

# TEXAS PARKS AND WILDLIFE

Texas Parks and Wildlife Department  
Purchasing and Contracting C-1  
4200 Smith School Road  
Austin, Texas 78744

## REQUEST FOR PROPOSALS

**RFP No. 802-24-40970**

Aluminum Sampling Vessel, Outboard Motors,  
and Boat Trailer

NIGP Class/Items: 120-23, 120-63, 120-90, 959-34

RFP Issue Date: July 15, 2024

Questions Due: July 23, 2024; 2:00 PM CT

**Proposal Due Date: August 6, 2024; 2:00 PM CT**

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**ATTENTION:** It is the responsibility of interested parties to periodically check the Electronic State Business Daily (ESBD) website for updates to this solicitation prior to submitting a response. The Respondent's failure to periodically check the ESBD will in no way release the selected contractor from "addenda or additional information" resulting in additional cost to meet the requirements of the RFP.

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## SECTION I – GENERAL INFORMATION AND STATEMENT OF WORK

### 1. INTRODUCTION

Texas Parks and Wildlife Department (TPWD) is soliciting proposals for one (1) custom built twenty-six to twenty-eight (26 to 28) foot Aluminum Sampling Vessel to be rigged with dual Outboard Motors, and Boat Trailer for the Coastal Fisheries Division.

The Sampling Vessel shall be designed or modified to accommodate tongs, sonar, and accessories that will be installed at a later day by TPWD. This solicitation is for the Vessel, Outboard Motor, and Boat Trailer only. See [Section 6, Subsection 6.1.3](#) for equipment that must be accommodated in the vessel design, and [Attachment 1-Figures and Illustrations](#).

### 2. BACKGROUND

- 2.1. TPWD Coastal Fisheries Division - Habitat Assessment Team is responsible for mapping and characterizing coastal habitats. Habitat distribution maps allow TPWD to assess changes in habitat in order to prioritize conservation measures and restoration projects. Maps are also used to monitoring the success of restoration projects over time.
- 2.2. The Sampling Vessel will be used to conduct habitat mapping and restoration monitoring. Equipment will be purchased separately and after this solicitation to mount side scan sonar survey equipment as well as habitat sampling equipment, including but not limited to oyster tongs and other benthic sampling devices.

### 3. SOLICITATION METHOD AND INTENT

- 3.1. The RFP solicitation method allows qualified respondents to submit a written proposal addressing pricing, qualifications, experience, design, location, availability, approach, and other factors that will be employed to ensure successful accomplishment of the requirements set forth herein. TPWD will review, compare, and evaluate responses based on the criteria and weights identified in this RFP.
- 3.2. Respondent may submit multiple proposals with different designs. Each proposal will be evaluated on its own merits.
- 3.3. Responses shall be binding for a period of sixty (60) business days from bid due date. No other costs, rates, or fees shall be payable to Respondent unless expressly agreed upon in writing by TPWD.
- 3.4. After contract award, Contractor shall be responsible for conducting development sessions with TPWD project team to ensure complete and thorough development and modification of vessel design to meet TPWD specific requirements.

### 4. PROJECT SCHEDULE / CONTRACT TERM

- 4.1. To accommodate TPWD's need for this vessel preferred completed vessel delivered date is within eighteen (18) months from date of award. However, TPWD will consider alternate project schedules. Respondents shall submit any contingencies with Response. TPWD will evaluate responses and determine award based on best value considering schedule and other factors.
- 4.2. **Initial Contract Term:** The contract shall commence on Date of Award and continue through final acceptance by TPWD, unless sooner terminated under the terms of the contract.

- 4.3. **Amendments:** The contract may be amended in writing by mutual consent of the parties by the issuance of a contract amendment document. Any amendments shall be within the original scope of services outlined herein and may not substantially alter the original specifications herein.
- 4.4. **Quantities:** Unless this RFP states otherwise, the resulting contract award does not guarantee volume or a commitment of funds. Quantities listed are projected order quantities. TPWD reserves the right to increase or decrease quantities. TPWD will only pay for actual goods received or services performed and makes no express or implied warranty whatsoever that any minimum compensation or minimum quantity will be guaranteed under this contract.

## 5. QUALIFICATIONS AND EXPERIENCE

- 5.1. **Minimum Qualifications and Experience:** Respondent (and awarded contractor) shall meet the following minimum qualifications:
- 5.1.1. Respondents shall be experienced in the design and manufacture or modification of vessels of similar scope as described herein and in accordance with [Section I Subsection 5.1.2](#).
  - 5.1.2. Shall be engaged in the business of providing vessels in similar scope and size for a minimum of five (5) years.
  - 5.1.3. Shall provide all design, labor, materials, equipment, supplies, and incidentals necessary and have available the necessary qualified personnel, skills, qualifications, and organization to deliver the vessel specified herein, and fulfill all requirements under this RFP and any resulting contract.
  - 5.1.4. Shall be in good financial standing. TPWD reserves the right to request a copy of the respondent's audited or un-audited financial statement.
- 5.2. **Supporting Documentation:** Respondent shall complete and submit [Exhibit C – Company Profile](#), [Exhibit D – Key Personnel](#), [Exhibit E – Past Projects with Corresponding References](#), [Exhibit F - Technical Proposal](#) with proposal to provide documentation to support the above qualifications. [Reference Section II Subsection 3.3](#).

## 6. SCOPE OF WORK AND SPECIFICATIONS

The specifications listed below are the essential minimum requirements for the design and performance of the required vessel named herein. Vessel shall comply with all federal, state, and USCG regulations. Respondents may submit proposals for alternate solutions and/or design that provide required accommodations for patent tong system, associated hydraulic power unit, and sonar equipment without deviation from required clearance from top of bulwark to bottom of davit as referenced in Section 6.2.6 or Floor Plan as referenced in Section 6.2.7. Alternate solutions and/or designs must provide vessel stability, strength of hull, and safety of personnel for operation of hydraulic tongs, in and around oyster reefs.

- 6.1. **Purpose, Design, and Standards:**
- 6.1.1. The vessel may be designed and manufactured in the time allotted or may be a pre-manufactured vessel to include required modifications. Respondent may submit proposal for design/manufacture of vessel to meet specifications or a prefabricated vessel with customizations as specified herein. If alternate solutions and/or design are proposed, exceptions shall be clearly identified, and proposal shall include explanation of how vessel shall meet needs with designated exceptions.
  - 6.1.2. The vessel will be used for oyster sampling with patent tongs and to conduct habitat mapping with scientific grade sonar equipment.
  - 6.1.3. **The vessel design shall accommodate for a patent** tong system and associated hydraulic power unit (HPU) weighing approximately five hundred pounds (500 lb.) in total. Sonar equipment

weighing approximately two hundred pounds (200 lb.). Patent Tong System and Sonar Equipment will be provided separately, and the related unit installations are not part of this solicitation. [Reference Attachment 1 – Figures and Illustrations](#). Vessel must be designed and/or modified for the safe and correct operation of this specified equipment.

6.1.4. The vessel shall include a cabin and davit capable of supporting a minimum of three hundred pounds being lifted 2-3 feet from side of vessel and shall be and rigged with dual outboard motors of suitable size and power for vessel (see [Section 1 Subsection 6.3](#) for Outboard Motor Specifications) and come with a suitable boat trailer in accordance with [Section 1 Subsection 6.5 Specifications for Boat Trailer](#).

6.1.5. The vessel must be able to support heavy weight off one side, estimated at three hundred (300) pounds, and requires a generator to power the electronics as described herein.

6.1.6. Definitions and Standards of Design and Build:

6.1.6.1. A/C – Air Conditioner/Air Conditioning.

6.1.6.2. AMP/Amp – Ampere.

6.1.6.3. BTU – British Thermal Unit.

6.1.6.4. CFR – Code of Federal Regulations.

6.1.6.5. DC – Direct Current.

6.1.6.6. EPA – Environmental Protection Agency.

6.1.6.7. FSA – Federal Safety Act.

6.1.6.8. GPH – Gallon per Hour.

6.1.6.9. GPS – Global Positioning Satellite.

6.1.6.10. HP – Horsepower.

6.1.6.11. LED – Light Emitting Diode.

6.1.6.12. NM – Nautical Miles.

6.1.6.13. PVC – Polyvinyl Chloride.

6.1.6.14. RFP – Request for Proposal.

6.1.6.15. TPWD – Texas Parks and Wildlife Department.

6.1.6.16. USB – Universal Serial Bus.

6.1.6.17. USCG – United States Coast Guard.

6.1.6.18. V – Volt.

6.1.6.19. VHF – Very High Frequency.

6.2. Specifications for Vessel:

6.2.1. Dimensions:

- 6.2.1.1. Vessel Length Overall: twenty-six to twenty-eight (26 to 28) feet.
- 6.2.1.2. Vessel Beam: one hundred two (102) inches maximum width exterior gunwale to exterior gunwale.
- 6.2.1.3. Vessel Draft: less than thirty (30) inches, static hull design with motor raised.
- 6.2.1.4. Vessel Bottom: Eighty-four (84) inches maximum.
- 6.2.1.5. Vessel and Boat Trailer: width must not exceed one hundred two (102) inches to avoid wide load permit requirement.

6.2.2. General Construction:

- 6.2.2.1. The boat shall be shallow V-bottom or V-bottom tunnel-hull.
- 6.2.2.2. The boat hull shall be constructed of aluminum. Refer to [Section I Subsection 6.2.3.1.](#) for specifications. Wood in any form is not acceptable.
- 6.2.2.3. Vessel must conform to federal level flotation requirements for recreational boats as required by the FSA and be certified and placarded accordingly including the installation of a capacity tag.
- 6.2.2.4. All markings, capacity tags, and construction must be in compliance with USCG 33 CFR.
- 6.2.2.5. All seams and ribs shall be of all-weld design and shall be welded with 5356 marine grade welding wire, or TPWD approved equivalent. No crimped or folded chines or runners are allowed.
- 6.2.2.6. All wire will be multi-strand copper with double insulation protection and rubber grommet installed on all intersections of wire and metal.
- 6.2.2.7. Boat must not have folded or crimped ribs, chines, or spray rails.
- 6.2.2.8. All hardware shall be stainless steel corrosion resistant materials.
- 6.2.2.9. Boat shall include navigation lights including flush mounted front lights and removable white all-around lights to meet all USCG navigational requirements.
- 6.2.2.10. Contractor will install a davit to accommodate patent tongs as described in [Section I Subsection 6.26 Davit](#) and [Attachment 1 Figure 2.](#)

6.2.3. Hull:

- 6.2.3.1. Hull shall be constructed entirely of three sixteenth (3/16) inch 5086 marine grade alloy aluminum, or TPWD approved equivalent for working in saltwater environments around oyster beds, and with the operation of tongs.
- 6.2.3.2. Hull must have twelve to eighteen (12 to 18) degrees with deadrise, or of sufficient deadrise for safe operation of hydraulic tongs.
- 6.2.3.3. Hull bottom shall have a double bottom with three sixteenth (3/16) inch aluminum tread plate.

- 6.2.3.4. Hull bottom shall be one quarter (1/4) inch aluminum 5086 alloy or TPWD approved equivalent.
- 6.2.3.5. Shall have drain plugs installed in the bilge and hull should drain into the bilge as appropriate.
- 6.2.3.6. Shall have four to six (4 to 6) mooring cleats with two to three (2 to 3) cleats on the gunwale on the port side and two to three (2 to 3) cleats on the gunwale on the starboard side.
- 6.2.3.7. Shall have an outer gunwale cap constructed of a three (3) inch "D" rubber bumper surrounding perimeter and may have an inner gunwale cap constructed of approximately ten (10) inch wide aluminum tread plate with a two (2) inch flange down.
- 6.2.3.8. Bulwarks shall be a continuation of the hull at least twenty-four (24) inches above the deck from stern to stern to allow for clearance of sixty-six inches (66") from top of bulwarks to bottom of davit.
- 6.2.3.9. Longitudinal frame structure along the length of the hull shall include:
  - 6.2.3.9.1. Two (2) vertical flange plate girders approximately three-sixteenth (3/16) inch.
  - 6.2.3.9.2. One (1) flat bar keel approximately four (4) inches by three-eighth (3/8) inch.
  - 6.2.3.9.3. One (1) two (2) inch angle keel protector.
  - 6.2.3.9.4. Four (4) lifting strakes welded solid on the bottom.
- 6.2.3.10. Hull width transverse frame structure shall include:
  - 6.2.3.10.1. Three (3) inch T-bar bottom frames.
  - 6.2.3.10.2. Two (2) inch square tubing double bottom frames.
- 6.2.3.11. Shall include one (1) 12 V two thousand (2,000) GPH automatic bilge pump installed to a stainless steel thru-hull fitting with manual override switch on console.
- 6.2.4. Deck:
  - 6.2.4.1. Shall be constructed of a three sixteenth (3/16) tread plate, or TPWD approved equivalent.
  - 6.2.4.2. Shall be self-bailing.
  - 6.2.4.3. Shall be painted with a non-slip surface agent.
  - 6.2.4.4. Shall be reinforced to accommodate the davit and the load described in [Section I Subsection 6.2.6 Davit](#).
- 6.2.5. Transom:
  - 6.2.5.1. Shall be constructed of one quarter (1/4) inch plate reinforced 5085 marine grade alloy aluminum or of TPWD approved sufficient grade to support dual outboard motors as specified herein.



- 6.2.5.2. Shall be all-welded and designed for two (2) twenty-five (25) inch shaft motors rated for 150 to 220 HP.
- 6.2.5.3. Shall have a dual outboard motor bracket that extends out thirty (30) inches with a tread plate across the transom and two 92) aluminum bolted inspection hatches.
- 6.2.5.4. Shall have aluminum trim tabs and 12 V actuators with rocker switch.

6.2.6. Davit:

- 6.2.6.1. Shall be constructed of aluminum.
- 6.2.6.2. Must be capable of supporting a three hundred (300) pound load at a distance of three (3) feet seaward and perpendicular to the gunwale.
- 6.2.6.3. Must be of sufficient height to allow a vertical clearance of at least sixty-six (66) inches from the gunwale to the bottom of the boom.
- 6.2.6.4. Must be able to rotate a minimum of two hundred seventy (270) degrees with the assistance of a handle.
- 6.2.6.5. Davit pulleys must have bearings capable of supporting the load described above.
- 6.2.6.6. Must have a backlash guard to ensure the cable remains in the pulley.
- 6.2.6.7. Davit pulleys must be able to accommodate a one quarter (1/4) inch braided steel cable.
- 6.2.6.8. Must have a mounting plate large enough to accommodate a fourteen by twelve by twelve (14 x 12 x 12) inch winch at operable height, approximately forty (40) inches from the deck. The winch is part of the patent tong system that will be supplied by TPWD and installed at a later date.

6.2.7. Floor Plan:

- 6.2.7.1. Two (2) forty to sixty (40 to 60) gallon fuel tanks shall be mounted aft of cabin and installed on a rubber mat bolted down. TPWD will consider alternate placement of fuel tanks providing that proposed placement does not reduce required deck workspace as specified herein.
- 6.2.7.2. Deck must have sufficient workspace to accommodate a hydraulic patent tong power unit, dimensions approximately forty-one by twenty-one (41 x 21) inches, see [Attachment 1 Figure 4](#), winch mounted on davit, and patent tongs that will be placed near the center of the boat aft of cabin. The tongs and davit system require the length of boom plus at least three (3) feet of operator space with no obstacles to prevent the safe swing of the boom. This system will need minimum one hundred two and one-half inches by seventy-six and one-quarter inches (102.5" x 76.25") to function properly, see [Attachment 1 Figure 1](#), and define workspace dimensions in [Exhibit F - Technical Proposal](#)

6.2.8. Cabin Exterior:

- 6.2.8.1. Inside dimensions: Minimum eighty-four-inch (84") inch long cabin construction of one-eighth (1/8) inch aluminum plate.
- 6.2.8.2. Center door front of cabin with stainless door dog and safety glass.

- 6.2.8.3. Horizontal slide windows, one port and one starboard, constructed of safety glass.
- 6.2.8.4. Center door at rear of cabin with stainless door dog and one quarter (¼) inch safety glass. Remaining sections will have one quarter (¼) inch safety glass.
- 6.2.8.5. Two handrails the length of the cabin to be port and starboard installed.
- 6.2.8.6. Walkway around port and starboard sides.
- 6.2.8.7. One (1) marine grade thirteen thousand to fifteen thousand (13,000 to 15,000) BTU roof mounted air conditioner with heat to be installed on cabin roof.

