funds is unable to certify to any of the qualifications in this certification, such prospective recipient shall attach an explanation to this certification form.

Name of Organization/Contractor(s):

SAM.GOV Unique Identity ID:

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

**ATTACHMENT IV:
RESTRICTIONS ON LOBBYING**

Section 319 of Public Law 101-121 prohibits recipients of federal contracts, grants, and loans exceeding \$100,000 at any tier under a federal contract from using appropriated funds for lobbying the Executive or Legislative Branches of the federal government in connection with a specific contract, grant, or loan. Section 319 also requires each person who requests or receives a federal contract or grant in excess of \$100,000 to disclose lobbying.

No appropriated funds may be expended by the recipient of a federal contract, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any federal executive department or agency as well as any independent regulatory commission or government corporation, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered federal actions: the awarding of any federal contract, the making of any federal grant, the making of any federal loan the entering into of any cooperative agreement and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

As a recipient of a federal grant exceeding \$100,000, NCTCOG requires its subcontractors of that grant to file a certification, set forth in Appendix B.1, that neither the agency nor its employees have made, or will make, any payment prohibited by the preceding paragraph.

Subcontractors are also required to file with NCTCOG a disclosure form, set forth in Appendix B.2, if the subcontractor or its employees have made or have agreed to make any payment using nonappropriated funds (to include profits from any federal action), which would be prohibited if paid for with appropriated funds.

(Attachment IV: Cont.)

**LOBBYING CERTIFICATION
FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

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

1. No federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an officer or employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal loan, the entering into of any cooperative Contract, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative contract; and
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, and or cooperative contract, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying”, in accordance with the instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers and that all sub-recipients shall certify accordingly.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

**ATTACHMENT V:
DRUG-FREE WORKPLACE CERTIFICATION**

The _____ (company name) will provide a Drug Free Work Place in compliance with the Drug Free Work Place Act of 1988. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited on the premises of the _____ (company name) or any of its facilities. Any employee who violates this prohibition will be subject to disciplinary action up to and including termination. All employees, as a condition of employment, will comply with this policy.

CERTIFICATION REGARDING DRUG-FREE WORKPLACE

This certification is required by the Federal Regulations Implementing Sections 5151-5160 of the Drug-Free Workplace Act, 41 U.S.C. 701, for the Department of Agriculture (7 CFR Part 3017), Department of Labor (29 CFR Part 98), Department of Education (34 CFR Parts 85, 668 and 682), Department of Health and Human Services (45 CFR Part 76).

The undersigned subcontractor certifies it will provide a drug-free workplace by:

Publishing a policy Proposal notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the consequences of any such action by an employee;

Establishing an ongoing drug-free awareness program to inform employees of the dangers of drug abuse in the workplace, the subcontractor's policy of maintaining a drug-free workplace, the availability of counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed on employees for drug violations in the workplace;

Providing each employee with a copy of the subcontractor's policy Proposal;

Notifying the employees in the subcontractor's policy Proposal that as a condition of employment under this subcontract, employees shall abide by the terms of the policy Proposal and notifying the subcontractor in writing within five days after any conviction for a violation by the employee of a criminal drug abuse statute in the workplace;

Notifying the Board within ten (10) days of the subcontractor's receipt of a notice of a conviction of any employee; and,

Taking appropriate personnel action against an employee convicted of violating a criminal drug statute or requires such employee to participate in a drug abuse assistance or rehabilitation program.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

**ATTACHMENT VI:
CERTIFICATION REGARDING DISCLOSURE OF CONFLICT OF INTEREST**

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

“No employee of the contractor, no member of the contractor’s governing board or body, and no person who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this contract shall participate in any decision relating to this contract which affects his/her personal pecuniary interest.

Executives and employees of contractor shall be particularly aware of the varying degrees of influence that can be exerted by personal friends and associates and, in administering the contract, shall exercise due diligence to avoid situations which give rise to an assertion that favorable treatment is being granted to friends and associates. When it is in the public interest for the contractor to conduct business with a friend or associate of an executive or employee of the contractor, an elected official in the area or a member of the North Central Texas Council of Governments, a permanent record of the transaction shall be retained.