6.2.9. Cabin Interior:

- 6.2.9.1. Two (2) heavy duty adjustable captain seats with high back rests, arm rests, and seat slider with footrest on each chair.
- 6.2.9.2. One (1) storage bench seat installed aft of captain's seat which spans the length of the cabin between the captain's seat and the aft cabin wall.
- 6.2.9.3. Two (2) tables installed on port side of cabin both fore and aft of passenger seat.
- 6.2.9.4. Console to be installed with removable faceplate.
- 6.2.9.5. Two (2) overhead console instrument boxes.
- 6.2.9.6. Foam insulated roof on ceiling.
- 6.2.9.7. Equipment rack to fit two (2) solar equipment transceiver boxers, dimensions twenty by sixteen by eight (20 x 16 x 8) inches each installed under the table/workbench.
- 6.2.9.8. Two (2) three (3) inch weld elbow cable ports installed at the aft wall in cabin above window.
- 6.2.9.9. Three (3) electrical receptacles installed inside of cabin to allow for sonar equipment to be operated and to meet federal standards.

6.2.10. Generator:

- 6.2.10.1. One (1) inverter generator with electric start and battery and mounted on four (4) isolated pads. Generator must be capable of powering the rooftop AC unit, sonar electronics, and vessel electronics. Generator should be minimum 7,000 watts / 48 Amp with 120V and 240V capabilities.
- 6.2.10.2. Aluminum stand for generator with removable vents and lockable latch.
- 6.2.10.3. Breaker panel with ground fault breakers and three (3) receptables configured with one (1) port aft, one (1) port forward, and one (1) starboard forward, and a twist lock plug disconnect from generator.

6.2.11. Fuel System:

- 6.2.11.1. Two (2) forty-to-sixty-gallon fuel tanks. (40 to 60 gal.)
- 6.2.11.2. Fuel tank and hoses need to be USCB approved and EPA compliant as per USCG 33 CFR 183.510(a).

- 6.2.11.3. Fuel system should include two to three (2 to 3) temp inline two-way valves and two to three stainless fuel water separators. There should be sufficient fuel lines and valves for each motor and the generator.
- 6.2.11.4. Shall include a fuel gauge kit with three-eighth inch (3/8") USCG approved fuel hose. All hoses will have double stainless-steel clamps on all ends. Fuel gauge to be mounted on console described in Section 6.2.9.4.

6.3. **Specifications for Vessel Accessories:**

- 6.3.1. Radar with minimum 36NM range installed on a stationary radar stand.
- 6.3.2. Auto Pilot with helm control panel, smart pump, shadow drive, and buzzer. Autopilot should be fully controllable from the combined networked chart plotter.
- 6.3.3. GPS Chart Plotter with 12-inch-high resolution screen and sonar/depth finder installed that is compatible with installed autopilot and radar systems. GPS chart plotter should be mounted into a bracket on the console.
- 6.3.4. One (1) 12 V LED cabin dome light.
- 6.3.5. One (1) LED search light with remote control that has a minimum of 460,000 candle power.
- 6.3.6. Four (4) LED flood lights with a minimum of 1,440 lumens per light.
- 6.3.7. Stainless steel steering wheel.
- 6.3.8. Fused switch panel with corresponding fused circuit panel connected to negative buss main fuse at the battery. Must have appropriate number of switches and circuit fuses for the electrical system.
- 6.3.9. Twelve Volt (12V) power socket on console.
- 6.3.10. In-dash DC voltmeter with USB.
- 6.3.11. VHF radio with antenna and mount.
- 6.3.12. Electric trim tabs with switch.
- 6.3.13. Three (3) marine deep cycle heavy-duty crank batteries.
- 6.3.14. Three (3) battery cases with holding straps.
- 6.3.15. Three (3) battery switch selectors with options for 1,2, All, Off.
- 6.3.16. Zinc anodes installed in appropriate places for vessel.
- 6.3.17. One (1) stainless steel horn shall be mounted in appropriate location with the horn control being mounted to the console inside the cabin described in 6.2.9.4.
- 6.3.18. One (1) carbon monoxide detector shall be mounted in appropriate location.
- 6.3.19. One (1) heavy duty windshield wiper shall be mounted on the cabin's starboard and port front windows and shall include an appropriate wiper control system mounted inside the cabin.

6.3.20. Optional Sonar Mounting System Upgrade for Vessel: This item is optional and not required for award, nor will it be considered in the technical scoring portion of the evaluation process. Pricing for optional accessories is for Value-Added Benefits and will not be a factor in determining contract award.

6.3.20.1. Quantity of one to two (1 to 2) gear-driven universal sonar mounting systems for side scan sonar and single beam echosounder to be mounted on bow and/or side of vessel. Actual location will be determined after contract award. Mounting system should meet the following specifications.

- A. Mount shall be gear driven.
- B. Must be able to accommodate a pole length of up to ten feet (10') long and four-and one-half inch (4.5") diameter.
- C. Must be capable of bearing loads of at least one hundred fifty pounds (150 lb.).
- D. Must contain a safety breakaway feature to protect sonar device in the event of a collision.
- E. Must be compatible with either the EdgeTech 6205 Sonar Unit or the Biosonics DT-X Extreme, or both. Specify compatibility in [Exhibit B – Price Sheet Line Item 6](#).

6.4. **Specifications for Outboard Motors:**

6.4.1. Boat shall be rigged with dual four (4) stroke outboard motors with low water pick up installed on the lower unit.

6.4.2. Installation shall include four (4) blade stainless steel propellers of appropriate pitch and diameter for the hull and motor configuration.

6.4.3. Motors should be rated for one hundred fifty to two hundred twenty (150 to 220) horsepower (HP) and sufficient for vessel specified herein.

6.4.4. Motors shall have twenty-five (25) inch shaft.

6.4.5. Motors shall have an associated hydraulic steering system, including appropriate binnacle for dual outboard motors, cylinders, stainless steel tie bar, and stainless-steel steering wheel appropriate for dual outboard motors.

6.4.6. Motors shall be fully mounted and rigged on the boat with drive by wire controls, hydraulic steering, and factory multifunctional gauge to include tachometer, temperature, hour meter, and water pressure meter.

6.4.7. Motors shall include an ignition which shall be mounted to console described in [Section I Subsection 6.2.9.4](#) and shall include two (2) sets of keys.

6.4.8. Motors shall include a battery switch with twelve-volt (12V) plug.

6.4.9. Shall include a stainless fuel water separator.

6.4.10. Motors must be attached to a dual motor bracket.

6.5. **Specifications for Boat Trailer:**

6.5.1. Trailer shall be tandem or triple axel and aluminum I-beam construction.

- 6.5.2. Two (2) axles shall have disc or hydraulic brakes.
- 6.5.3. Trailer hubs shall have buddy bearings.
- 6.5.4. Trailer shall include mounted spare tire and wheel plus carrier. Tires and wheels shall be new only.
- 6.5.5. Trailer brake components shall be stainless steel.
- 6.5.6. Trailer shall have galvanized finish or better.
- 6.5.7. Trailer shall have heavy duty retractable mechanical jack stand with wheel appropriate for overall weight when fully loaded.
- 6.5.8. Trailer shall have mechanical winch with strap and hook and safety chain attachment from the trailer to the vessel, and heavy-duty safety chains for connection to tow vehicle.
- 6.5.9. Trailer lights shall be submersible with four (4) prong connector. Lighting must comply with 49 CFR 571.108 Standard No. 108 and wiring shall meet Texas Department of Transportation (TXDOT) code requirements.
- 6.5.10. Trailer shall have ball hitch size at two (2) to two-and-fifteen-sixteenth (2-5/16) inch.
- 6.5.11. Trailer shall have vertical PVC guides.
- 6.5.12. Trailer shall have a lighted license plate mount.
- 6.5.13. Trailer shall be rated for safely towing the vessel.
- 6.3.20. Optional Upgrades for Boat Trailer: These items are optional and not required for award, nor will these items be considered in the technical scoring portion of the evaluation process. Pricing for optional accessories is for Value-Added Benefits and will not be a factor in determining contract award.
- 6.5.14. but may be considered when determining best value award.
  - 6.5.14.1. In place of the buddy bearings described in [Section I Subsection 6.5.3.](#), upgrade to maintenance free marine grade sealed bearing system and hub with hybrid lubrication system and stainless-steel components to keep water out and prevent corrosion.
  - 6.5.14.2. A vertical winch post with steps to easily mount and dismount from the vessel.

**6.6. Vessel Design Accommodations** – The equipment listed below will be provided by TPWD and installed at a later date; however, vessel must be designed for the safe and correct operation of equipment. [Reference Attachment 1 – Figures and Illustrations.](#)

- 6.6.1. Vessel design must accommodate a patent tong system and associated hydraulic power unit (HPU) weight approximately five hundred pounds (500 lb.) in total. This equipment will be provided and installed separately.
- 6.6.2. Sonar Equipment weighing approximately two hundred pounds (200 lb.).

**6.7. Exceptions to Specifications:**

- 6.7.1. Respondents may take exception to specifications and designs outlined herein. Any exceptions should be clearly identified and submitted with a justification as to why the exception would still meet the needs outlined in this document.

- 6.7.2. TPWD will review and determine if exception is acceptable. Final design must be approved by TPWD prior to any services being performed.

## **7. CONTRACTOR AND KEY PERSONNEL REQUIREMENTS AND RESPONSIBILITIES**

- 7.1. Contractor agrees to conduct all its services under the awarded contract by and through appropriate communications with TPWD. No work, installation or other services shall be undertaken by Contractor except with the prior written authorization by TPWD. Contractor understands and agrees that work, installation, or other service performed without prior written authorization of the TPWD is work outside the scope of this contract and shall be performed exclusively at Contractor's risk. Contractor shall submit 100% construction design with interior/exterior finishes for TPWD approval prior to fabrication.
- 7.2. Contractor and the resulting manufactured vessel shall comply with any and all rules and regulations with respect to the design and manufacture. If any specifications in Respondent's proposed vessel differ from specifications herein, Respondent is responsible for providing that information in the proposal submission. Any revisions or exceptions must meet requirement of regulations referenced herein. There shall be no material or component substitutions without prior approval by TPWD.
- 7.3. Contractor agrees to comply with Federal Law and State Workers' Compensation laws which are applicable to the work required or performed under this Contract and to pay or cause to be paid all compensation, medical, or hospital bills which may become due or payable thereunder, and to protect and indemnify TPWD from and against any and all liability by reason of injury to employees or subcontractors of Contractor.
- 7.4. Contractor shall provide service in accordance with requirements specified herein and the resulting contract(s) and adhere to the TPWD Terms and Conditions.
- 7.5. Contractor shall be solely responsible for any damage attributable to Contractor's operation. Contractor, at their own expense, shall repair any such damage immediately. The repair work is subject to acceptance by TPWD.
- 7.6. Contractor shall provide all labor, materials, and equipment necessary to meet requirements of the specified services throughout the term of the contract.
- 7.7. Contractor is responsible for all costs incurred in the performance of the contract.
- 7.8. Contractor shall comply with all laws, ordinances, statutes, and regulations pertaining to the services requested herein, and shall obtain such permits, licenses or other authorizations as may be required.
- 7.9. Contractor shall provide a Contract Manager as a primary point of contact.
- 7.10. Contractor shall follow relevant safety rules and conduct the work in a safe manner.
- 7.11. **Contractor's Project Manager Responsibilities:**
- 7.11.1. Be a permanent employee of the Contractor and serve as a constant primary point of contact for TPWD through acceptance.
- 7.11.2. Have primary responsibility for the day-to-day operation of the services in accordance with the requirements of the contract.
- 7.11.3. Have authority to issue, execute, grant, and provide any approvals, requests, notices, and other communications required to advance the project.
- 7.11.4. Oversee all the work performed.

7.11.5. Ensure that any design, manufacture, or modification discrepancies in TPWD's design are identified and conveyed to the TPWD Project Manager, and that the finished vessel's design and function meet operation standards and safety requirements.

7.11.6. Ensure all Contractor's key personnel have and maintain all applicable current licenses, certifications, and permits necessary to perform assigned duties under this contract.

## 8. TPWD RESPONSIBILITIES

- 8.1. TPWD will designate a TPWD Project Manager and a TPWD Contract Manager upon contract award.
- 8.2. TPWD will review and approval all project deliverables prior to acceptance.
- 8.3. TPWD may perform acceptance testing for all documented specifications and requirements as needed, which is testing against all documented specifications and requirements.
- 8.4. TPWD may perform periodic field reviews as needed.
- 8.5. TPWD will furnish no material, labor, equipment, or facilities unless otherwise provided for in this contract.
- 8.6. TPWD will review and approve Contractor's 100% construction design submissions prior to fabrication or approve design submission for a pre-manufactured vessel with the needed modifications.
- 8.7. TPWD will pay for TPWD staff travel expenses associated with project progress inspections if needed.
- 8.8. Final 10% payment may be withheld until 30 days after acceptance.

## 9. STABILITY TEST, DELIVERY, ACCEPTANCE

- 9.1. The final product to be delivered to TPWD will meet or exceed specifications as outlined herein, responses to this RFP, TPWD approved alterations, approved documentation, and compliant to all requirements including schedule.
- 9.2. TPWD may conduct on-site inspections if the proposed vessel will be designed and manufactured or if a pre-manufactured vessel will be modified. Contractor must agree to observations and any required corrective actions.
- 9.3. The vessel's capability will include but not be limited to the following:
  - 9.3.1. **Stability Test:** A stability test will be performed at contractor's location to ensure that the vessel can accommodate the operation of a hydraulic patent tong system according to the following. Contractor must inform the TPWD Project Manager that the stability test can be scheduled at least one (1) week in advance of the proposed test date. The patent tongs, with a full sample, will weigh approximately three hundred (300) pounds and will be deployed and retrieved from one side of the vessel.
  - 9.3.2. The load will be deployed from a davit that extends seaward approximately two to three (2 to 3) feet from the vessel's gunwale.
  - 9.3.3. The load will be deployed from a davit with sufficient height for the tongs to clear the gunwale in the closed position, approximately sixty-six (66) inches above the gunwale.
  - 9.3.4. The tong, HPU, and davit will weigh approximately one thousand five hundred (1,500) pounds that will be placed aft of cabin on the deck. See [Attachment 1 Figure 3](#) for tong system reference.

- 9.4. **Final Inspection:** Final inspection is to ensure that all requirements have been met, the stability test has been performed with successful outcomes, that identified defects have been addressed and remedied, and other work items have been corrected or completed.
- 9.5. **Delivery Schedule:** Delivery schedule may be a factor in determining award. Vendor must contact TPWD delivery point of contact named in [Section I Subsection 9.6 Delivery Point of Contact](#) to schedule delivery date and time.
- 9.6. **Delivery Point of Contact:** Point of contact will be named at contract award.
- 9.7. **Delivery Address:** For delivery and offloading by vendor to location. Coastal Fisheries Division Dickinson Marine Lab, 1502 FM 517 E, Dickinson, Texas 77539.
- 9.8. **Registration and Titling:** Permanent registration and titling will be performed by TPWD. **DO NOT REGISTER ITEM(S).** Vendor shall supply, as applicable, dealer's tag for item for 60 days from date of delivery. The original Certificate of Origin (COO) or Manufacturer's Statement of Origin (MSO) as well as the most current version of TXDMV form 130U or Application for Texas Title with signature shall be submitted to:
- Attention:** Fleet Manager  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, TX 78744  
**Invoice shall be submitted to TPWD Accounts Payable, 4200 Smith School Road, Austin, Texas 78744, or by e-mail to [accounts.payable@tpwd.texas.gov](mailto:accounts.payable@tpwd.texas.gov).**
- 9.9. **Delays:** If delay is foreseen, Contractor shall give written notice to TPWD and must keep TPWD advised at all times of status of order. Default in promised Delivery Days After Receipt of Order (ARO) without accepted reasons or failure to meet specifications authorizes TPWD to purchase goods and services of this contract elsewhere and charge any increased costs for the goods and services, including the cost of re-soliciting, to the Contractor.
- 9.10. Contractor shall provide all manuals, software, and related documentation for all equipment onboard the vessel to include the outboard motors.

## 10. PERFORMANCE MEASURES

- 10.1. Contractor will be responsible for the performance of any contractual obligations that may result from an award based on this RFP and shall not be relieved due to non-performance of any or all subcontractor(s). By submitting a proposal, the Respondent commits to providing the goods and services required in the RFP. The successful Respondent(s) will be required to abide by TPWD policies, procedures, standards, and guidelines relevant to the execution of this contract.
- 10.2. TPWD will monitor vendor performance. Vendor performance will be reported in the Vendor Performance Tracking System (VPTS). Failure to provide services and products in accordance with the requirements specified herein and the resulting contract and adherence to the TPWD Terms and Conditions may be considered by TPWD as unsatisfactory performance by the Contractor. An unsatisfactory performance may result in a negative vendor performance report, cancellation of the contract, or both.
- 10.3. TPWD will measure and evaluate the Contractor's and/or subcontractors' performance under the contract. If the Contractor or subcontractor does not meet any standards for deliverables and/or performance incentives (if applicable), TPWD may impose remedies if the Contractor or subcontractor(s) fails to meet their responsibilities as outlined in the RFP and the terms and conditions of the contract. All services and deliverables under the contract shall be provided at an acceptable quality level and in a manner consistent with acceptable industry standards, customs, and practices. In the event TPWD deems that the Contractor's performance does not meet an acceptable quality level of service and deliverables, TPWD may seek or



negotiate remedies with the Contractor. Remedies shall include, but are not limited to negative vendor performance report, corrective action plans, and withholding of payments due to poor performance and contract non-compliance.

## **11. ADDING NEW PRODUCTS/SERVICES TO CONTRACT AFTER AWARD**

Following the contract award, additional products/services of the same general category that could have been encompassed in the award of this contract, and that are not already on the contract, may be added. A formal written request will be sent to successful respondent to quote on the proposed additional products/services. Respondent shall submit proposals to TPWD as instructed. All prices are subject to negotiation with the Best and Final Offer ("BAFO"). TPWD may accept or reject any or all proposals and may issue a separate solicitation for the products/services after rejecting some or all of the responses. The products/services covered under this provision shall conform to the specifications as outlined in the request.

## **12. WARRANTY**

Respondents shall provide warranty information in their proposal for the vessel itself as well as all components within the vessel, the outboard motors, and the boat trailer. Vessel and all components thereof, Outboard Motors, Boat Trailer, and all accessories shall be warrantied against defects in material and workmanship for a minimum of the Manufacturer's Standard Warranty for government use. The warranty begins on the date the unit is determined to meet specifications and accepted by TPWD. Warranty terms and coverage will be considered during the evaluation process to determine best value. All warranties shall commence upon final acceptance.

## **13. MODIFICATIONS OF CONTRACT TERMS AND/OR AMENDMENTS**

- 13.1. The terms and conditions of the Contract shall govern all transactions under the Contract.
- 13.2. The Contract may only be modified or amended upon mutual written agreement of Texas Parks and Wildlife Purchaser(s) and the Contractor. Verbal changes are not allowed.
- 13.3. Terms and conditions that do not conflict with the Contract and are acceptable to the Contractor(s) may be added in a Purchase Order and given effect. No additional term or condition added in a Purchase Order can conflict with or diminish a term or condition of the Contract. In the event of a conflict between Purchase Order and the Contract, the Contract term shall control.

## **14. PAYMENT SCHEDULE**

TPWD will consider a progress payment schedule. Respondents may provide progress payment schedule with their bid response. Final payment schedule may be negotiated and will be confirmed if accepted by TPWD at time of award.

## **15. SUBCONTRACTING**

TPWD has reviewed the Scope of Work herein and determined that Hub Subcontracting Opportunities are not probable. Refer to [Section III General Terms and Conditions Subsection 56 Subcontractors](#).

## **16. CONTRACT ADMINISTRATION**

- 16.1. TPWD will maintain on-going review and status of Contractor's progress toward completion and will certify whether contractor's billings are reasonably comparable with the work completed. Payment(s) will not be made until all work has been reviewed and accepted by TPWD.
- 16.2. Administration of the contract is a joint responsibility of TPWD Coastal Fisheries Division and the TPWD Purchasing & Contracting Branch. TPWD purchasing staff will be responsible for administering the

contractual business relationship with the contractor. Upon issuance of contract, TPWD will designate an individual who will serve as the contract manager and point-of-contact between the agency and the contractor. The contract manager does not have any express or implied authority to vary the terms of the contract, amend the contract in any way or waive strict performance of the terms or conditions of the contract. This individual's contract management and contract administration responsibilities include, but are not limited to:

- 16.2.1. Monitoring the contractor's progress and performance and ensuring services conform to established specification requirements.
- 16.2.2. Managing the financial aspects of the contract including approval of payments.
- 16.2.3. Meeting with the contractor to schedule service, and as needed to review progress, discuss problems, and consider necessary action.
- 16.2.4. Identifying a breach of contract by assessing the difference between contract performance and non-performance. Other areas as identified by the State of Texas Procurement and Contract Management Guide, latest edition.

## 17. INVOICING AND PAYMENT

The following procedures apply to invoicing and payment in addition to those listed in [Section III General Terms and Conditions Subsection 9 Invoicing and Payment](#):

- 17.1. **Contractor to submit invoice(s) to:** Texas Parks & Wildlife Department, Accounts Payable, 4200 Smith School Road, Austin, Texas 78744.
- 17.2. **Invoices must show:**
  - 17.2.1. Name of Contractor exactly as shown on the contract, Texas Payee Identification Number (PIN), and correct "Remit to" address.
  - 17.2.2. Name of receiving entity.
  - 17.2.3. Contract/purchase order number.
  - 17.2.4. Description, quantity, unit of measure, unit price, extended price of each item.
  - 17.2.5. Total price.
  - 17.2.6. Discount, if applicable, extended and deducted to arrive at a NET TOTAL for invoice.
  - 17.2.7. Attach supporting documentation, if required.
- 17.3. **Payment:**
  - 17.3.1. The contractor will be paid for the services performed as invoiced. If another payment mechanism is agreed to by the parties, then contractor will be paid in accordance with the agreement approved by the parties.
  - 17.3.2. Under no circumstances shall TPWD be obligated to make any payment (whether a progress payment or final payment) to Contractor, if any of the following conditions exists:
    - 17.3.2.1. Contractor is in breach of this contract.
    - 17.3.2.2. Any portion of a payment is for services that were not performed in accordance with this

contract provided, however, payment shall be made for those services which were performed in accordance with this contract.

- 17.3.2.3. Contractor has failed to make payments promptly to consultants or other third parties used in connection with services for which TPWD has made payment to Contractor.
- 17.3.2.4. If TPWD, in good faith, determines that the balance of the unpaid fees is not sufficient to complete the services in accordance with this contract; or if Contractor has failed to achieve a level of performance necessary to maintain the project schedule. No deductions shall be made from Contractor's compensation on account of liquidated damages or other sums withheld from payments to other contractors or on account of the cost of changes in the Work other than those for which Contractor may be liable.
- 17.3.3. Payment normally will be made to the Contractor within 30 days after receipt of a properly prepared invoice or the receipt of and the acceptance of services ordered, whichever is later. State agencies are required by state law to pay properly submitted invoices within 30 days or the Contractor may charge a late payment fee established by law.
- 17.3.4. Payments for services purchased with state appropriated funds will be made through state warrants issued by the Comptroller of Public Accounts. Payments by qualified ordering entities will be made through the entities local payment system.
- 17.3.5. Electronic payment may be available through some ordering entities. Contact Accounts Payable at 512-389-4833 for additional information.

## SECTION II – PROPOSAL REQUIREMENTS

### 1. SCHEDULE OF EVENTS

TPWD intends to proceed according to the following schedule. These dates represent a tentative schedule of events. TPWD reserves the right to change the dates in the schedule of events above upon written notification to prospective Respondents through a posting on the Electronic State Business Daily as an Addendum.

Event	Date/Time
RFP Issue Date:	July 15, 2024
Questions Due:	July 23, 2024; 2:00 PM CT
<b>Proposal Due Date:</b>	<b>August 6, 2024; 2:00 PM CT</b>

### 2. INQUIRIES

- 2.1. **CONTACT:** All requests, questions, or other communications about this Solicitation shall be made in writing to TPWD's Purchasing Department, addressed to the following person, or TPWD Purchasing and Contracting designee:
- |   |  |
|---|--|
| <p>Christina M. Brown, Purchaser<br/>Texas Parks &amp; Wildlife Department<br/>4200 Smith School Road<br/>Austin, Texas 78744</p> | <p><u>Contact Info:</u><br/>Phone: 903-920-2185<br/>Fax 512-389-4677<br/>Email: <a href="mailto:purchasing.bidbox@tpwd.texas.gov">purchasing.bidbox@tpwd.texas.gov</a></p> |
|---|--|
- 2.2. **CLARIFICATIONS:** TPWD will allow written requests for clarification of this Solicitation. Questions may be faxed or e-mailed to the point-of-contact listed in [Section II Subsection 2.1 Contact](#). Questions should be submitted in the following format: a) Reference the Solicitation number; b) Reference the Section number, Page number, Paragraph number, and Text of passage being questioned; and c) Question.
- 2.3. **DEADLINE FOR SUBMISSION OF QUESTIONS:** To provide TPWD with sufficient time to adequately prepare responses to vendor inquiries, all questions must be submitted by the deadline specified in [Section II Subsection 1 Schedule of Events](#).
- 2.4. **ANSWERS TO QUESTIONS:** The target date for answering questions is within three business days after deadline for questions. Official answers will be posted as an addendum to this solicitation, on the Electronic State Business Daily at <http://www.txsmartbuy.com/esbd>. Respondent names will be removed from questions in the responses released. TPWD reserves the right to amend answers prior to the proposal submission deadline. If respondents do not have Internet access, copies may be obtained through the point of contact listed above. **Note:** *It is the responsibility of interested parties to periodically check the ESDB for updates to the procurement prior to submitting a proposal. Respondent's failure to periodically check the Electronic State Business Daily (ESBD) will in no way release the selected vendor from "addenda or additional information" resulting in additional costs to meet the solicitation requirements.*
- 2.5. **PROHIBITED COMMUNICATIONS:** Upon issuance of this solicitation, TPWD, its representative(s), or partners will not answer questions or otherwise discuss the contents of this Solicitation with any potential Respondent or their representative(s), except for the written inquires described in [Section II Subsection 2.2 Clarifications](#) above. Attempts to ask questions by phone or in person will not be allowed or recognized as valid. **Failure to observe this restriction may disqualify respondent.** Respondent shall rely only on written statements issued through or by TPWD's purchasing staff. This restriction does not preclude discussions between affected parties for the purposes of conducting business unrelated to this solicitation.

### 3. PROPOSAL CONTENT

Below is a summary of required and requested information. Proposals submitted without this information will be evaluated accordingly. TPWD reserves the right, in its sole judgment and discretion, to waive minor technicalities and errors in the best interest of the state.

#### 3.1. **GENERAL RESPONSE FORMAT:**

**E-MAIL SUBMITTALS ARE PREFERRED FOR THIS SOLICITATION.** Respondents shall submit **one (1) original** proposal signed (marked Original). In addition, Respondents should submit **one (1) copy** of the proposal with redacted pricing. *Pricing should not be included in the submitted copy. Additionally, one (1) copy* of the HUB Subcontracting Plan (HSP) shall be submitted with proposals. Submissions should be on 8 ½ x 11-inch paper and tab-indexed corresponding to the sections/exhibits listed below. If proposals are submitted by hardcopy, plastic spine-bound or wire-bound submittals are highly discouraged.

#### 3.2. **REQUIRED RESPONSE CONTENT:**

Respondent MUST include the following documentation in their response submission. ***Failure to submit with response will result in disqualification of the proposal.***

3.2.1. **Exhibit A – Execution of Proposal:** Respondent must submit original signed, dated, and completed [Exhibit A - Execution of Proposal](#).

3.2.2. **Exhibit B – Price Sheet:** Include completed [Exhibit B – Price Sheet](#). *Pricing should not be included in the submitted copy. E-mailed submissions should include an additional copy of the Respondent's proposal excluding the pricing.*

#### 3.3. **ADDITIONAL RESPONSE CONTENT:**

Respondent shall include the following additional documentation in their response submission, or within one business day of TPWD request. ***Failure to submit this additional documentation by TPWD designated deadline may result in disqualification of the proposal.***

3.3.1. **Exhibit C – Company Profile:** Include completed [Exhibit C](#) or reasonable facsimile.

3.3.2. **Exhibit D – Key Personnel:** Include completed [Exhibit D](#) or a reasonable facsimile or resumes.

3.3.3. **Exhibit E – Past Projects with Corresponding References:** Include completed [Exhibit E](#) or a reasonable facsimile.

3.3.4. **Exhibit F – Technical Proposal:** Include [Exhibit F](#) including numbered responses corresponding to each of the items listed in [Exhibit F](#).

3.3.5. **Addenda:** Respondent shall acknowledge receipt of any addendums generated as part of this solicitation. The respondents should include the signed and dated addendum(s) with their response submission.

#### 4. PROPOSAL SUBMISSION

- 4.1. All proposals shall be received, and time stamped by TPWD prior to 2:00 PM Central Time on the date specified in [Section II Subsection 1 Schedule of Events](#) and the place specified in [Section II Subsection 5 Delivery of Proposals](#). Late proposals will not be considered under any circumstance and will be returned unopened.
- 4.2. Proposals should be submitted to [purchasing.bidbox@tpwd.texas.gov](mailto:purchasing.bidbox@tpwd.texas.gov) with the following information in the "Subject" line: RFP number and submittal deadline/opening date and time. It is the Respondent's responsibility to e-mail the proposal to TPWD by the specified date. If hardcopy, submission should be placed in a sealed envelope/package and correctly identified with RFP number and submittal deadline/opening date and time on the envelope/package. It is the Respondent's responsibility to appropriately mark and deliver the proposal to TPWD by the specified date.
- 4.3. Receipt of all addenda to this RFP should be acknowledged by returning a signed copy of each addendum to the response. Signed addenda should be e-mailed to [purchasing.bidbox@tpwd.texas.gov](mailto:purchasing.bidbox@tpwd.texas.gov) and may be included with proposal or sent in a separate e-mail.
- 4.4. Respondents to this RFP are responsible for all costs of proposal preparation.
- 4.5. Proposals shall be submitted to TPWD Headquarters, Purchasing & Contracting, as noted in [Section II Subsection 5 Delivery of Proposals](#) below.
- 4.6. **Telephone proposals are NOT an acceptable response to an RFP.** All submitted proposals become the property of TPWD after the RFP submittal due date/deadline. Responses submitted shall constitute an offer for a period of ninety (90) days or until selection is made by TPWD, whichever is earlier.
- 4.7. If Respondents attend in person when Proposals are opened, only the names of the Respondents who submitted proposals will be read. Prices and terms will not be divulged until after contract award.

#### 5. DELIVERY OF PROPOSALS

- 5.1. **E-MAIL submittals are preferred for this solicitation.** Submit proposal in PDF format to [purchasing.pidbox@tpwd.texas.gov](mailto:purchasing.pidbox@tpwd.texas.gov) as attachments to the e-mail. Links to proposal in shared drives such as *DropBox* or *Google* or any other clickable link in an e-mail or cloud hosting platform are not an acceptable submission. However, respondents may submit proposals by e-mail or hardcopy.
- 5.2. Submit the documents listed below:
  - 5.2.1. Completed, signed, and dated [Exhibit A – Execution of Proposal](#).
  - 5.2.2. Completed [Exhibit B – Price Sheet](#).
  - 5.2.3. Completed [Exhibit C – Company Profile](#).
  - 5.2.4. Completed [Exhibit D – Key Personnel](#).
  - 5.2.5. Completed [Exhibit E – Past Projects with Corresponding References](#).
  - 5.2.6. Completed [Exhibit F – Technical Proposal](#).
  - 5.2.7. Redacted [Exhibit A – Execution of Proposal](#) and [Exhibit B – Price Sheet](#) with pricing and confidential information (social security numbers, etc.) removed.
  - 5.2.8. If hardcopy, submit to TPWD by one of the following methods:

U.S. Postal Service	Overnight/Express Mail	Hand Deliver
Texas Parks and Wildlife Dept. Purchasing & Contracting C-1 4200 Smith School Road Austin, TX 78744	TPWD – Mail Room Attn: Purchasing & Contracting C-1 4200 Smith School Road Austin, TX 78744 Hours – 8:00 am to 5:00 pm	TPWD – 1 <sup>st</sup> Floor Security Desk Attn: Purchasing & Contracting C-1 4200 Smith School Road Austin, TX 78744 Hours: 8:00 am to 5:00 pm
<b>Note: Proposals must be date stamped by TPWD prior to the due date and time.</b>		

**6. EVALUATION AND AWARD**

- 6.1. A contract will be awarded to the responsible respondent(s) who submits the proposal determined to be the best value to the State and who meet all requirements included in this solicitation.
- 6.2. Cash discounts offered by the respondent will NOT be a factor in proposal evaluation.
- 6.3. Proposals may be withdrawn by written notice at any time prior to award. An e-mail to the purchaser’s name identified in [Section II Subsection 2 Inquiries](#) above will be acceptable as a written notice for withdrawn. No proposals will be returned after award.
- 6.4. **Step 1 – Administrative Review by Purchasing:** Only a complete response with the listed required submittal documents will be considered. Failure to meet the minimum qualifications and submit the required documents will result in a response being declared non-responsive. Proposals that do not conform to the instructions included in this RFP may be rejected by TPWD. TPWD reserves the right to reject any or all proposals and to waive informalities and minor irregularities in proposals received. No proposal received in TPWD Purchasing and Contracting Section after the exact date and time specified as the deadline for responses will be considered.
- 6.5. **Step 2 – Initial Evaluation:** A TPWD evaluation committee will evaluate and score each response based on established criteria. Respondents shall not contact members of the evaluation team. Responses will be evaluated according to the respondent’s ability to best satisfy TPWD requirements. Respondent’s submission is evaluated and scored on a weighted system to determine the best value as follows:

Evaluation Criteria	Weight
Compensation and Fees based on <a href="#">Exhibit B – Price Sheet</a>	30%
Qualifications, Experience, Capability, Facilities, Equipment, Etc. based on <a href="#">Exhibit C – Company Profile</a> , <a href="#">Exhibit D – Key Personnel</a> , and <a href="#">Exhibit E – Past Projects with Corresponding References</a>	30%
Technical Proposal based on <a href="#">Exhibit F – Technical Proposal</a>	40%
Total	100%

- 6.6. **Step 3 – Short List:** At TPWD’s sole discretion, a short-list may be developed. Then, TPWD may check references and/or inspect respondent’s facility/equipment.
  - 6.6.1. References may include past performance evaluations. References will be scored on a pass/fail basis. Any negative responses received may be grounds for disqualification of the proposal.
  - 6.6.2. Facility and/or equipment may be inspected to verify ability to successfully complete the project. Inspection will be scored on a pass/fail basis. Failure may be grounds for disqualification of the proposal.
  - 6.6.3. Respondents may be asked to provide samples.
- 6.7. **Step 4 - Best and Final Offer (BAFO):** The evaluation committee will determine if discussions and/or Best and Final Offers are necessary. Award of a contract may be made without discussions or Best and Final Offers, if in the best interest of the state.