Any executive or employee of the contractor, an elected official in the area or a member of the NCTCOG, shall not solicit or accept money or any other consideration from a third person, for the performance of an act reimbursed in whole or part by contractor or Department. Supplies, tools, materials, equipment or services purchased with contract funds shall be used solely for purposes allowed under this contract. No member of the NCTCOG shall cast a vote on the provision of services by that member (or any organization which that member represents) or vote on any matter which would provide a direct or indirect financial benefit to the member or any business or organization which the member directly represents”.

No officer, employee or paid consultant of the contractor is a member of the NCTCOG.

No officer, manager or paid consultant of the contractor is married to a member of the NCTCOG.

No member of NCTCOG directly owns, controls or has interest in the contractor.

The contractor has disclosed any interest, fact, or circumstance that does or may present a potential conflict of interest.

No member of the NCTCOG receives compensation from the contractor for lobbying activities as defined in Chapter 305 of the Texas Government Code.

Should the contractor fail to abide by the foregoing covenants and affirmations regarding conflict of interest, the contractor shall not be entitled to the recovery of any costs or expenses incurred in relation to the contract and shall immediately refund to the North Central Texas Council of Governments any fees or expenses that may have been paid under this contract and shall further be liable for any other costs incurred or damages sustained by the NCTCOG as it relates to this contract.

Name of Organization/Contractor

Signature of Authorized Representative:

Printed/Typed Name and Title of Authorized Representative

Date

**ATTACHMENT VII:
CERTIFICATION OF FAIR BUSINESS PRACTICES**

That the submitter has not been found guilty of unfair business practices in a judicial or state agency administrative proceeding during the preceding year. The submitter further affirms that no officer of the submitter has served as an officer of any company found guilty of unfair business practices in a judicial or state agency administrative during the preceding year.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

**ATTACHMENT IX:
HISTORICALLY UNDERUTILIZED BUSINESSES, MINORITY OR WOMEN-OWNED OR
DISADVANTAGED BUSINESS ENTERPRISES**

Historically Underutilized Businesses (HUBs), minority or women-owned or disadvantaged businesses enterprises (M/W/DBE) are encouraged to participate in the solicitation process.

NCTCOG recognizes the certifications of most agencies. This applies only to the Offeror and not a subcontractor. HUB vendors must submit a copy of their certification for consideration during the evaluation of their proposal. Please attach a copy to this form.

Texas vendors who are not currently certified are encouraged to contact either the Texas United Certification Program, State of Texas HUB Program, or the North Central Texas Regional Certification Agency, among others. Contact:

State of Texas HUB Program
Texas Comptroller of Public Accounts
Lyndon B. Johnson State Office Building
111 East 17th Street
Austin, Texas 78774
(512) 463-6958
<http://www.window.state.tx.us/procurement/prog/hub/>

North Central Texas Regional Certification Agency
624 Six Flags Drive, Suite 100
Arlington, TX 76011
(817) 640-0606
<http://www.nctrea.org/certification.html>

Texas United Certification Program
USDOT website at
<https://www.transportation.gov/DBE>

You must include a copy of your certification document as part of this solicitation to receive points in the evaluation.

Vendor to Sign Below to Attest to Validity of Certification:

Vendor Name

Authorized Signature

Typed Name

Date

ATTACHMENT X
NCTCOG FEDERAL AND STATE OF TEXAS REQUIRED PROCUREMENT PROVISIONS

Note: The following provisions are mandated by Federal and/or State of Texas law. Failure to certify the following will result in disqualification of consideration for contract. Entities or agencies that are not able to comply with the following statements will be ineligible for consideration of contract award.