- 6.7.1. Discussions: The evaluation committee may determine that discussions are necessary to clarify or verify a written proposal.
  - 6.7.2. Oral Presentations: TPWD may, at its discretion, elect to have respondents provide oral presentations of their proposals.
  - 6.7.3. BAFO: A request for a Best and Final Offer is at the sole discretion of TPWD and will be requested in writing. If requested, respondent(s) shall submit a final price and any added value. If more than one respondent reaches this level, the negotiated terms, references, BAFO and added values will be the considered in the award. TPWD will make the final determination on the best value.
  - 6.7.4. The evaluation committee will evaluate the finalists and make a recommendation for award.
- 6.8. **Award:** TPWD reserves the right to award a contract to a single contractor, or award to more than one contractor, whichever provides the best value to TPWD in performance of this service. TPWD will be the sole judge of best value. Refer to [Section III Subsection 3.3 Best Value](#) for criteria.



## SECTION III – GENERAL TERMS AND CONDITIONS

### GENERAL TERMS AND CONDITIONS – FEDERALLY FUNDED PROJECTS

MARCH 2023

(ITEMS BELOW APPLY TO AND BECOME A PART OF THE CONTRACT)

Any Contract awarded as a result of this solicitation will contain the General Terms and Conditions listed below in this Section. Subcontractors are also obliged to comply with these provisions.

1. **DEFINITIONS:** As used throughout this solicitation, the following terms have the meaning set forth below. All other terms have the meaning set forth in Webster's II New College Dictionary.
  - 1.1. Bidder: An individual or entity that submits a bid. The term includes anyone acting on behalf of the individual or entity that submits a bid, such as an agent, employee and representative. See Respondent.
  - 1.2. Contractor: The individual, corporation, company, partnership, firm, or organization that has to furnish the materials and has to perform the work as stated in the solicitation.
  - 1.3. ESBD: The Electronic State Business Daily, which is available online at <http://www.txsmartbuy.com/esbd>.
  - 1.4. Gov't Code: The Texas Government Code.
  - 1.5. Owner: Texas Parks and Wildlife Department, an agency of the State of Texas.
  - 1.6. Party/Parties: Either the TPWD and Respondent separately or collectively.
  - 1.7. Respondent: Any person or Vendor who submits a Bid/Proposal/Offer in response to this solicitation.
  - 1.8. Services: Includes the use of labor, materials, facilities, equipment, and any other need that is necessary or incidental to the successful completion of the Contract.
  - 1.9. Subcontractor: Any supplier, distributor, Contractor, person, or firm furnishing to the Contractor, materials or services necessary or incidental to the performance of the Contract between TPWD and Contractor.
  - 1.10. TAC: The Texas Administrative Code, which is the publication for administrative rules.
  - 1.11. Texas Identification Number: A unique 11-digit number assigned by the Texas Comptroller of Public Accounts. When a Payee first contracts with a state agency, that Payee must provide either a federal Employer Identification Number (EIN) or a Social Security number (SSN). The Texas Identification Number (TIN) is based on this number. (Note: If Respondent does not have a TIN, or does not know their TIN, they may list their EIN or SSN on the "Texas Identification Number" line of the Vendor Information Block of their RFP, RFO, IFB or RFQ response.)
  - 1.12. TPWD: Texas Parks and Wildlife Department acting on behalf of the State of Texas.
2. **SPECIFICATIONS:**
  - 2.1. The goods/services provided shall be in accordance with the purchase specifications herein. TPWD will decide the answers to all questions that may arise as to the interpretation of the specifications and the quality, or acceptability of goods/services provided. TPWD will decide the rate of progress of the work and the acceptable fulfillment of the goods/service on the part of the Contractor.
  - 2.2. Catalogs, brand names or manufacturer's references are descriptive only, and indicate type and quality desired. Bids/Proposals on brands of like nature and quality will be considered unless advertised under Texas Gov't Code §2155.067. If the Respondent is offering brands other than the references, response should show manufacturer, brand or trade name, and other description of product offered. If Respondent is offering brand(s) other than brand(s) specified, illustrations and complete description of product offered are requested to be made part of the bid. Failure to take exception to specifications or reference data will require Respondent to furnish specified brand names, numbers, etc.

- 2.3. Unless otherwise specified, items shall be new and unused and of current production.
- 2.4. Samples, when requested, must be furnished free of expense to the State. If not destroyed in examination, they will be returned to the Respondent, on request, at Respondent's expense. Each sample should be marked with Respondent's name and address, and requisition number. Do not enclose in or attach response submission to sample.
- 2.5. The State will not be bound by any oral statement or representation contrary to the written specifications of this Solicitation.
- 2.6. Manufacturer's standard warranty shall apply unless otherwise stated in the solicitation.

**3. AWARD OF A PURCHASE ORDER:** Standard Purchase Order Terms and Conditions apply. If a conflict exists between the standard Purchase Order Terms and Conditions and specific language in this solicitation, the language in the solicitation shall prevail.

- 3.1. A response to a solicitation is an offer to Contract with TPWD based on the terms, conditions and specifications contained in the solicitation. Responses do not become Contracts unless and until they are accepted through an authorized TPWD designee by issuance of a Purchase Order.
- 3.2. This procurement will be conducted in accordance with the State Purchasing Act, Title 10, Subtitle D, Chapters 2151 through 2177 of the Texas Gov't Code (TGC) and TPWD rules. Any Contract resulting from this procurement shall consist of one (1) document. This document will contain all of the rights and duties of the parties extracted from the relevant terms and conditions of this solicitation (including its attachments, exhibits, supplements, and addenda); the successful Contractor's response; any TPWD request for a Best and Final Offer; and any successful Contractor's Best and Final Offer, if applicable.
- 3.3. Best Value – TPWD will be the sole judge of best value. Award will be based on Best Value criteria and may include, but is not limited to:
  - 3.3.1. Best meets the goals and objectives of the solicitation as stated above.
  - 3.3.2. Best meets the quality and reliability of the proposed services.
  - 3.3.3. Effect of the proposed solution on agency productivity.
  - 3.3.4. Provides the most customer focused solution that will best meet the needs of the public.
  - 3.3.5. Experience in successfully providing services in this solicitation.
  - 3.3.6. Past Performance: A Respondent's past performance will be measured based upon pass/fail criteria in compliance with applicable provisions of Gov't Code §§2155.074, 2155.075, 2156.007, 2157.003, and 2157.125. Respondents may fail this selection criterion for any of the following conditions:
    - The Vendor has a score less than C or Legacy Unsatisfactory in the Vendor Performance System,
    - Currently under a Corrective Action Plan through the Texas Comptroller of Public Accounts (CPA),
    - Having repeated negative Vendor Performance Reports for the same reason,
    - Having Purchase Orders that have been cancelled in the previous 12 months for non-performance (i.e., late delivery, etc.).
  - 3.3.7. Contractor performance information is located on the CPA web site at: [www.txsmartbuy.com/vpts](http://www.txsmartbuy.com/vpts). CPA may conduct reference checks with other entities regarding past performance. In addition to evaluating performance through the Vendor Performance Tracking System (as authorized by 34 Texas Administrative Code §20.115), CPA may examine other sources of vendor performance including, but not limited to, notices of termination, cure notices, assessments of liquidated damages, litigation, audit reports, and non-renewals of Contracts. Any such investigations shall be at the sole discretion of CPA, and any negative findings, as determined by CPA, may result in non-award to the Respondent.

4. **UNIT PRICES:** Respondents must price per unit shown. Unit prices shall govern in the event of extension errors.
5. **FREIGHT:** Quote FOB destination, freight prepaid and allowed unless otherwise stated within the specifications.
6. **DELIVERY:**
  - 6.1. Show number of days required to place material in receiving agency's designated location under normal conditions. Delivery days mean calendar days, unless otherwise specified. Failure to state delivery time obligates Respondent to deliver in 14 calendar days. Unrealistic delivery promises may cause solicitation to be disregarded.
  - 6.2. If delay is foreseen, Contractor shall give written notice to the TPWD. Contractor must keep the TPWD advised at all times of status of order.
  - 6.3. Default in promised delivery (without accepted reasons) or failure to meet specifications authorizes the TPWD to purchase supplies elsewhere and charge full increase, if any, in cost and handling to defaulting Contractor.
  - 6.4. **Substitutions:** No substitutions permitted without written approval of TPWD.
  - 6.5. Delivery shall be made during normal working hours only unless prior approval has been obtained from ordering agency. Normal working hours are 8:00 AM until 5:00 PM Monday through Friday except State and National holidays.
7. **TESTING AND INSPECTION:**
  - 7.1. TPWD may test and inspect goods and services purchased under the Contract to ensure compliance with the specifications of this solicitation and the Contract. TPWD may also test and inspect goods and services before they are purchased under the Contract. Authorized TPWD personnel shall have access to the Respondent's place of business for the purpose of inspecting the goods. To the extent practical, TPWD inspections will not disrupt the Respondent's daily operations. Tests shall be performed on samples submitted with the Bid/Proposal or on samples taken from regular shipments. All costs of testing and inspection shall be borne by the Respondent. In the event the goods tested fail to meet or exceed all conditions and requirements of the solicitation and Contract, the goods will be rejected in whole or in part, at the State's option, and returned to the Respondent or held for disposition at the Respondent's expense. Latent defects may result in cancellation of the Contract at no expense to the state.
  - 7.2. If material fails to meet specifications, the Respondent will be notified by fax, mail, or e-mail. The Respondent will have ten (10) working days after receipt of the notification to remove the rejected material from state property. Material will be removed at the Respondent's expense. Material not removed in the allotted time period will be disposed by TPWD. The Respondent will be charged for all disposable expenses conducted by TPWD.
8. **CHANGES:** TPWD may at any time, by a written order, make changes within the general scope of this Contract, in the definition of services to be performed, and the time (i.e., hours of the day, days of the week, etc.) and place of performance thereof. If any such change causes an increase or decrease in the cost of, or the time required for the performance of any part of the services under this Contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the Contract price or time of performance or both and the Contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notification of change, provided, however, that TPWD, if it decides that the facts justify such action, may receive and act upon such claims asserted at any time prior to final payment under this Contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this Contract entitled "Dispute Resolution."

**9. INVOICING AND PAYMENT:**

- 9.1 **Invoices:** In order to receive payment under the Contract, the Contractor must submit an original invoice to TPWD, which will be designated in the Purchase Order as the "Bill To" address. To be a proper invoice that may be accepted and paid, the invoice must include the following information and/or attachments: (1) Name and address of the Contractor. (2) The Contractor's Texas Identification Number (TIN). (3) The Contractor's invoice remittance address. (4) The Purchase Order number authorizing the delivery of products or services. (5) A description of what the Contractor delivered, including, as applicable, the time period, serial number, unit price, quantity, and total price of the products and services. If the invoice is for a lease, the Contractor must also include the payment number (e.g., 1 of 36).
- 9.2 **Disputed Invoices:** As stated above, the Contractor will receive notice of an error in an invoice submitted for payment by not later than the 21st day after the date the invoice was received by the TPWD. If an invoice dispute is resolved in favor of the Contractor, the Contractor is entitled to receive interest on the unpaid balance of the invoice, beginning on the date the invoice became overdue, pursuant to Gov't Code §2251.021. If a dispute is resolved in favor of the TPWD, the Contractor shall submit a corrected invoice that must be paid in accordance with Section 2251.021. The unpaid balance accrues interest if the corrected invoice is not paid by the appropriate date.
- 9.3 **Time and Manner of Payment:** Pursuant to Texas Gov't Code Chapter 2251, payment by TPWD is overdue on the 31st day after the later of: (1) the date the TPWD receives the goods under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date the TPWD receives the invoice for the goods or service. Payment by a political subdivision Customer whose governing body meets only once a month or less frequently is overdue on the 46th day after the later event of: (1) the date TPWD receives the goods under the Contract; (2) the date the performance of the service under the Contract is completed; or (3) the date TPWD receives the invoice for the goods or service.

**10. PATENTS, TRADEMARKS, OR COPYRIGHTS:** Respondent agrees to defend and indemnify the TPWD and State from claims involving infringement or violation of patents, trademarks, copyrights, trade secrets, or other proprietary rights, arising out of the TPWD's or the State's use of any good or service provided by the Respondent as a result of this solicitation.

**11. PROHIBITION ON LOBBYING:** The Respondent shall comply with the provisions of a federal law known generally as the Lobbying Disclosure Act, 2 U.S.C. §1601 et seq. By submitting a Bid/Proposal, the Respondent certifies that it shall not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence any officer or employee of any federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal Contract, grant, or any other award covered by 31 U.S.C. §1352. It also certifies that the Respondent shall disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award by completing and submitting Standard Form LLL.

**12. ANTI-TRUST AND ASSIGNMENT OF CLAIMS:** The undersigned affirms under penalty of perjury of the laws of the State of Texas that (1) in connection with this Response, neither I nor any representative of the Respondent have violated any provision of the Texas Free Enterprise and Antitrust Act, Tex. Bus. & Comm Code Chapter 15; (2) in connection with this Response, neither I nor any representative of the Respondent have violated any federal antitrust law; and (3) neither I nor any representative of the Respondent have directly or indirectly communicated any of the contents of this Response to a competitor of the Respondent or any other company, firm, partnership or individual engaged in the same line of business as the Respondent. The successful Contractor hereby assigns to TPWD, any and all claims for overcharges associated with any contract resulting from this solicitation which arise under the antitrust laws of the United States 15 U.S.C.A., Section 1, et seq. (1973), and which arise under the antitrust laws of the State of Texas, Texas Business and Commercial Code Ann. Sec. 15.01, et seq. (1967).

**13. DEBTS AND DELINQUENCIES:** As required by Gov't Code §2252.903, the Respondent agrees that any payments due under the Contract shall be directly applied towards eliminating any debt or delinquency is has to the State of Texas including, but not limited to, delinquent taxes, delinquent student loan payments, and delinquent child support.

**14. DISPUTE RESOLUTION:**

- 14.1. The dispute resolution process provided for in Chapter 2260 of Texas Gov't Code and TPWD regulations shall be used by TPWD and the Respondent to resolve all disputes arising under this Contract. The Contractor shall comply with such rules, as revised from time to time.
- 14.2. If the Contractor's claim for breach of Contract cannot be resolved informally with TPWD, it shall be submitted to the negotiation process provided in Chapter 2260. To initiate the process, the Contractor shall submit written notice, as required by Chapter 2260. The notice shall also be given to the individual identified in the Contract for receipt of notices. Any informal resolution efforts shall in no way modify the requirement or toll the timing of the formal written notice of a claim for breach of Contract required under § 2260.051 of Texas Gov't Code. Compliance by the Contractor with Chapter 2260 is a condition precedent to the filing of a contested case proceeding under Chapter 2260.
- 14.3. The contested case process provided in Chapter 2260 is the Contractor's sole and exclusive process for seeking a remedy for an alleged breach of Contract by TPWD if the Parties are unable to resolve their disputes as described above.
- 14.4. Compliance with the contested case process provided in Chapter 2260 is a condition precedent to seeking consent to sue from the Legislature under Chapter 107, Civil Practices and Remedies Code. Neither the execution of the Contract by TPWD nor any other conduct of any representative of TPWD relating to the Contract shall be considered a waiver of sovereign immunity to suit.
- 14.5. Notwithstanding any other provision of the Contract to the contrary, unless otherwise requested or approved in writing by TPWD, the Contractor shall continue performance and shall not be excused from performance during the period any breach of Contract claim or dispute is pending under either of the above processes; however, the Contractor may suspend performance during the pendency of such claim or dispute if the Contractor has complied with all provisions of Gov't Code §2251.051, and such suspension of performance is expressly applicable and authorized under that law.

- 15. FRAUD, WASTE, AND ABUSE:** By submitting a Response to this Solicitation, the Respondent represents and warrants that it has read and understood and shall comply with CPA's Anti-Fraud Policy, found at: <https://comptroller.texas.gov/about/policies/ethics.php>, as such Policy currently reads and as it is amended throughout the term of the Contract.

**16. NAME CHANGES AND SALES:**

- 16.1. If the Contractor changes its name or is sold to another entity, it must provide written notification to TPWD. The Contractor, in its notice, shall describe the circumstances of the name change or sale, state its new name, provide the new Tax Identification Number, and describe how the change will impact its ability to perform the Contract. If the change entails personnel changes for personnel performing the responsibilities of the Contract for the Contractor, the Contractor shall identify the new personnel and provide resumes to TPWD, if resumes were originally required by the Solicitation. TPWD may request other information about the change and its impact on the Contract and the Contractor shall supply the requested information within five (5) working days of receipt of the request.
- 16.2. TPWD may terminate the Contract due to a sale of or change to the Contractor that materially alters the Contractor's ability to perform under the Contract. The TPWD has the sole discretion to determine if termination is appropriate.

**17. CONTRACTOR RESPONSIBILITIES:**

- 17.1. Contractor agrees to comply with all terms and conditions contained in this solicitation and resulting Contract.
- 17.2. Contractor guarantees services offered will meet or exceed the written specifications identified in this solicitation.
- 17.3. Permits: Contractor shall be responsible, at the Contractor's expense, for obtaining any and all permits or licenses required by city, county, state, or federal rules, regulations, law, or codes that pertain to the Contract.
- 17.4. Electrical Items: All electrical items provided by the Contractor to TPWD under the Contract must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC, or NEMA.
- 17.5. Executive Head: Pursuant to Gov't Code §669.003, the TPWD may not enter into a contract with a person who employs a current or former Executive Head of a state agency until four years have passed since that person was the executive head of the state agency. By submitting a Proposal, the Respondent certifies that it does not employ any person who was the Executive Head of a state agency in the past four years. If Section 669.003 applies, Respondent shall complete the following information in order for the response submission to be evaluated:

Name of former executive: \_\_\_\_\_

Name of state agency: \_\_\_\_\_

Date of separation from state agency: \_\_\_\_\_

Position with Respondent: \_\_\_\_\_

Date of employment with Respondent: \_\_\_\_\_

- 17.6. Contractor agrees to take precautions necessary to protect person or property against injury or damage and be responsible for such injury or damage.
- 17.7. Contractor agrees to comply with Federal law or State Worker's Compensation laws which are applicable to the work required or performed under this Contract and to pay or cause to be paid all compensation, medical or hospital bills which may become due or payable thereunder, and to protect and indemnify TPWD from and against any and all liability by reason of injury to employees of Contractor or subcontractor.
- 17.8. Contractor shall provide all labor, equipment, and materials (unless otherwise stated herein) necessary to furnish the goods or perform the service. All employees of the Contractor shall be a minimum of 17 years of age and experienced in the type of work to be performed. Only the Contractor and its employees will be allowed on state property during working hours.

**18. TERMINATED CONTRACTS:** By submitting a Response, the Respondent certifies that it has not had a Contract terminated or been denied the renewal of any Contract for non-compliance with policies or regulations of any state or federally funded program within the past five (5) years nor is it currently prohibited from contracting with a governmental agency. If the Respondent does have such a terminated Contract, the Respondent shall identify each and provide an explanation for the termination.

**19. INDEPENDENT CONTRACTOR:** The Contract shall not render the Contractor an employee, officer, or agent of the TPWD for any purpose. The Contractor is and shall remain an independent Contractor in relationship to the TPWD. The TPWD shall not be responsible for withholding taxes from payments made under the Contract. The Contractor shall have no claim against the TPWD for vacation pay, sick leave, retirement benefits, social security, worker's compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind.

- 20. RIGHT TO AUDIT / RECORDS RETENTION:** Under Section 2262.154 of the Texas Gov't Code, the State Auditor may conduct an audit or investigation of any entity receiving funds from the state directly under any Contract or indirectly through a subcontract under the Contract. The acceptance of funds by the Contractor or other entity or person directly under the Contract or indirectly through a subcontract under the Contract acts as acceptance of the authority of the State Auditor's Office, TPWD or any successor agency, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Contractor or other entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. Contractor shall ensure that this paragraph concerning the State's authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards. Contractor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under these Contract funds were expended in accordance with the laws and regulations of the State of Texas, including but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Contractor shall maintain all such documents and other records relating to this Contract and the State's property for a period of seven (7) years after the date of submission of the final invoices or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all documents and other information related to the work of this Contract. Contractor and the subcontractors shall provide the State Auditor with any information that the State Auditor deems relevant to any investigation or audit. Contractor must retain all work and other supporting documents pertaining to this Contract, for purposes of inspecting, monitoring, auditing, or evaluating by TPWD and any authorized agency of the State of Texas, including an investigation or audit by the State Auditor. Contractor shall cooperate with any authorized agents of the State of Texas and shall provide them with prompt access to all of such State's work as requested. Contractor's failure to comply with this Section shall constitute a material breach of this Contract and shall authorize TPWD and the State of Texas to immediately assess appropriate damages for such failure.
- 21. FORCE MAJEURE:** Neither Respondent nor TPWD shall be liable to the other party for any delaying, or failure of performance, of any requirement in the Contract caused by force majeure. The existence of such causes of delay or failure shall extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing party exercises all reasonable due diligence to perform. Force majeure is defined as acts of God, fire, explosions, hurricanes, floods, epidemics, or pandemics, national or regional emergency, failures of transportation, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. The burden of proof for the need of such relief shall rest upon the Contractor. To obtain release based on force majeure, the Contractor shall file a written request with TPWD reasonably promptly from the time the force majeure event occurs.
- 22. PROPRIETARY OR CONFIDENTIAL INFORMATION; TEXAS PUBLIC INFORMATION ACT:**
- 22.1. Any proprietary, trade secret or otherwise confidential information Respondent includes in its Proposal must be clearly labeled as proprietary or confidential information, and Respondent must identify the specific exception to disclosure in the Public Information Act (PIA). Merely making a blanket claim the entire Proposal is protected from disclosure because it contains some proprietary information is not acceptable and shall make the entire Proposal subject to release under the PIA. In order for TPWD to initiate the process of seeking an Attorney General opinion on the release of proprietary or confidential information, the specific provisions of the Proposal that are considered by the Respondent to be proprietary or confidential must be clearly labeled as described herein. Any information which is not clearly identified as proprietary or confidential shall be deemed to be subject to disclosure pursuant to the PIA.
- 22.2. Information, documentation, and other material in connection with this Response or any resulting Contract may be subject to public disclosure under the Texas Public Information Act, Chapter 552 of the Texas Gov't Code.
- 22.3. Contractor is required to make any information created or exchanged with the state pursuant to this Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the state.

- 23. RIGHT TO DATA, DOCUMENTS AND COMPUTER SOFTWARE (STATE OWNERSHIP):** Any software, research, reports studies, data, photographs, negatives or other documents, drawings or materials prepared by Contractor in the performance of its obligations under this Contract shall be the exclusive property of the State of Texas and all such materials shall be delivered to the State by the Contractor upon completion, termination, or cancellation of this Contract. Contractor may, at its own expense, keep copies of all its writings for its personal files. Contractor shall not use, willingly allow, or cause to have such materials used for any purpose other than the performance of Contractor's obligations under this Contract without the prior written consent of the State; provided, however, that Contractor shall be allowed to use non-confidential materials for writing samples in pursuit of the work. The ownership rights described herein shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the works.
- 24. PUBLIC DISCLOSURE / NEWS RELEASES:** No public disclosures or news releases pertaining to this solicitation shall be made without prior written approval of TPWD.
- 25. CONFIDENTIALITY AND SECURITY:** The Contractor should not receive any sensitive or confidential information under the Contract. Any information the Contractor compiles or creates as a result of the Contract must be maintained and protected in accordance with any federal, state, or local laws and regulations that apply. The Contractor shall establish a method to secure the confidentiality of records and other information relating to clients in accordance with applicable federal and state laws, rules, and regulations. The obligations of the Contractor under this Confidentiality and Security Article shall survive this Contract and shall be included in all subcontracts.
- 26. TERMINATION:** This Contract shall terminate upon full performance of all requirements contained in this Contract, unless otherwise extended or renewed as provided in accordance with the Contract Terms and Conditions.
- 26.1. Termination for Convenience: TPWD reserves the right to terminate the Contract at any time, in whole or in part, without cost or penalty, by providing 30 calendar days' advance written notice if TPWD determines that such termination is in the best interest of the state. In the event of such a termination, the Contractor shall, unless otherwise mutually agreed upon in writing, cease all work immediately upon the effective date of termination. TPWD will be liable for payments limited only to the portion of work authorized by TPWD in writing and completed prior to the effective date of cancellation, provided that TPWD shall not be liable for any work performed that is not acceptable to TPWD and/or does not meet Contract requirements. All work products produced by the Contractor and paid for by TPWD shall become the property of TPWD and shall be tendered upon request. Termination under this paragraph shall not relieve the Vendor of any obligation or liability that has occurred prior to cancellation.
- 26.2. Termination for Cause/Default: If the Contractor fails to provide the goods or services contracted for according to the provisions of the Contract or fails to comply with any of the terms or conditions of the Contract, the TPWD may, upon written notice of default to the Contractor, terminate all or any part of the Contract after providing an opportunity to cure the default.
- 26.2.1. Contractor will be responsible for paying damages to TPWD including but not limited to re-procurement costs, and any consequential damages to the State of Texas or TPWD resulting from Contractor's non-performance. The defaulting Contractor will not be considered in the re-solicitation and may not be considered in future solicitations for the same type of work unless the specification or scope of work is significantly changed.
- 26.3. The rights and remedies of TPWD provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- 26.4. TPWD may exercise any other right, remedy or privilege which may be available to it under applicable law of the state and any other applicable law or may proceed by appropriate court action to enforce the provisions of the Contract, or to recover damages for the breach of any agreement being derived from the Contract. The exercise of any of the foregoing remedies will not constitute a termination of the Contract unless TPWD notifies the Contractor in writing prior to the exercise of such remedy. The Contractor shall remain liable for all covenants and indemnities under the Contract. The Contractor shall be liable for all costs and expenses, including court costs, incurred by TPWD with respect to the enforcement of any of the remedies listed herein.



27. **SURVIVAL OF TERMS:** Termination of the Contract for any reason shall not release the Contractor from any liability or obligation set forth in the Contract that is expressly stated to survive any such termination or by its nature would be intended to be applicable following any such termination, including the provisions regarding confidentiality, indemnification, transition, records, audit, property rights, dispute resolution, and invoice and fees verification.
28. **RIGHTS UPON TERMINATION OR EXPIRATION OF CONTRACT:** In the event that the Contract is terminated for any reason, or upon its expiration, TPWD shall retain ownership of all associated work products and documentation obtained from the Contractor under the Contract, unless otherwise specified.
29. **CHANGE IN FEDERAL OR STATE REQUIREMENTS:** If federal or state laws or regulations or other federal or state requirements are amended or judicially interpreted so that either TPWD or the Contractor cannot reasonably fulfill the Contract and if the Parties cannot agree to an amendment that would enable substantial continuation of the Contract, the Parties shall be discharged from any further obligations under the Contract.
30. **TAXES:** Purchases made for state uses are exempt from Texas State Sales Tax and Federal Excise Tax. An Excise Tax Exemption Certificate will be furnished upon written request to TPWD.
31. **BUY TEXAS:** In accordance with §2155.4441, Gov't Code, the Contractor agrees that during the performance of a Contract for services it shall purchase products and materials produced in Texas when they are available at a price and time comparable to products and materials produced outside Texas.
32. **NOTE TO RESPONDENT:** Any terms and conditions attached to a solicitation will not be considered unless specifically referred to on this solicitation form and may result in disqualification of the response submission. If any Respondent takes a 'blanket exception' to the entire solicitation or does not provide proposed alternative language, the Respondent's response may be disqualified from further consideration.
33. **ACCESSIBILITY STANDARDS:** Under Texas Government Code, Chapter 2054, Subchapter M, TPWD must procure products that comply with the Accessibility Standards defined in the Texas Administrative Code, 1 TAC 206 and 1 TAC 213, when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation. Accordingly, Contractor must provide electronic and information resources and associated product documentation and technical support that comply with these Accessibility Standards (in the form of a Voluntary Product Accessibility Template, or "VPAT") in its response to this solicitation. Vendors who do not already have accessibility documentation should complete the form located here: <http://www.itic.org/policy/accessibility/>. Contractors that claim their products are exempt from accessibility requirements must present that position to TPWD as a question during the question-and-answer period of the solicitation.
34. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY, AND VOLUNTARY EXCLUSION:** Respondent certifies that the responding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and the Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
35. **SYSTEM FOR AWARD MANAGEMENT (SAM):** Respondent certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the State of Texas Debarred Vendor List maintained by the Texas Comptroller of Public Accounts and the System for Award Management (SAM) maintained by the General Services Administration. Prior to awarding state funds for goods and/or services rendered, the State of Texas will conduct a required search of your firm using SAM. This is a Federal government-maintained database that records and tracks organizations, either known to or suspected of contributing to terrorist organizations. No state funds may be paid to an individual or firm whose name appears on this list. TPWD reserves the right, in its sole discretion, to deny and/or exclude any individual or firm from an award whose name appears on this list.
36. **FEDERAL DISASTER RELIEF FRAUD:** Sections and 2261.053 of the Gov't Code, prohibit state agencies from accepting a response or awarding a Contract that includes proposed financial participation by a person

who, in the past five years has been convicted of violating a federal law or assessed a penalty in connection with a Contract involving relief for Hurricane Rita, Hurricane Katrina, or any other disaster, as defined by Section 418.004 of the Gov't Code, occurring after September 24, 2005. Under Sections 2155.006 and 2261.053 of the Texas Gov't Code, Respondent certifies that the individual or business entity named in this response or Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated and payment withheld if this certification is inaccurate.

- 37. APPLICABLE LAWS AND VENUE:** The Contract shall be governed by and construed in accordance with the laws of the State of Texas, with regards to the conflicts of law provisions. The venue of any suit arising under this Contract is fixed in any court of competent jurisdiction in Travis County, Texas, unless the specific venue is otherwise identified in a statute which directly names or otherwise identifies its applicability to TPWD.
- 38. APPLICABLE LAWS AND CONFORMING AMENDMENTS:** Contractor must comply with all laws, regulations, requirements and guidelines applicable to a Contractor providing services to the State of Texas as these laws, regulations, requirements and guidelines currently exist and as they are amended throughout the term of this Contract. TPWD reserves the right, in its sole discretion, to unilaterally amend this Contract throughout its term to incorporate any modifications necessary for TPWD or Contractor's compliance with all applicable State and federal laws, and regulations.
- 39. COMPLIANCE WITH LAWS; DEALING WITH PUBLIC SERVANTS:**
- 39.1. The Respondent must comply with all applicable laws at all times, including, without limitation, the following: (i) Texas Penal Code §36.02, which prohibits bribery; (ii) Texas Penal Code §36.09, which prohibits the offering or conferring of benefits to public servants; (iii) Gov't Code §2155.003, which prohibits the chief clerk or any other employee of the TPWD from having an interest in, or in any manner be connected with, a Contract or bid for a purchase of goods or services by an agency of the state or accept from any person to whom a Contract has been awarded anything of value or a promise, obligation, or Contract for future reward or compensation.
- 39.2. The Respondent shall give all notices and comply with all laws and regulations applicable to furnishing and performance of the Contract. Except where otherwise expressly required by applicable laws and regulations, TPWD shall not be responsible for monitoring Respondent's compliance with any laws or regulations. If Respondent performs any work knowing or having reason to know that it is contrary to laws or regulations, Respondent shall bear all claims, costs, losses and damages caused by, arising out of or resulting therefrom.
- 40. NO WAIVER:** Nothing in this Contract shall be construed as a waiver of the state's or TPWD's sovereign immunity. This Contract shall not constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the State of Texas under this Contract or under applicable law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel. TPWD does not waive any privileges, rights, defenses, or immunities available to TPWD by entering into this Contract or by the conduct of any representative of TPWD, prior to or subsequent to entering into this Contract.
- 41. NO LIABILITY UPON TERMINATION:** If this Contract is terminated for any reason, TPWD and the State of Texas shall not be liable to Contractor for any damages, claims, losses, or any other amounts arising from or related to any such termination. However, Contractor may be entitled to the remedies provided in Gov't Code, Chapter 2260.
- 42. DECEPTIVE TRADE PRACTICES; UNFAIR BUSINESS PRACTICES:** Respondent represents and warrants that it has not been the subject of allegations of Deceptive Trade Practices violations under Tex. Bus. & Com. Code, Chapter 17, or allegations of any unfair business practice in any administrative hearing or court suit and that Respondent has not been found to be liable for such practices in such proceedings. Contractor certifies that it has no officers who have served as officers of other entities who have been the subject of Deceptive Trade Practice violations or allegations of any unfair business practices in an

administrative hearing or court suit, and that such officers have not been found to be liable for such practices in such proceedings.