(Attachment continued on next page)

**PROHIBITED TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT
CERTIFICATION**

This Contract is subject to the Public Law 115-232, Section 889, and 2 Code of Federal Regulations (CFR) Part 200, including §200.216 and §200.471, for prohibition on certain telecommunications and video surveillance or equipment. Public Law 115-232, Section 889, identifies that restricted telecommunications and video surveillance equipment or services (e.g., phones, internet, video surveillance, cloud servers) include the following:

- A) Telecommunications equipment that is produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliates of such entities).
- B) Video surveillance and telecommunications equipment produced by Hytera Communications Corporations, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliates of such entities).
- C) Telecommunications or video surveillance services used by such entities or using such equipment.
- D) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, Director of the National Intelligence, or the Director of the Federal Bureau of Investigation reasonably believes to be an entity owned or controlled by the government of a covered foreign country. The entity identified below, through its authorized representative, hereby certifies that no funds under this Contract will be obligated or expended to procure or obtain telecommunication or video surveillance services or equipment or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as a critical technology as part of any system prohibited by 2 CFR §200.216 and §200.471, or applicable provisions in Public Law 115-232 Section 889.

The Contractor or Subrecipient hereby certifies that it does comply with the requirements of 2 CFR §200.216 and §200.471, or applicable regulations in Public Law 115-232 Section 889.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date:

-OR-

The Contractor or Subrecipient hereby certifies that it cannot comply with the requirements of 2 CFR §200.216 and §200.471, or applicable regulations in Public Law 115-232 Section 889.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

DISCRIMINATION AGAINST FIREARMS ENTITIES OR FIREARMS TRADE ASSOCIATIONS

This contract is subject to the Texas Local Government Code chapter 2274, Subtitle F, Title 10, prohibiting contracts with companies who discriminate against firearm and ammunition industries.

TLGC chapter 2274, Subtitle F, Title 10, identifies that “discrimination against a firearm entity or firearm trade association” includes the following:

- A) means, with respect to the entity or association, to:
 - I. refuse to engage in the trade of any goods or services with the entity or association based solely on its status as a firearm entity or firearm trade association; and
 - II. refrain from continuing an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association; or
 - III. terminate an existing business relationship with the entity or association based solely on its status as a firearm entity or firearm trade association.

- B) An exception to this provision excludes the following:
 - I. contracts with a sole-source provider; or
 - II. the government entity does not receive bids from companies who can provide written verification.

The entity identified below, through its authorized representative, hereby certifies that they have no practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and that they will not discriminate during the term of the contract against a firearm entity or firearm trade association as prohibited by Chapter 2274, Subtitle F, Title 10 of the Texas Local Government Code.

The Contractor or Subrecipient hereby certifies that it does comply with the requirements of Chapter 2274, Subtitle F, Title 10.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

-OR-

The Contractor or Subrecipient hereby certifies that it cannot comply with the requirements of Chapter 2274, Subtitle F, Title 10.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

(Attachment X: Cont.)

BOYCOTTING OF CERTAIN ENERGY COMPANIES

This contract is subject to the Texas Local Government Code chapter 809, Subtitle A, Title 8, prohibiting contracts with companies who boycott certain energy companies.

TLGC chapter Code chapter 809, Subtitle A, Title 8, identifies that “boycott energy company” means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations with a company because the company:

- I. engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law; and
- II. does business with a company described by paragraph (I).

The entity identified below, through its authorized representative, hereby certifies that they do not boycott energy companies, and that they will not boycott energy companies during the term of the contract as prohibited by Chapter 809, Subtitle A, Title 8 of the Texas Local Government Code.

The Contractor or Subrecipient hereby certifies that it does comply with the requirements of Chapter 809, Subtitle A, Title 8.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

-OR-

The Contractor or Subrecipient hereby certifies that it cannot comply with the requirements of Chapter 809, Subtitle A, Title 8.

Name of Organization/Contractor

Signature of Authorized Representative

Printed/Typed Name and Title of Authorized Representative

Date

<<INSERT ATTACHMENT XI CONFLICT OF INTEREST PDF FORM HERE>>