- 43. FALSE STATEMENTS; BREACH OF REPRESENTATIONS:** If Respondent signed its Bid/Proposal with a false statement or signs the Contract with a false statement or it is subsequently determined that Contractor has violated any of the representations, warranties, guarantees, certifications or affirmations included in the Contract, Contractor shall be in default under this Contract and TPWD may terminate or void the Contract for cause and pursue other remedies available to TPWD under this Contract and applicable law.
- 44. ACTUAL AND PERCEIVED CONFLICTS:** By submitting a Bid/Proposal, the Respondent represents and warrants that the provision of goods and services or other performance under the Contract will not constitute an actual or potential conflict of interest or reasonably create an appearance of impropriety. In its Bid/Proposal, the Respondent shall disclose any existing or potential conflict of interest that it might have in contracting with TPWD. The TPWD will decide, in its sole discretion, whether an actual or perceived conflict should result in Bid/Proposal disqualification or Contract termination.
- 45. CURRENT AND FORMER TPWD EMPLOYEES:**
- 45.1. In addition to the disclosures required above, the Respondent shall also disclose any of its personnel who are current or former officers or employees of the TPWD or who are related, within the third degree by consanguinity (as defined by Gov't Code §573.023) or within the second degree by affinity (as defined by Gov't Code §573.025), to any current or former officers or employees of the TPWD.
- 45.2. Respondents must comply with all applicable Texas and federal laws and regulations relating to the hiring of former state employees (see e.g., Gov't Code Chapters 572 and 573). Such "revolving door" provisions generally restrict former agency heads from communicating with or appearing before the agency on certain matters for two years after leaving the agency. The revolving door provisions also restrict some former employees from representing clients on matters that the employee participated in during state service or matters that were in the employees' official responsibility or from working for certain entities after their state employment. Respondent, by signing this solicitation, certifies that it has complied with all applicable laws and regulations regarding former state employees.
- 46. INSURANCE AND OTHER SECURITY:**
- 46.1. Respondent represents and warrants that it will, within ten (10) business days of executing this agreement, provide TPWD with current certificates of insurance or other proof acceptable to TPWD of the required insurance coverage.
- 46.2. The Respondent represents and warrants that it will obtain and maintain for the term of the Contract all insurance coverage required under this solicitation. Contractor's failure to obtain or maintain the specified coverage during the term of the agreement will be considered a breach of the Contract.
- 46.3. The Respondent represents and warrants that all of the above coverage will be obtained from companies that are licensed in the state of Texas, have an "A" rating from Best, and are authorized to provide the coverage. The Respondent shall furnish proof of insurance upon request of TPWD.
- 47. SEVERABILITY:** If any provision of the Contract is construed to be illegal or invalid, such construction will not affect the legality or validity of any of its other provisions. The illegal or invalid provision will be deemed severable and stricken from the Contract as if it had never been incorporated herein, but all other provisions will continue in full force and effect.
- 48. HISTORICALLY UNDERUTILIZED BUSINESSES (HUB):** Respondent represents and warrants that it shall comply with the Historically Underutilized Business requirements pursuant to Gov't Code, Chapter 2161.
- 49. AMENDMENTS:** Except as provided in [Section III, Paragraph 8](#) of this Contract, this Contract may be amended only upon written agreement between TPWD and Contractor; however, any Amendment of this Contract that conflicts with the laws of the State of Texas shall be void. The Contractor shall not be entitled to payment for any additional services, work, or products that are not authorized by a properly executed Contract amendment.

50. **CHANGE MANAGEMENT:** The Respondent agrees that the key personnel assigned to the Contract shall remain available for the entirety of the project throughout the term of the Contract as long as that individual is employed by the Respondent or unless TPWD agrees to a change in the key personnel.
51. **FEDERAL, STATE AND LOCAL REQUIREMENTS:** Respondent shall demonstrate on-site compliance with the Federal Tax Reform Act of 1986, Section 1706, amending Section 530 of the Revenue Act of 1978, dealing with issuance of Form W-2's to common law employees. Respondent is responsible for both federal and State unemployment insurance coverage and standard Worker's Compensation insurance coverage. Respondent shall comply with all federal and State tax laws and withholding requirements. The State of Texas shall not be liable to Respondent or its employees for any Unemployment or Workers' Compensation coverage, or federal or State withholding requirements. **Contractor shall indemnify the State of Texas and shall pay all costs, penalties, or losses resulting from its omission or breach of this Section.**
52. **INDEMNIFICATION AND LIABILITY:**
- 52.1 **Acts or Omissions:** CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS, TPWD, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES ARISING OUT OF, OR RESULTING FROM ANY ACTS OR OMISSIONS OF THE CONTRACTOR OR ITS AGENTS, EMPLOYEES, SUBCONTRACTORS, ORDER FULFILLERS, OR SUPPLIERS OF SUBCONTRACTORS IN THE EXECUTION OR PERFORMANCE OF THE CONTRACT AND ANY PURCHASE ORDERS ISSUED UNDER THE CONTRACT. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND TPWD AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.
- 52.2 **Infringements:**
- 52.2.1 CONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS THE STATE OF TEXAS, TPWD, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL THIRD-PARTY CLAIMS INVOLVING INFRINGEMENT OF UNITED STATES PATENTS, COPYRIGHTS, TRADE AND SERVICE MARKS, AND ANY OTHER INTELLECTUAL OR INTANGIBLE PROPERTY RIGHTS IN CONNECTION WITH THE PERFORMANCES OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT. CONTRACTOR AND TPWD AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.
- 52.2.2 Contractor shall have no liability under this Section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Contractor's written approval, (iii) any modifications made to the product by the Contractor pursuant to Customer's specific instructions, (iv) any intellectual property right owned by or licensed to Customer, or (v) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.
- 52.2.3 If Contractor becomes aware of an actual or potential claim, or Customer provides Contractor with notice of an actual or potential claim, Contractor may (or in the case of an injunction against Customer, shall), at Contractor's sole option and expense; (i) procure for the Customer the right to continue to use the affected portion of the

**product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing.**

**52.3 Compensation/Unemployment Insurance – Including Indemnity:**

**52.3.1 CONTRACTOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, CONTRACTOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF CONTRACTOR'S AND CONTRACTOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. CONTRACTOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. TPWD AND/OR THE STATE SHALL NOT BE LIABLE TO THE CONTRACTOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/ OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.**

**52.3.2 CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS TPWD, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND TPWD AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.**

**53. CONTRACTOR LIABILITY FOR DAMAGE TO GOVERNMENT PROPERTY:** The Contractor shall be liable for all damages to government-owned, leased, or occupied property and equipment caused by the Contractor and its employees, agents, subcontractors, and suppliers, including any delivery or cartage company, in connection with any performance pursuant to the Contract. The Contractor shall notify the TPWD Contract Manager in writing of any such damage within one (1) calendar day.

**54. FELONY CRIMINAL CONVICTIONS:** Respondent represents and warrants that Contractor has not and Respondent's employees have not been convicted of a felony criminal offense, or that, if such a conviction has occurred, Respondent has fully advised TPWD as to the facts and circumstances surrounding the conviction.

**55. IMMIGRATION:** The Respondent represents and warrants that it shall comply with the requirements of the Immigration Reform and Control Act of 1986 and 1990 regarding employment verification and retention of verification forms for any individuals hired on or after November 6, 1986, who will perform any labor or services under the Contract. The Respondent also represents and warrants that it shall comply with the requirements of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA).

**56. SUBCONTRACTORS:** Subcontractors providing service under the Contract shall meet the same requirements and level of experience as required of the Contractor. No subcontract under the Purchase Order shall relieve the primary Contractor of responsibility for the service. If the Contractor uses a subcontractor for any or all of the work required, the following conditions shall apply under the listed circumstances:

**56.1.** Respondents planning to subcontract all, or a portion of the work shall identify the proposed subcontractors.

**56.2.** Subcontracting shall be at the Contractor's expense.

- 56.3. TPWD retains the right to check subcontractor's background and make determination to approve or reject the use of submitted subcontractors.
- 56.4. The Contractor shall be the only Contact for TPWD and subcontractors. Respondent shall list a designated point of contact for all TPWD and subcontractor inquiries.
- 56.5. The Contractor, in subcontracting for any performances specified herein, expressly understands and acknowledges that in entering into such subcontract(s), TPWD is in no manner liable to any subcontractor(s) of the Contractor. In no event shall this provision relieve the Contractor of the responsibility for ensuring that the performances rendered under all subcontracts are rendered so as to comply with all terms of this solicitation and Contract. The Contractor shall manage all quality and performance, project management, and schedules for subcontractors. The Contractor shall be held solely responsible and accountable for the completion of all work for which the Contractor has subcontracted.
57. **PROTEST PROCEDURES:** Any actual or prospective Respondent who is aggrieved in connection with this solicitation, evaluation, or award of any Contract resulting from this solicitation may formally protest as provided in TPWD's rules at TAC, Title 31, Part 2, Chapter 51, Subchapter L, Rule 51.350.
58. **NON-APPROPRIATION OF FUNDS:** Any Contract resulting from this solicitation is subject to termination or cancellation, without penalty to TPWD, either in whole or in part, subject to the availability of state funds. TPWD is a state agency whose authority and appropriations are subject to actions of the Texas Legislature. If TPWD becomes subject to a legislative change, revocation of statutory authority, or lack of appropriated funds which would render TPWD's or Contractor's delivery or performance under the Contract impossible or unnecessary, the Contract will be terminated or cancelled and be deemed null and void. In the event of a termination or cancellation under this Section, TPWD will not be liable to Contractor for any damages, which are caused or associated with such termination, or cancellation and TPWD will not be required to give prior notice.
59. **NON-DISCRIMINATION/CIVIL RIGHTS:** The Respondent agrees that no person shall, on the ground of race, color, religion, sex, national origin, age, disability, political affiliation, or religious belief, be excluded from the participation in, be denied the benefits of, be subjected to discrimination under, or be denied employment in the administration of, or in connection with, any program or activity funded in whole or in part with funds available under this Contract. The Respondent shall comply with Executive Order 11246, "Equal Employment Opportunity," as amended by Executive Order 11375, "Amending Executive Order 11246 relating to Equal Employment Opportunity," and as supplemented by regulations at 41 C.F.R. Part 60. The prime Contractor shall ensure that this clause is included in all subcontracts.
60. **CONFLICT OF INTEREST:** Under Gov't Code §2155.003, Respondent represents and warrants that it has not given, offered to give, nor intends to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract. A TPWD employee may not have an interest in, or in any manner be connected with a Contract or response for a purchase of goods or services by an agency of the state. Any individual who interacts with public purchasers in any capacity is required to adhere to the guidelines established in Section 1.2 of the State of Texas Procurement Manual, which outlines the ethical standards required of public purchasers, employees, and Respondents who interact with public purchasers in the conduct of state business, and with any opinions of or rules adopted by the Texas Ethics Commission. Entities who are interested in seeking business opportunities with the State must be mindful of these restrictions when interacting with public purchasers of TPWD or purchasers of other state agencies.
61. **HB1295 CERTIFICATE OF INTERESTED PARTIES:** If value of Contract will exceed one million dollars, in accordance with 2252.908 of the Government Code, A business entity must use the [Form 1295 filing application](#) to enter the required information on Form 1295 and print a copy of the completed form. Once entered into the filing application, the completed form will include a unique certification number, called a "certification of filing." An authorized agent of the business entity must sign the printed copy of the form affirming under the penalty of perjury that the completed form is true and correct. The completed, printed, and signed Form 1295 bearing the unique certification of filing number must be filed with TPWD at the time of execution. Additional information can be found at: <https://www.ethics.state.tx.us/filinginfo/1295/> .

- 62. LIMITATION ON AUTHORITY; NO OTHER OBLIGATIONS:** Contractor shall have no authority to act for or on behalf of TPWD or the State of Texas except as expressly provided for in this Contract; no other authority, power or use is granted or implied. Contractor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State of Texas or TPWD.
- 63. DRUG-FREE WORKPLACE:** The Contractor shall comply with the applicable provisions of the Drug-Free Workplace Act of 1988.
- 64. NOTICES:** Any written notices required under this Contract will be by either hand delivery to Contractor's office address specified in the *Execution of Proposal, Exhibit A* of this Contract or by U.S. Mail, certified, return receipt requested, to TPWD, Attn: Purchasing, 4200 Smith School Road, Austin, TX 78744. Notice will be effective on receipt by the affected party. Either party may change the designated notice address in this Section by written notification to the other party.
- 65. ORDER OF PRECEDENCE:** In the case of conflicts between the Contract documents, the following shall control in this order of priority:
- 65.1. Signed Contract/Purchase Order (or Notice of Award)
  - 65.2. Attachments to the Contract/Purchase Order (or Notice of Award)
  - 65.3. The Solicitation (e.g., RFP, IFB)
  - 65.4. Contractor's Response to the Solicitation and Contractor's Best and Final Offer, if applicable
- 66. CHILD SUPPORT OBLIGATION AFFIRMATION:** Under Section 231.006 of the Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated, and payment may be withheld if this certification is inaccurate.
- 67. NO ASSIGNMENT BY CONTRACTOR:** The awarded Contractor shall not assign its rights under the Contract or delegate the performance of its duties under the Contract without prior written approval from the TPWD. Any attempted assignment in violation of this provision is void and without effect.
- 68. COMPLIANCE WITH OTHER LAW:** In the execution of this Contract, Contractor shall comply with all applicable federal, state, and local laws, including laws governing labor, equal opportunity, safety, and environmental protection. Contractor shall make itself familiar with and at all times shall observe and comply with all federal, state, and local laws, ordinances, and regulations which in any manner affect performance under this Contract.
- 69. ENVIRONMENTAL PROTECTION:** The Respondent shall be in compliance with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. §7401 et seq.) and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §1251 et seq.).
- 70. U.S. DEPARTMENT OF HOMELAND SECURITY'S E-VERIFY SYSTEM:**
- 70.1. By entering into this Contract, the Contractor certifies and ensures that it utilizes and will continue to utilize, for the term of this Contract, the U.S. Department of Homeland Security's E-Verify system to determine the eligibility of:
    - 70.1.1. All persons employed to perform duties within Texas, during the term of the Contract; and
    - 70.1.2. All persons (including subcontractors) assigned by the Respondent to perform work pursuant to the Contract, within the United States of America
  - 70.2. The Contractor shall provide, upon request of TPWD, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three most recent hires that match the criteria above, by the Contractor, and Contractor's subcontractors, as proof that this provision is being followed.

- 70.3. If this certification is falsely made, the Contract may be immediately terminated, at the discretion of the state and at no fault to the state, with no prior notification. The Contractor shall also be responsible for the costs of any re-solicitation that the state must undertake to replace the terminated Contract.
71. Pursuant to Texas Government Code, Title 10, Subchapter F, §§ 2270.001-2270.002, TPWD may not enter into a Contract that has a value of \$100,000 or more with a company and that employs 10 or more full-time employees (as defined by Texas Government Code, Title 8, Subchapter A, § 808.001, (except that the term does not include a sole proprietorship) that boycotts Israel. By signing this bid, Bidder verifies that in accordance with Texas Government Code, Title 10, Subchapter F, §§ 2270.001-2270.002, Bidder:
- 71.1. Does not boycott Israel; and
- 71.2. Will not boycott Israel during the term of the Contract.
72. Pursuant to *Texas Government Code*, Title 10, Subchapter F, §§ 2252.151-2252.154, TPWD may not enter into a Contract with a company (as defined by *Texas Government Code*, Title 8, Subchapter A, § 806.051) that is identified on a list prepared and maintained by the Texas Comptroller of Public Accounts under *Texas Government Code*, §§ 806.001, 807.051 or 2252.153. By signing this bid, Bidder certifies that it is not a company identified on a list as prepared and maintained by the Texas Comptroller of Public Accounts pursuant to *Texas Government Code*, §§ 806.001, 807.051 or 2252.153.
73. By signature hereon, the bidder acknowledges that *Texas Government Code*, Title 10, Subchapter F, §§ 2252.201-2252.205 requires that all iron or steel products produced through a manufacturing process used in this project must be produced in the United States. By signing this bid, Bidder certifies that its bid price represents full compensation for compliance with the requirements of *Texas Government Code*, Title 10, Subchapter F, §§ 2252.201-2252.205.
74. **TEXAS BIDDER AFFIRMATION:** Respondent certifies that if a Texas address is shown as the address of the Respondent on this response, Respondent qualifies as a Texas Bidder as defined in Section 2155.444(c) of the Texas Government Code.
75. **CONTRACTING INFORMATION RESPONSIBILITIES:** In accordance with Section 552.372 of the Texas Government Code, Contractor agrees to (1) preserve all contracting information related to the Contract as provided by the records retention requirements applicable to TPWD for the duration of the Contract, (2) promptly provide TPWD any contracting information related to the Contract that is in the custody or possession of the Contractor on request of TPWD, and (3) on termination or expiration of the Contract, either provide at no cost to TPWD all contracting information related to the Contract that is in the custody or possession of the Contractor or preserve the contracting information related to the Contract as provided by the records retention requirements applicable to TPWD. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Government Code may apply to the Contract and the Contractor agrees that the Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.
76. **CYBERSECURITY TRAINING:** If Respondent has access to any state computer system or database, Respondent shall complete cybersecurity training and verify completion of the training program to TPWD pursuant to and in accordance with Gov't Code § 2054.5192.
77. **CLOUD COMPUTING STATE RISK AND AUTHORIZATION MANAGEMENT PROGRAM:** Pursuant to Section 2054.0593(d)-(f) of the Texas Government Code, relating to cloud computing state risk and authorization management program, Respondent represents and warrants that it complies with the requirements of the state risk and authorization management program and Respondent agrees that throughout the term of the contract it shall maintain its certifications and comply with the program requirements in the performance of the contract.
78. **FINANCIAL PARTICIPATION PROHIBITED AFFIRMATION:** Pursuant to Section 2155.004(a) of the Texas Government Code, Respondent certifies that neither Respondent nor any person or entity represented by Respondent has received compensation from TPWD to participate in the preparation of the specifications or solicitation on which this Response or Contract is based. Under Section 2155.004(b) of the Texas Government



Code, Respondent certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified Contract and acknowledges that the Contract may be terminated, and payment withheld if this certification is inaccurate.

79. **ABORTION PROVIDER AND AFFILIATE TRANSACTIONS PROHIBITED:** Respondent represents and warrants that the Contract is not a taxpayer resource transaction prohibited by Section 2272.003 of the Texas Government Code and that payments made by TPWD to Contractor and Contractor's receipt of appropriated funds under the Contract are not prohibited by Article IX, Section 6.25 of the General Appropriations Act.
80. **FOREIGN TERRORIST ORGANIZATIONS:** Section 2252.152 of the Texas Government Code prohibits TPWD from awarding a Contract to any person who does business with Iran, Sudan, or a foreign terrorist organization as defined in Section 2252.151 of the Texas Government Code. Respondent certifies that it is not ineligible to receive the Contract.
81. **HUMAN TRAFFICKING PROHIBITION:** Under Section 2155.0061 of the Texas Government Code, the Respondent certifies that the individual or business entity named in this Response or Contract is not ineligible to receive the specified Contract and acknowledges that this Contract may be terminated, and payment withheld if this certification is inaccurate.
82. **COMPANIES THAT BOYCOTT CERTAIN ENERGY COMPANIES:** Under Section 2274.002 of the Texas Government Code, by submitting the Response, Respondent certifies and warrants that it does not boycott energy companies; and will not boycott energy companies during the term of the Contract.
83. **DISCRIMINATION AGAINST FIREARM OR AMMUNITION INDUSTRIES:** Under Section 2274.002 of the Texas Government Code, by submitting the Response, Respondent certifies and warrants that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate during the term of the Contract against said industries.
84. **AGREEMENTS RELATED TO CRITICAL INFRASTRUCTURE:** Pursuant to Texas Government Code Section 2274.0102, TPWD may not enter into a Contract with a company (as defined by Texas Government Code Section 2274.0101(1)) that meets the criteria provided under Texas Government Code Sections 2274.0102 and 2274.0103. By signing this bid, Bidder certifies that it is not a company that meets the criteria provided under Texas Government Code Sections 2274.0102 and 2274.0103.
85. **COVID-19 VACCINE PASSPORT PROHIBITION:** Under Section 161.0085 of the Texas Health and Safety Code, Respondent certifies that the individual or business entity named in this Response or contract is not ineligible to receive the specified contract.
86. **DATA MANAGEMENT AND SECURITY CONTROLS:** In accordance with Section 2054.138 of the Texas Government Code, Respondent certifies that it will comply with the security controls required under this contract and will maintain records and make them available to Agency as evidence of Respondent's compliance with the required controls.
87. **SIGNATURE AUTHORITY:** By submitting the Response, Respondent represents and warrants that the individual submitting this document and the documents made part of this Response is authorized to sign such documents on behalf of the Respondent and to bind the Respondent under any Contract that may result from the submission of this response.

## FEDERAL CONTRACT PROVISIONS

### Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under [41 CFR Part 60](#), all contracts that meet the definition of “federally assisted construction contract” in [41 CFR Part 60-1.3](#) must include the equal opportunity clause provided under [41 CFR 60-1.4\(b\)](#), in accordance with Executive Order 11246, “Equal Employment Opportunity” ([30 FR 12319, 12935, 3 CFR Part, 1964-1965](#) Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at [41 CFR part 60](#), “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended ([40 U.S.C. 3141-3148](#)). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141-3144](#), and [3146-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act ([40 U.S.C. 3701-3708](#)). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of

40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act ([42 U.S.C. 7401-7671q.](#)) and the Federal Water Pollution Control Act ([33 U.S.C. 1251-1387](#)), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401-7671q](#)) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251-1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) 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.

(I) Byrd Anti-Lobbying Amendment ([31 U.S.C. 1352](#)) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See [§ 200.323](#). Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 CFR part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of

the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(K) See [§ 200.216](#). Prohibition on certain telecommunications and video surveillance services or equipment.

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under [Public Law 115-232](#), section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See [Public Law 115-232](#), section 889 for additional information.

(d) See also [§ 200.471](#).

(L) See [§ 200.322](#). Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, 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). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "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.

(2) "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.

## EXHIBIT A – EXECUTION OF PROPOSAL

**NOTE: RESPONDENTS SHALL COMPLETE AND RETURN THIS EXHIBIT WITH THEIR PROPOSAL. Failure to do so will result in disqualification of the proposal.**

**1. By signature hereon, the Respondent certifies that:**

- 1.1. All statements and information prepared and submitted in the response to this RFP are current, complete, and accurate.
- 1.2. **Certification Concerning Dealings with Public Servants:** The Respondent has not given, offered to give, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan gratuity, special discount, trip, favor, or service to a public servant in connection with the submitted response. Failure to sign the Execution of Proposal or signing it with a false statement shall void the submitted offer or any resulting contracts.
- 1.3. Neither the Respondent or the firm, corporation, partnership, or institution represented by the Respondent or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State, codified in Section 15.01, et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the offer made to any competitor or any other person engaged in such line of business. By signing this RFP, respondent certifies that if a Texas address is shown as the address of the respondent, respondent qualifies as a Texas Resident Respondent as defined in Texas Administrative Code, Title 34, Part 1, Chapter 20.
- 1.4. Pursuant to Section 2155.004 (a), Government Code, the Respondent has not received compensation for participation in the preparation of the specifications for this RFP.
- 1.5. Under Section 2155.004 (b), Government Code, the Contractor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated, and payment withheld if this certification is inaccurate.
- 1.6. Child Support Obligations: Pursuant to Section 231.006 (d), Family Code, re: child support, the respondent certifies that the individual or business entity named in this RFP is not ineligible to receive the specified payment and acknowledges that this contract may be terminated, and payment may be withheld if this certification is inaccurate.
- 1.7. **Contractor shall defend, indemnify, and hold harmless the State of Texas, its officers, and employees, and Texas Parks and Wildlife Department (TPWD), its officers, and employees and contractors, from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, including without limitation attorneys' fees and court costs, arising out of, connected with, or resulting from any acts or omissions of contractor or any agent, employee, subcontractor, or supplier of contractor in the execution or performance of this contract. Contractor shall coordinate its defense with the Texas Attorney General as requested by TPWD.**

This paragraph is not intended to and shall not be construed to require contractor to indemnify or hold harmless the State or TPWD for any claims or liabilities resulting from the negligent acts or omission of TPWD or its employees.

- 1.8. Respondent agrees that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas.
- 1.9. Respondent certifies that they are in compliance with section 669.003 of the Government Code, relating to contracting with executive head of a State agency. If section 669.003 applies, respondent will complete the following information in order for the RFP to be evaluated:
  - 1.9.1 Name of former executive: \_\_\_\_\_
  - 1.9.2 Name of state agency: \_\_\_\_\_
  - 1.9.3 Date of separation from state agency: \_\_\_\_\_
  - 1.9.4 Position with respondent: \_\_\_\_\_
  - 1.9.5 Date of employment with respondent: \_\_\_\_\_
- 1.10. Respondent agrees to comply with Government Code 2155.4441, pertaining to service contract use of products produced in the State of Texas.
- 1.11. Contractor understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Contractor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.
- 1.12. Pursuant to Section 231.006 (c), Family Code, RFP must include names and Social Security Numbers of each person with at least 25% ownership of the business entity submitting the RFP. Attach name & social security numbers for each person. This information must be provided prior to contract award.

- 1.13. Suspension, Debarment, and Terrorism: Respondent certifies that the bidding entity and its principals are eligible to participate in this transaction and have not been subjected to suspension, debarment, or similar ineligibility determined by any federal, state or local governmental entity and that Respondent is in compliance with the State of Texas statutes and rules relating to procurement and that Respondent is not listed on the federal government’s terrorism watch list as described in Executive Order 13224. Entities ineligible for federal procurement are listed at <https://www.sam.gov/portal/SAM/#1>.
  - 1.14. Respondent represents and warrants that the individual signing this Execution of Proposal is authorized to sign this document on behalf of the Respondent and to bind the Respondent under any contract resulting from this proposal.
2. In the case of a tie between two (2) or more Respondents, the award will be made in accordance with preferences as outlined in TAC, Title 34, Part 1, Chapter 20, Subchapter C, Section 20.306. If a tie still exists after review of preferences claimed by Respondents, TPWD will draw lots to break the tie.

<b>PREFERENCES</b>
<b>See Appendix 23 of the <i>State of Texas Procurement and Contract Management Guide</i> regarding preferences.</b>
<b>Check below if preference claimed under TAC, Title 34, Part 1, Chapter 20, Subchapter C, Section 20.306</b>
<ul style="list-style-type: none"> <li><input type="checkbox"/> Goods produced or offered by a Texas respondent that is owned by a Texas resident service-disabled veteran</li> <li><input type="checkbox"/> Goods produced in Texas or offered by a Texas respondent that is <u>not</u> owned by a Texas resident service-disabled veteran</li> <li><input type="checkbox"/> Agricultural products grown in Texas</li> <li><input type="checkbox"/> Agricultural products offered by a Texas respondent</li> <li><input type="checkbox"/> Services offered by a Texas respondent that is owned by a Texas resident service-disabled veteran</li> <li><input type="checkbox"/> Services offered by a Texas respondent that is <u>not</u> owned by a Texas resident service-disabled veteran</li> <li><input type="checkbox"/> Texas Vegetation Native to the Region</li> <li><input type="checkbox"/> USA produced supplies, materials, or equipment</li> <li><input type="checkbox"/> Products of persons with mental or physical disabilities</li> <li><input type="checkbox"/> Products made of recycled, remanufactured, or environmentally sensitive materials including recycled steel</li> <li><input type="checkbox"/> Energy Efficient Products</li> <li><input type="checkbox"/> Rubberized asphalt paving material</li> <li><input type="checkbox"/> Recycled motor oil and lubricants</li> <li><input type="checkbox"/> Products produced at facilities located on formerly contaminated property</li> <li><input type="checkbox"/> Products and services from economically depressed or blighted areas</li> <li><input type="checkbox"/> Contractors that meet or exceed air quality standards</li> <li><input type="checkbox"/> Recycled or Reused Computer Equipment of Other Manufacturers</li> <li><input type="checkbox"/> Foods of Higher Nutritional Value</li> </ul>

RESPONDENT (COMPANY/FIRM): \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME (TYPED/PRINTED): \_\_\_\_\_

TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

STREET: \_\_\_\_\_

CITY/STATE/ZIP: \_\_\_\_\_

TELEPHONE AND FAXSCMILE NO.: \_\_\_\_\_

E-MAIL ADDRESS: \_\_\_\_\_

TEXAS IDENTIFICATION NUMBER (TIN): \_\_\_\_\_

See definition / instructions for Texas ID Number in General Terms & Conditions, Paragraph 1.11.

**EXHIBIT B – PRICE SHEET**

**Respondent (Company/Firm):** \_\_\_\_\_

**THIS EXHIBIT SHALL BE COMPLETED AND RETURNED WITH THE RESPONSE. FAILURE TO RETURN THIS EXHIBIT WILL RESULT IN THE DISQUALIFICATION OF THE RESPONSE.**

Respondent shall respond on this *Exhibit B – Price Sheet* to specify costs to TPWD for the Respondent to provide the goods/ services in this RFP in accordance with the specifications herein. Prices shall include all costs including but not limited to design, labor, materials, installed equipment, delivery, trials, warranty, etc.

If Progress Payments are to be considered, Respondent shall also attach a proposed Progress Payment Schedule. Progress Payment Schedule is subject to approval by TPWD, and approval is not guaranteed.

Identify any attachments to this exhibit at the top of each page as follows:

- A. RFP 802-24-40970.
- B. Respondent Name (Company Name).
- C. Attachment to *Exhibit B – Price Sheet*.

Line Item	Description	Quantity	Unit of Measure	Unit Price	Extension (Quantity x Unit Price)
1	Acoustic Sampling Vessel to include design, manufacture or modifications as needed	1	LOT	\$	\$
2	Outboard Motors	2	EACH	\$	\$
3	Boat Trailer	1	EACH	\$	\$
4	Delivery	1	LOT	\$	\$
<b>Total</b>					
<b>Optional Upgrades (items not required and will not be considered in evaluation for award):</b>					
5	Optional Upgrade for Vessel: Sonar Mounting System as described in <i>Section I Subsection 6.3.20</i> .  Make, model, or other identifying information: _____ _____ _____	1	LOT	\$	\$



<p>6</p>	<p>Optional Upgrade for Vessel as described in <a href="#">Section I Subsection 6.3.20.1., Item E</a></p> <p>Compatible with EdgeTech 6205 sonar unit? Yes/No _____</p> <p>Compatible with Biosonics DT-X Extreme? Yes/No _____</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>	<p>N/A</p>
<p>7</p>	<p>Optional Upgrade for Boat Trailer: Sealed Bearing System and Hub as described in <a href="#">Section I Subsection 6.5.14.1</a></p> <p>Make and model: _____ _____ _____</p>	<p>1</p>	<p>Lot</p>	<p>\$</p>	<p>\$</p>
<p>8</p>	<p>Optional Upgrade for Boat Trailer: Vertical Winch Post as described in <a href="#">Section I Subsection 6.5.14.1</a></p> <p>Make and Model: _____ _____ _____</p>	<p>1</p>	<p>Each</p>	<p>\$</p>	<p>\$</p>

### EXHIBIT C – COMPANY PROFILE

Respondent shall use this exhibit (or a reasonable facsimile) to clearly demonstrate how they meet the requirements set forth in this solicitation. This form may be modified as needed to comply with the requirement to document company information. **Failure to return this exhibit (or a reasonable facsimile) may result in the response submission being considered non-responsive.**

<b>Company Name:</b>			
<b>Principal place of business (Corporate Headquarters):</b>			
<b>Address:</b>			
<b>City, State, Zip:</b>			
<b>Facility responsible for servicing the contract:</b>			
<b>Address:</b>			
<b>City, State, Zip:</b>			
<b>Contact Person regarding company's submission to the solicitation:</b>			
<b>Name &amp; Title:</b>			
<b>Phone &amp; Email Address:</b>			
<b>Contract Manager who will be responsible for management and day-to-day operation of services described in this solicitation.</b>			
<b>Name &amp; Title:</b>			
<b>Phone &amp; Email Address:</b>			
<b>Indicate if your company or any of its subsidiaries filed or met criteria for bankruptcy within the last five years.</b>			
__ Yes __ No If yes, explain.			
<b>Indicate if your company or any of its subsidiaries has been involved in litigation within the last five years.</b>			
__ Yes __ No If yes, explain.			
<b>Number years in business:</b>		<b>Number of employees:</b>	
<b>Number years actively participating in offering the goods/services described herein:</b>			
<b>Provide company background, experience, qualifications, and capabilities in areas of goods/services described herein. Attach page if needed.</b>			
<b>Provide present commitments for related or similar services.</b>			
<b>Provide description of industry certifications, if applicable.</b>			
<b>Provide list of equipment to be used to produce the goods/services described herein. Attach page if needed. (Equipment inspection, changes, approval, and rejection will be at TPWD's sole discretion.)</b>			

**EXHIBIT D – KEY PERSONNEL**

**Respondent Name:** \_\_\_\_\_

Respondents shall provide an [Exhibit E – Key Personnel](#) for each key personnel to be assigned under the resulting contract. *Include all requested information for each key personnel.* Submit one [Exhibit E – Key Personnel](#) (or reasonable facsimile) or resume - not to exceed 1 page per person for each key personnel. **Failure to return this exhibit (or reasonable facsimile) may result in proposal being considered non-responsive.**

**Key Personnel:**

Full Name: \_\_\_\_\_

Job Title: \_\_\_\_\_

Total Years Employed by Respondent: \_\_\_\_\_ Total Years Experience (in required service): \_\_\_\_\_

Qualifications and Experience: \_\_\_\_\_

Specific Education, Training, Certifications: \_\_\_\_\_

**Personnel - Reference 1:**

Company Name: \_\_\_\_\_

Contact/Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Service Period: \_\_\_\_\_

Roles and Responsibilities: \_\_\_\_\_

**Personnel - Reference 2:**

Company Name: \_\_\_\_\_

Contact/Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Service Period: \_\_\_\_\_

Roles and Responsibilities: \_\_\_\_\_



**EXHIBIT E – PAST PROJECTS WITH CORRESPONDING REFERENCES**

**Respondent Name:** \_\_\_\_\_

Respondents shall use this exhibit (*or reasonable facsimile*) to provide a minimum of three (3) past projects with corresponding references for projects completed within the past five (5) years that illustrate experience in successfully completing work of a similar nature and scope as the work described in this solicitation. Include all requested information. *Please do not use TPWD staff or past work performed for TPWD as a “reference” in this Exhibit. Failure to return this exhibit (or reasonable facsimile) may result in proposal being considered non-responsive.*

**REFERENCE 1:**

Company Name:			
Company Address:			
Contact Name/Title:			
Phone/Email Address:			
Service Period:		Cost:	
Brief Project Description:			

**REFERENCE 2:**

Company Name:			
Company Address:			
Contact Name/Title:			
Phone/Email Address:			
Service Period:		Cost:	
Brief Project Description:			

**REFERENCE 3:**

Company Name:			
Company Address:			
Contact Name/Title:			
Phone/Email Address:			
Service Period:		Cost:	
Brief Project Description:			

**REFERENCE 4:**

Company Name:			
Company Address:			
Contact Name/Title:			
Phone/Email Address:			
Service Period:		Cost:	
Brief Project Description:			

**EXHIBIT F – TECHNICAL PROPOSAL**

Respondent shall submit *Exhibit F – Technical Proposal* including numbered responses corresponding to each of the following items. **Failure to provide this information may result in proposal disqualification.**

- 1. **Detailed Specifications** – As attachment to this Exhibit, submit detailed specifications of the proposed vessel for design and manufacture or the proposed pre-manufactured vessel and any modifications as described in *Section I Subsection 6.2 Specifications*. Include draft of floor plan, cabin design, and any relevant blueprints or drawings, components, or wiring, etc. List any contingencies and exceptions. Identify the attachments to this exhibit as follows:
  - a. RFP 802-24-40970.
  - b. Respondent Name (Company Name).
  - c. Attachment to *Exhibit F – Technical Proposal*.
- 2. **Warranty – Submit warranty details for Sampling Vessel, Outboard Motors, Boat Trailer, and installed components and items.**

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3. Specify the following as described herein:

d. Sampling Vessel make and model, if applicable:

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e. Outboard Motors make, model, and horsepower:

---

f. Boat Trailer make and model:

---

g. Delivery schedule, estimated after confirmation of award (number of days):

---

h. Specify hull bottom composition as described in *Section 1 Subsection 6.2.3.4.*:

---

4. Specify workspace dimensions as described in *Section I Subsection 6.2.7.2.* and *Attachment 1 Figure 1.*

---

5. Specify Generator Make and Model as described in [Section I Subsection 6.2.10.1](#).

---

6. Specify Accessories Makes and Models as described in [Section I Subsection 6.3.12.:](#)

a. Radar: \_\_\_\_\_

b. Auto Pilot: \_\_\_\_\_

c. GPS Chart Plotter: \_\_\_\_\_

d. VHF Radio: \_\_\_\_\_

7. Respondent shall provide the following information on all attachments, if any, to [Exhibit F – Technical Proposal](#):

- a. RFP 802-24-40970.
- b. Respondent Name (Company Name).
- c. Attachment to Exhibit F – Technical Proposal.

## EXHIBIT G – RESPONSE SUBMISSION CHECKLIST

The following checklist is provided for the convenience of Vendors in their response preparation process. It is not intended to represent an exhaustive list of the mandatory requirements for this RFP. Vendors must ensure that all mandatory requirements for this RFP are met, even if they are not included in this checklist. The mandatory documentation must be submitted with the original and each copy of the response.

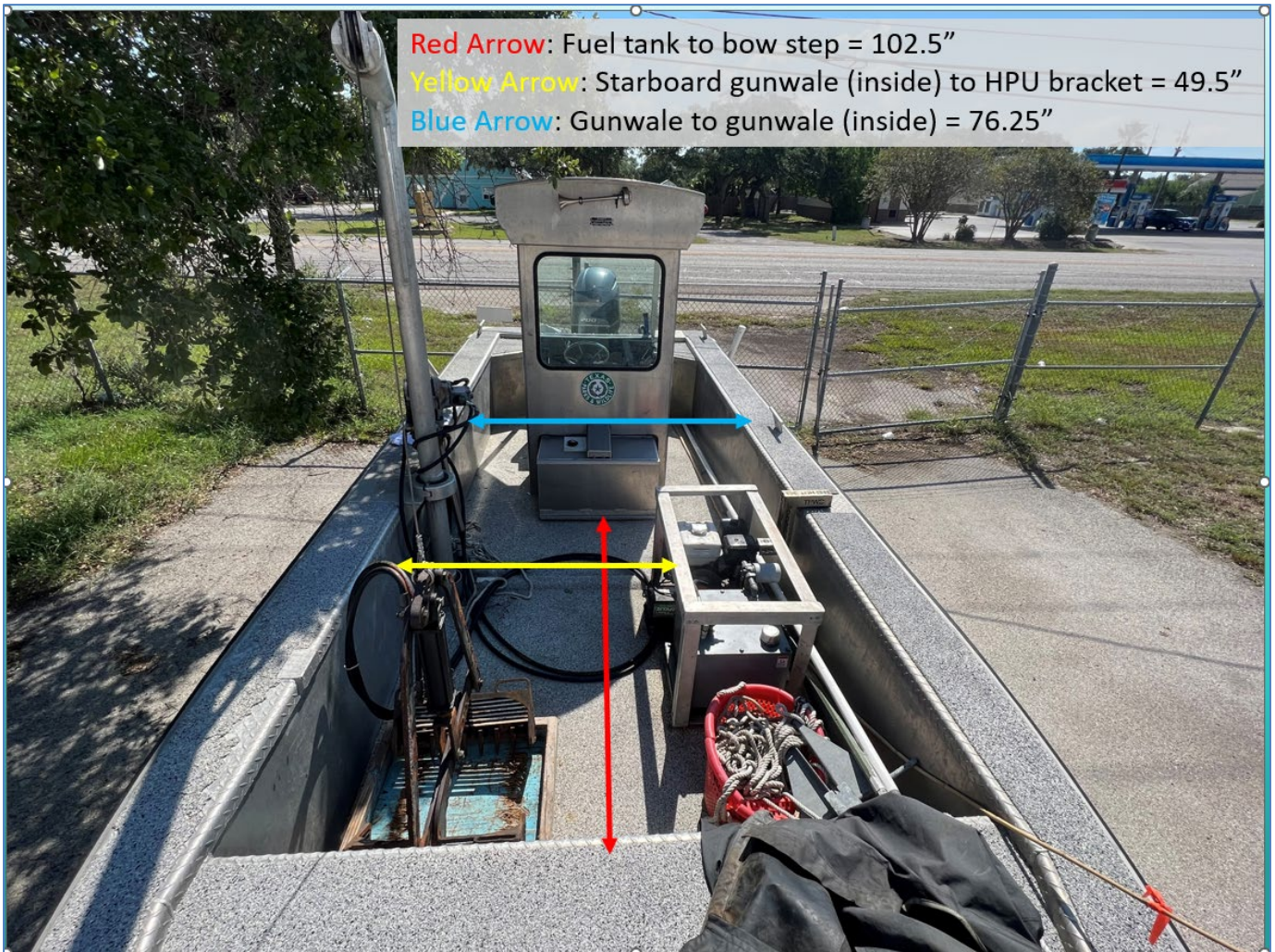
A completed checklist shall not be binding on TPWD's administrative review for compliance with the mandatory response contents specified in this RFP. As step one of the evaluation process, TPWD will review all responses to ensure compliance with the mandatory response contents as specified in [Section II Subsection 3.2](#) of the RFP and reject any response that does not comply.

**All responses must be received by TPWD on or before 2:00 p.m. (CT) on the date specified in Section II Subsection 1 of the solicitation. No late responses will be considered.**

Item	Check
Response addressed to: Attn: Christina M. Brown Purchasing & Contracting C-1 Texas Parks & Wildlife Department 4200 Smith School Road Austin, Texas 78744	
External packaging references <b>"RFP 802-24-40970"</b>	
Package contains one (1) signed original (clearly marked) of the complete response	
Package contains one (1) additional paper copies of the complete response	
Response cover references <b>"RFP 802-24-40970"</b> and includes the name and address of the responding Vendor	
Mandatory Response Contents	Check
<b>Exhibit A – Execution of Proposal</b> (per <a href="#">Section II Subsection 3.2</a> )	
<b>Exhibit B – Price Sheet</b> (per <a href="#">Section II Subsection 3.2</a> )	
Additional Response Contents	
<b>Exhibit C – Company Profile</b> (per <a href="#">Section II Subsection 3.3</a> )	
<b>Exhibit D – Key Personnel</b> (per <a href="#">Section II Subsection 3.3</a> )	
<b>Exhibit E – Past Projects with Corresponding References</b> (per <a href="#">Section II Subsection 3.3</a> )	
<b>Exhibit F – Technical Proposal</b> (per <a href="#">Section II Subsection 3.3</a> )	
<b>Addenda</b> - Acknowledge receipt of all addenda issued to this solicitation by returning a signed copy of each addendum (per <a href="#">Section II Subsection 3.3</a> )	



## ATTACHMENT 1 – FIGURES AND ILLUSTRATIONS



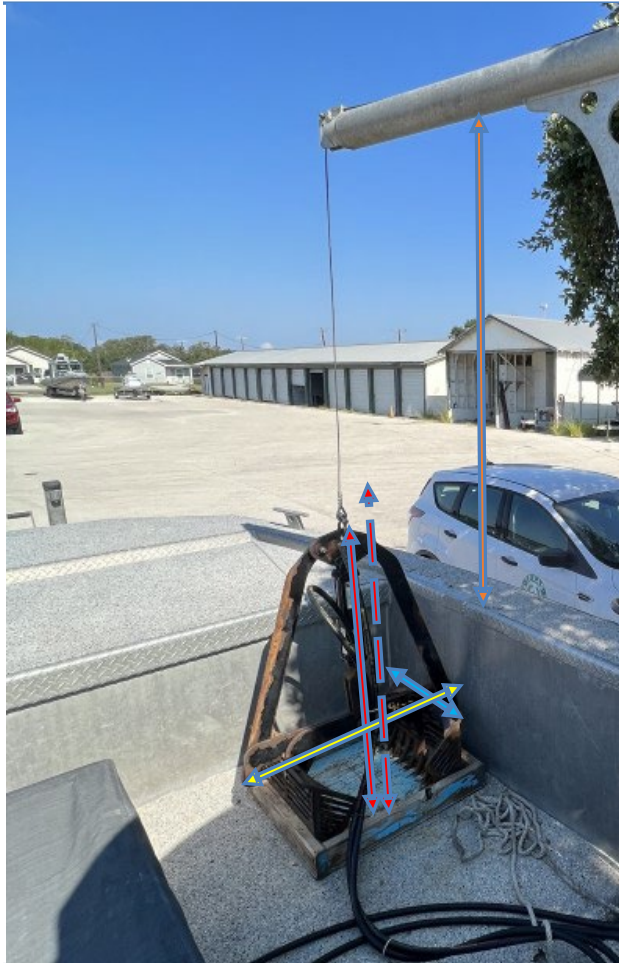
**Figure 1**

Photo shows approximate dimensions of current workspace for patent tong and HPU system. Deck workspace on proposed vessel will meet or exceed these dimensions. Define workspace dimensions in [Exhibit G – Technical Proposal Item 4](#).



**Figure 2**

Shows approximate dimensions of davit, boom, and winch currently being used by TPWD. The proposed vessel should accommodate comparable equipment. New equipment with exception of davit, will be provided separately and are not part of this solicitation. Davit is a requirement of this solicitation.



**Red Arrow:** Tong height:  
Open = 41"  
Closed = 52.5"

**Red Dashed Arrow:** Tong height including bridal:  
Open = 46.5"  
Closed = 58"

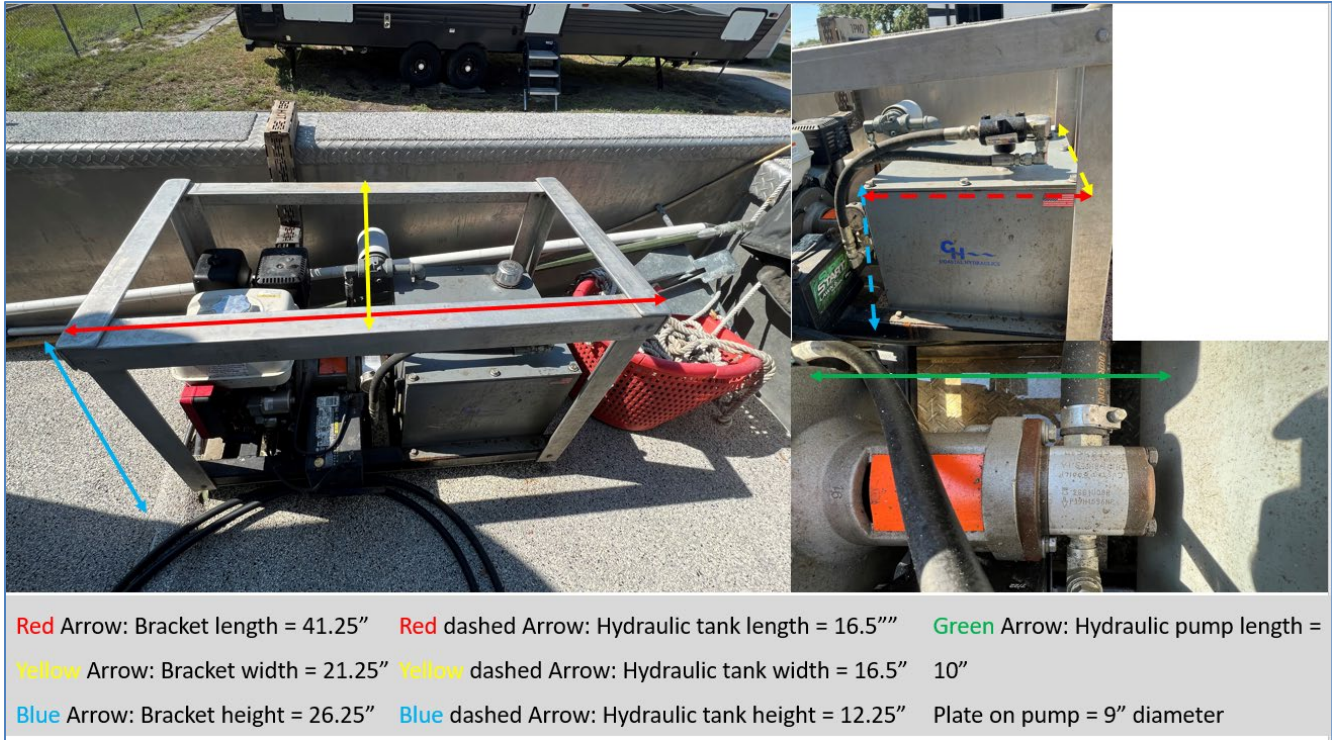
**Yellow Arrow:** Tong length = 33.5"

**Blue Arrow:** Tong width = 20.5"

**Orange arrow:** Clearance for tongs (top of gunwale to bottom of boom) = 66"

**Figure 3**

Photo depicting approximate dimensions of patent tongs both open and closed that would be deployed using the davit. Davit height must be tall enough to allow for tongs to be pulled over gunwale of vessel.



**Figure 4**

Photo depicting approximate dimensions and current configuration of HPU system being utilized on existing TPWD vessel. The proposed vessel's floor plan must accommodate space for a comparable unit. HPU will be provided separately and are not part of this solicitation.